

2012 Kansas Statutes

75-37,135. Same; legal services; submission to legislative budget committee, when; contingency fees, factors to consider. (a) (1) Prior to entering a contract for legal services where the amount of the fees paid to an attorney or firm of attorneys reasonably may exceed \$1,000,000, the director of purchases shall submit the proposed request for proposal to the legislative budget committee. Within 30 days after submission of such request for proposal, the committee may hold a public hearing on the proposed request for proposal and shall issue a report to the director of purchases. The report shall include any proposed changes to the proposed request for proposal suggested by the committee. The committee is not authorized to waive the evidentiary privileges of the state, or any of the persons or entities that state attorneys are representing or acting in concert with in any litigation or anticipated litigation. The committee, the director of purchases and their employees shall take all reasonable steps to protect such privileges. The director of purchases shall review the report and adopt a final request for proposal as deemed appropriate in view of the report and shall file the final request for proposal with the legislative budget committee.

(2) If the proposed request for proposal does not contain the changes proposed by the committee, the director of purchases shall submit with the final request for proposal a letter stating the reasons why such proposed changes were not adopted. The director of purchases shall not release the final request for proposal until at least 10 days after the date of submission of the final request for proposal to the legislative budget committee.

(3) If the legislative budget committee makes no suggested changes to the proposed request for proposal or fails to report any suggested changes within 60 days of the submission of the proposed request for proposal to such committee, the director of purchases may release the request for proposal.

(b) After awarding a contract for legal services where the amount of the fees paid to an attorney or firm of attorneys reasonably may exceed \$1,000,000, the director of purchases shall submit the contract to the legislative budget committee. Within 30 days after submission of such contract, the committee may hold a public hearing on the contract and shall issue a report to the director of purchases. The report shall include any concerns of the committee.

(c) The provisions of this section shall not apply in any action in which the state of Kansas or any state agency, officer or employee is a defendant and a contract for legal services is to be entered. The director of purchases shall prepare a report each calendar quarter while such legal proceeding is in progress. Such report shall include the case citation and the date upon which the action was filed. The director of purchases shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives and the chairperson of the Kansas performance review board.

(d) The director of purchases shall prepare a detailed report at least once in each calendar quarter of each legal proceeding which has been completed and for which a contingency fee arrangement was entered. Such report shall disclose the hours worked on the case, the expenses incurred, the aggregate fee amount and a breakdown as to the hourly rate, based on hours worked divided into fee recovered, less expenses. The director of purchases shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives and the chairperson of the Kansas performance review board.

(e) Reasonable attorney fees to be paid by the state or defendant in an action where the attorney was hired by the state with a contingency fee agreement shall be approved by the judge after an evidentiary hearing and prior to final disposition of the case by the district court. Any individual may provide information to the court and be heard before the court with regard to the reasonableness of attorney fees paid by the state or defendant under the contingency fee agreement. Compensation for reasonable attorney fees for services performed in an appeal of a judgment in any such action to the court of appeals shall be approved after an evidentiary hearing by the chief judge or by the presiding judge of the panel hearing the case. Compensation for reasonable attorney fees for services performed in an appeal of a judgment in any such action to the supreme court shall be approved after an evidentiary hearing by the departmental justice for the department in which the appeal originated. In determining the reasonableness of such compensation, the judge or justice shall consider the following:

(1) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney.

(3) The fee customarily charged in the locality for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the client or by the circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation and ability of the attorney or attorneys performing the services.

(8) Whether the fee is fixed or contingent.

(f) In the case of any contract for legal services for the board of trustees of the Kansas public employees retirement system negotiated or to be negotiated in accordance with the provisions of K.S.A. 75-37,102, and amendments thereto, where the amount of fees paid to an attorney or to a firm of attorneys reasonably may exceed \$1,000,000, references to the "director of purchases" in subsections (a), (b) and (c) of this section shall be construed to apply to the board of trustees of the Kansas public employees retirement system and each duty or function prescribed in such subsections shall be assumed and performed by the board of trustees of the Kansas public employees retirement system.

History: L. 2000, ch. 124, § 10; L. 2001, ch. 209, § 48; May 31.