

Florida PARSA Bill

February, 2008

By Senator Webster

9-03173-08

20082430__

1 A bill to be entitled
2 An act relating to contingency fee agreements between
3 state entities and private attorneys; amending s.
4 287.059, F.S.; prohibiting the Department of Legal
5 Affairs of the Office of the Attorney General from
6 entering into a contingency fee contract with a private
7 attorney unless the Attorney General makes a written
8 determination before entering into such a contract that
9 contingency fee representation is both cost-effective
10 and in the public interest; requiring that such written
11 determination include certain findings; requiring that
12 the Attorney General, upon making his or her written
13 determination, request proposals from private attorneys
14 to represent the department on a contingency fee basis
15 unless the Attorney General determines in writing that
16 requesting such proposals is not appropriate under the
17 circumstances; providing that the written determination
18 does not constitute a final agency action subject to
19 review pursuant to state law; providing that the
20 request for proposals and contract award are not
21 subject to challenge under the Administrative Procedure
22 Act; requiring that a private attorney maintain
23 detailed contemporaneous time records with regard to
24 work performed on the matter by any attorneys or
25 paralegals assigned to the matter in specified
26 increments; requiring that a private attorney provide
27 such record to the department upon request; limiting
28 the amount of a contingency fee that may be paid to a
29 private attorney pursuant to a contract with the

9-03173-08

20082430__

30 department; requiring that copies of any executed
 31 contingency fee contract and the Attorney General's
 32 written determination to enter into such contract be
 33 posted on the department's website within a specified
 34 period after the date on which such contract is
 35 executed; requiring that such information remain posted
 36 on the website for a specified duration; requiring that
 37 the amount of any payment of contingency fees be posted
 38 on the department's website within a specified period
 39 after the date on which payment of such contingency
 40 fees is made to the private attorney; requiring that
 41 such information remain posted on the website for a
 42 specified duration; providing an effective date.

43

44 Be It Enacted by the Legislature of the State of Florida:

45

46 Section 1. Paragraph (c) is added to subsection (7) of
 47 section 287.059, Florida Statutes, to read:

48 287.059 Private attorney services.--

49 (7)

50 (c)1. The Department of Legal Affairs may not enter into a
 51 contingency fee contract with a private attorney unless the
 52 Attorney General makes a written determination before entering
 53 into such a contract that contingency fee representation is both
 54 cost-effective and in the public interest. A written
 55 determination must include specific findings with regard to each
 56 of the following factors:

57 a. Whether sufficient and appropriate legal and financial
 58 resources exist within the department to handle the matter.

9-03173-08

20082430__

59 b. The amount of time and labor required to handle the
60 matter; the novelty, complexity, and difficulty of the questions
61 involved; and the skills required to perform the necessary
62 attorney services adequately.

63 c. The geographic area in which the attorney services are
64 to be provided.

65 d. The amount of experience desired for the particular kind
66 of attorney services to be provided and the nature of the private
67 attorney's experience with regard to similar issues or cases.

68 2. Upon making his or her written determination,
69 notwithstanding the exemption for legal services provided in s.
70 287.057(5)(f), the Attorney General shall request proposals from
71 private attorneys to represent the department on a contingency
72 fee basis unless the Attorney General determines in writing that
73 requesting such proposals is not appropriate under the
74 circumstances. The written determination does not constitute a
75 final agency action subject to review pursuant to ss. 120.569 and
76 120.57. For purposes of this subparagraph, the department is
77 exempt from the requirements of s. 120.57(3), and the request for
78 proposals and contract award are not subject to challenge
79 pursuant to ss. 120.569 and 120.57.

80 3. In addition to the requirements set forth in s.
81 287.059(16), any private attorney shall maintain detailed
82 contemporaneous time records with regard to work performed on the
83 matter by any attorneys or paralegals assigned to the matter in
84 increments of no greater than one-tenth of an hour. A private
85 attorney shall provide these records to the department promptly
86 upon request by the department.

9-03173-08

20082430__

87 4. Notwithstanding the provisions of s. 287.059(7)(a), a
88 contingency fee contract entered into by the department may not
89 provide for the private attorney to receive an aggregate
90 contingency fee in excess of:

91 a. Twenty-five percent if the recovery is up to \$10
92 million;

93 b. Twenty percent if the recovery is at least \$10 million
94 but less than \$15 million;

95 c. Fifteen percent if the recovery is at least \$15 million
96 but less than \$20 million;

97 d. Ten percent if the recovery is at least \$20 million but
98 less than \$25 million; or

99 e. Five percent if the recovery is \$25 million or greater.

100 5. The aggregate contingency fee received by a private
101 attorney may not exceed \$50 million, exclusive of reasonable
102 costs and expenses, irrespective of the number of lawsuits filed
103 or the number of private attorneys retained to achieve the
104 recovery.

105 6. Copies of any executed contingency fee contract and the
106 Attorney General's written determination to enter into such
107 contract with a private attorney shall be posted on the
108 department's website for public inspection within 5 business days
109 after the date on which the contract is executed and shall remain
110 posted on the website for the duration of the contingency fee
111 contract, including any extensions or amendments thereto. The
112 amount of any payment of contingency fees shall be posted on the
113 department's website within 15 days after the date on which
114 payment of such contingency fees is made to the private attorney

9-03173-08

20082430__

115 and shall remain posted on the website for at least 180 days
116 after that date.

117 Section 2. This act shall take effect July 1, 2008.