



AG ANNOUNCES LAW TO REGULATE AND LIMIT USE OF CONTINGENCY FEES IN STATE LITIGATION

(MONTGOMERY)--Attorney General Luther Strange lauded the passage of legislation to provide transparency and limitations on state contracts with private attorneys, with the final approval of a bill modeled upon national standards for greater openness and better protection of the public interest. Particularly, the bill sets guidelines and ceilings for the State's use of private attorneys on a contingency fee basis.

"When I became Attorney General, I took action to preserve the taxpayer's money by utilizing the experience, knowledge and skill of our professional staff of state attorneys to handle cases of complex litigation that might have otherwise been hired out to private attorneys," said Attorney General Strange. "While we hope to always have leaders we can depend upon to keep the best public interest foremost in their decisions, it is also important to provide safeguards that will be in place for future times to come. The Transparency in Private Attorneys Contract Act does just that."

Attorney General Strange added that, "we need to ensure that contingency fee contracts are not utilized unless it is truly necessary, and is done with every due consideration to protect the taxpayers' money and to provide the public with information about how the people's business is being conducted."

Previously, there has been no Alabama law governing contingency fee contracts issued by the State. House Bill 227, sponsored by Representative Paul DeMarco and its companion Senate Bill 134, sponsored by Senator Cam Ward, regulates how contingency fee contracts are awarded, the amount that can be paid, and establishes transparency and accountability measures for contingency fee attorneys representing the State.

Among its provisions are:

- Any state entity seeking to enter into a contingency fee contract must make a written determination that such representation is both cost-effective and in the public interest. This must include details about whether the State has sufficient legal and financial resources to handle the matter on its own without a contingency fee contract; the expected time and labor required, as well as the complexity and skill necessary to handle the issues; and the amount of experience desired for the particular attorney services and the nature of private attorney's experience with similar matters.

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- To ensure that the public interest is kept as the foremost consideration when cases are handled by private attorneys on contingency fee basis, the law mandates that a government attorney retains complete control over the litigation. The government attorney has supervisory authority, retains veto power over any decisions by private attorneys, may be contacted directly by defendants, must attend all settlement conferences, and has exclusive discretion over settlement decisions.
- Contingency fees will be limited to 22 percent of the first \$10 million; plus 20 percent of the next \$15 million; plus 16 percent of the next \$25 million; plus 12 percent of the next \$25 million; plus 8 percent of the next \$25 million; plus 7.1 percent of any recovery exceeding \$100 million. Total fees are capped at \$75 million per action.
- For transparency and accountability of public funds, contingency fee attorneys must keep detailed records of expenses and time spent on a case, which would be available to the State for inspection. The contingency fee contract and all payments made are to be posted on the State's Open Alabama website.

Attorney General Strange emphasized the value of these specific safeguards and requirements. "With the Transparency in Private Attorneys Contract Act as the law of Alabama, public officials and agencies will be required to make careful decisions, to act responsibly, and be held accountable. This provides valuable and lasting protection for the taxpayers of Alabama," he said.

"I want to give special thanks to Senator Cam Ward, Representative Paul DeMarco, the Business Council of Alabama and the U.S. Chamber of Commerce for their invaluable assistance in achieving the bill's successful passage," Attorney General Strange concluded.