

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 604

Introduced by Conrad, 46.

Read first time January 19, 2011

Committee: Executive Board

A BILL

- 1 FOR AN ACT relating to the state government; to adopt the Private
- 2 Attorney Retention Sunshine Act; and to provide
- 3 severability.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and
2 may be cited as the Private Attorney Retention Sunshine Act.

3 Sec. 2. The Legislature finds that in order to increase
4 transparency and accountability of taxpayer dollars and in order to
5 establish uniformity among state agencies for the provision of
6 contract services, including legal services, the Legislature adopts
7 the Private Attorney Retention Sunshine Act. The act will ensure that
8 when state litigation is delegated to private attorneys government
9 lawsuits will be prosecuted in a manner to further the public
10 interest rather than profitability of private attorneys. Nebraska
11 taxpayers deserve oversight and accountability when state contracts
12 for legal services are entered into to ensure there are no backroom
13 deals but rather open, transparent, and competitive public bidding
14 processes. Additionally, Nebraska taxpayers deserve a mechanism for
15 oversight and accountability regarding contracts for legal services,
16 and components such as the private attorney's expenses, fee
17 agreement, and other record keeping should be disclosed upon
18 completion of the contract because these expenses are paid with
19 taxpayer dollars.

20 Sec. 3. For purposes of the Private Attorney Retention
21 Sunshine Act, contract for legal services exceeding fifty thousand
22 dollars means a contract in which the fee paid to a private attorney
23 or group of attorneys, either in the form of a flat, hourly, or
24 contingent fee, and their expenses, exceeds or can be reasonably
25 expected to exceed fifty thousand dollars.

1 Sec. 4. The Attorney General shall not retain a private
2 attorney or law firm to perform legal services on behalf of the state
3 until an open and competitive bidding process has been undertaken.

4 Sec. 5. The Attorney General shall not enter into a
5 contract for legal services exceeding fifty thousand dollars without
6 following the procedures set forth in section 4 of this act.

7 Sec. 6. (1) The Attorney General shall file a proposed
8 contract for legal services made subject to this section by section 5
9 of this act with the Appropriations Committee of the Legislature if
10 the Legislature is in session or with the Executive Board of the
11 Legislative Council if the Legislature is not in session.

12 (2) Within ten days after the filing, the committee or
13 executive board shall hold a public hearing on the proposed contract
14 and thereafter issue a report to the Attorney General. The report
15 shall include any changes to the proposed contract approved by the
16 committee or executive board. The Attorney General shall review the
17 report and adopt a proposed final contract as considered appropriate
18 in view of the committee's or executive board's findings and shall
19 file the proposed final contract with the committee or executive
20 board.

21 (3) If the proposed final contract does not contain the
22 changes proposed by the committee or executive board, the Attorney
23 General shall include an explanation of the reasons why the proposed
24 changes were not adopted, including any exigent circumstances, with
25 the proposed final contract. No earlier than thirty days after

1 sending the proposed final contract and any explanation to the
2 committee or executive board, the Attorney General may enter into the
3 final contract.

4 (4) If the committee or executive board recommends no
5 changes to the initial proposed contract within forty-five days after
6 its filing with the committee or executive board, the Attorney
7 General may proceed to finalize it.

8 Sec. 7. The Private Attorney Retention Sunshine Act shall
9 not be construed to expand the authority of the Attorney General to
10 enter into contracts if no such authority otherwise exists.

11 Sec. 8. (1) At the conclusion of a legal proceeding for
12 which a private attorney or law firm has been retained on a
13 contingent-fee basis, the private attorney or law firm shall provide
14 the Attorney General with a statement of the hours worked on the
15 case, expenses incurred, the aggregate fee amount, and a breakdown of
16 the hourly rate, calculated based on hours worked divided into fee
17 recovered, less expenses.

18 (2) In no event shall the state incur legal fees greater
19 than one thousand dollars per hour for legal services. In cases in
20 which a disclosure submitted in accordance with this section
21 indicates an hourly rate in excess of one thousand dollars per hour,
22 the fee amount shall be reduced to one thousand dollars per hour.

23 Sec. 9. The Private Attorney Retention Sunshine Act
24 applies to contracts between private attorneys and the Attorney
25 General entered into on or after the effective date of this act.

1 Sec. 10. If any section in this act or any part of any
2 section is declared invalid or unconstitutional, the declaration
3 shall not affect the validity or constitutionality of the remaining
4 portions.