

New law requires express statutory authority for compensation to a special attorney or counsel representing the attorney general, or any state agency, board or commission, not including any public postsecondary education institution, on a contingency fee or percentage basis.

New law requires that a preference in hiring be given to attorneys licensed to practice law in this state and law firms domiciled and licensed in this state.

New law provides that any recovery or award of attorney fees including settlement in litigation involving the attorney general, or any state agency, board, or commission, belongs to the state and shall be deposited into the state treasury. Specifies that monies deposited into the Department of Justice Legal Support Fund includes proceeds from court judgments, settlements, fines, fees and from the recovery or award of any attorney fees, among others.

New law prohibits paying employee salary or wages or other expenses to be paid from the recovery or award until funding is approved by the Joint Legislative Committee on the Budget.

New law requires that each fiscal year, monies shall be deposited into the fund in an amount sufficient to bring the unencumbered balance in the fund to \$10 million.

New law provides that no payment of attorney fees shall be made out of state funds in the absence of express statutory authority, including certain provisions of existing law, except such payment of attorney fees as may be approved by the Joint Legislative Committee on the Budget during the interim between legislative sessions.

New law provides that any special attorney or counsel retained or employed by the attorney general, or any state agency, board, or commission, not including public postsecondary education institutions, shall not accept nor demand as payment for the services rendered by the special attorney or counsel anything of economic value from any third party.

New law requires the keeping of accurate records of the hours worked and expenses incurred in the representation of the public entity, and prohibits the entity from incurring fees in excess of \$500 per hour for legal services, and any award in excess of the \$500 per hour shall be reduced to an amount equivalent to \$500 per hour, or the maximum rate approved by the Attorney Fee Review Board, whichever is greater.

Adds that new law shall not apply to attorneys or counsel retained pursuant to existing law for purposes of defending the state, its agencies and its employees in tort litigation or other matters involving the Self-Insurance Fund as established in existing law, and further provides that new law shall not apply to certain legal fees or attorney compensation approved by the State Bond Commission.

Existing law requires written approval from the attorney general and governor for the employment of any special attorney or counsel to represent any state board or commission, not including any public postsecondary education institution, in any matter for which compensation is to be paid for services by application and a resolution setting forth the reasons for the employment of the special attorney or counsel and the proposed compensation.

Existing law authorizes the attorney general and governor to designate the amount of compensation in the written approval which shall be given in their discretion upon application of the board or commission by a resolution setting forth the reasons for the proposed retention or employment of the special attorney or counsel and the amount of the proposed compensation.

New law provides that the attorney general and governor may designate or approve the amount of compensation in writing.

New law requires the applicant to submit an application including a resolution and a copy of the proposed contract. Provides that the resolution requesting special counsel shall include the following:

- (1) A statement showing a real necessity exists.
- (2) A statement fully providing the reasons for the action.
- (3) A statement of the total compensation to be paid.
- (4) The statutory authority for the contingency fee if the contract contains a contingent fee.

Existing law prohibits the attorney general and governor from ratifying or approving any action of a board in employing any special attorney or counsel or paying any compensation for special services rendered unless all of the board or commission has complied with all of the formalities regarding the resolution.

New law retains existing law and provides for the following additional prohibitions:

- (1) The terms of the resolution do not match the required terms of the contract.
- (2) The need is not sufficiently shown in the resolution.
- (3) The fee is unreasonable.
- (4) The governor or attorney general determines there is a valid reason not to ratify or approve the action.

New law excepts public postsecondary education institutions from the requirements of new law.

New law requires the governor or attorney general to respond to the application in writing by giving approval or rejection with reasons.

Provides that new law provisions shall have prospective application only and shall not apply to contracts to existing contracts prior to the effective date of new law nor to subsequent renewals of those contracts.

Provides that new law provisions relative to the Department of Justice Legal Support Fund and attorney compensation restrictions become effective upon notification by the state treasurer of the president of the Senate, the speaker of the House of Representatives, the attorney general, and the Joint Legislative Committee on the Budget when the fund balance exceeds the Fiscal Year 2013-2014 amount of \$2.1 million.

Provides that all other new law provisions are effective upon signature of the governor (June 19, 2014).

(Amends R.S. 42:262 and R.S. 49:259(A) and (C))