Session of 2025

SENATE BILL No. 242

By Committee on Judiciary

2-6

AN ACT concerning contingent fee contracts for legal services; relating to contracts entered into for legal services by a political subdivision; requiring an open meeting before a political subdivision may approve such a contract; requiring the attorney general to approve such contract before it becomes effective.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) A political subdivision may only enter into a contingent fee contract for legal services if the governing body of the political subdivision:

(1) Calls a meeting for the purpose of considering the contract and provides, in the notice of the meeting issued pursuant to K.S.A. 75-4318, and amendments thereto, the:

(A) Reasons for pursuing the matter that is the subject of the legal services of which the attorney or law firm would be retained and the desired outcome of pursuing the matter;

(B) qualifications, experience and competence of the attorney or law firm selected by the governing body;

(C) nature of any relationship, regardless of how short, between the political subdivision or governing body and the attorney or law firm that is a party to the contract;

(D) reasons the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision;

(E) reasons the legal services cannot be reasonably obtained from attorneys under a contract providing for an hourly rate payment structure as opposed to a contingency fee structure; and

(F) reasons entering into a contingent fee contract for legal services is in the best interest of the residents of the political subdivision;

(2) makes a finding, in writing, that:

(A) There is a substantial need for the legal services that are the subject of the contingent fee contract;

(B) the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision; and

(C) the legal services cannot reasonably be obtained from attorneys under a contract providing for an hourly rate payment structure because the nature of the legal matter that is the subject of the contract or the

political subdivision does not have the funds necessary to pay the estimated cost of the legal services provided under a contract providing for an hourly rate payment structure; and

(3) approves the contract in an open meeting after discussion and consideration of the items described in paragraph (1).

(b) (1) Before a contingency fee contract for legal services approved by a political subdivision pursuant to subsection (a) is effective and enforceable, the political subdivision shall obtain approval of the contract by the attorney general. The political subdivision shall provide to the attorney general:

(A) A copy of the proposed contract;

(B) a description of the legal matter that is the subject of the proposed contract;

(C) a copy of the notice issued pursuant to subsection (a)(1), the date such notice was issued and a description of the method for providing such notice;

(D) a copy of the written findings made pursuant to subsection (a)(2).

(2) Within 90 days after the political subdivision has provided the attorney general with the information described in paragraph (1), the attorney general shall:

(A) Approve the contract; or

(B) refuse to approve the contract and provide the political subdivision with one of the following reasons for the refusal to approve:

(i) The legal matter that is the subject of the contract presents one or more questions of law or fact that are in common with a matter the state has already address or is pursuing;

(ii) pursuit of the legal matter by the political subdivision will not promote the just and efficient resolution of the matter; or

(iii) the contract does not comply with the Kansas rules of professional conduct for attorneys adopted by the Kansas supreme court.

(3) If the attorney general has not taken action on a contract pursuant to paragraph (2) within 90 days after receipt, such contract shall be deemed approved.

(c) In any judicial or quasi-judicial proceeding in which a political subdivision is represented by an attorney providing legal services under a contingent fee contract for legal services that does not comply with the provisions of this section, the attorney general may appear in such proceeding and request that the proceeding be dismissed. If the court or quasi-judicial body concludes that the contract for legal services does not apply with the provisions of this section, the court or quasi-judicial body shall dismiss the matter without prejudice.

(d) Any contingent fee contract for legal services that was entered into by a political subdivision prior to July 1, 2025, shall be submitted to

the attorney general by the political subdivision on or before July 1, 2026. The attorney general shall review the contract and approve or refuse to approve the contract pursuant to subsection (b). Any judicial or quasi-judicial proceeding that is ongoing involving a contingent fee contract for legal services entered into by a political subdivision shall proceed unless the attorney general appears in such proceeding as described in subsection (c).

(e) As used in this section:

(1) "Contingent fee" means any fee that is contingent on the outcome of the matter for which the service is rendered; and

(2) "political subdivision" means:

(A) A political or taxing subdivision of the state, including municipal and quasi-municipal corporations, board, commissions, authorities, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported, in whole or in part, by public funds; and

(B) any municipality as defined in K.S.A. 75-1117, and amendments thereto.

(f) The provisions of this section shall expire on July 1, 2029.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.