

2016 Regular Session

SENATE BILL NO. 136

BY SENATOR WARD

JUSTICE DEPARTMENT. Provides relative to the employment of special attorneys or counsel. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 42:262(B) and (D) and R.S. 49:259(C)(2), relative to the
3 employment of special attorneys or counsel; to provide certain terms, conditions,
4 exceptions, requirements, definitions, and procedures; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:262(B) and (D) are hereby amended and reenacted to read as
8 follows:

9 §262. Special attorney or counsel

10 * * *

11 B. Any recovery or award of attorney fees, including settlement, in litigation
12 involving the attorney general or any state agency, board, or commission, not
13 including any public postsecondary education institution, belongs to the state and
14 shall be deposited into the state treasury into the Department of Justice Legal
15 Support Fund in accordance with R.S. 49:259. No payment of attorney fees shall be
16 made out of state funds in the absence of express statutory authority, including R.S.
17 17:100.10, R.S. 23:1669, R.S. 37:2153, R.S. 41:724 and 922, R.S. 42:1157.3, R.S.

1 46:15, R.S. 47:1512, 1515.3, 1516, 1516.1, and 1676, except such payment of
 2 attorney fees as may be approved by **the litigation subcommittee of** the Joint
 3 Legislative Committee on the Budget ~~during the interim between legislative sessions.~~

4 * * *

5 D. All contracts with any special attorney or counsel shall require the keeping
 6 of accurate records of the hours worked and the expenses incurred in the
 7 representation of the public entity. In no case shall the attorney general, or any state
 8 agency, board, or commission, not including any public postsecondary education
 9 institution, incur fees in excess of ~~five hundred~~ **one thousand** dollars per hour **per**
 10 **person** for legal services. ~~In the event of a settlement or final judgment which would~~
 11 ~~result in an award of attorney fees in excess of five hundred dollars per hour, the fee~~
 12 ~~amount shall be reduced to an amount equivalent to five hundred dollars per hour,~~
 13 ~~or the maximum rate approved by the Attorney Fee Review Board, whichever is~~
 14 ~~greater.~~

15 * * *

16 Section 2. R.S. 49:259(C)(2) is hereby amended and reenacted to read as follows:

17 §259. Department of Justice Legal Support Fund

18 * * *

19 C.

20 * * *

21 (2) No employee salary or wages or other expenses, to be paid from the
 22 recovery or award of any attorney fees as provided in R.S. 42:262 shall be paid by
 23 the Department of Justice, until funding is approved by **the litigation subcommittee**
 24 **of** the Joint Legislative Committee on the Budget.

25 * * *

26 Section 3. This Act shall become effective upon signature by the governor or, if not
 27 signed by the governor, upon expiration of the time for bills to become law without signature
 28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 29 vetoed by the governor and subsequently approved by the legislature, this Act shall become

1 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ben Huxen.

DIGEST

SB 136 Engrossed

2016 Regular Session

Ward

Present law provides that no payment of attorney fees shall be made out of state funds in the absence of express statutory authority, except such payment of attorney fees as may be approved by the Joint Legislative Committee on the Budget during the interim between legislative sessions.

Proposed law eliminates that requirement and provides that the litigation subcommittee of the Joint Legislative Committee on the Budget can approve such fees at any time.

Present law provides that the attorney general, or any state agency, board, or commission, not including any public postsecondary education institution, cannot incur fees for legal services in excess of the greater of (1) \$500 per hour per person or (2) the maximum rate approved by the Attorney Fee Review Board.

Proposed law changes the limitation to \$1,000 per hour per person.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 42:262(B) and (D) and R.S. 49:259(C)(2))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Deleted repeal of provisions providing certain exemptions from deposits of funds into Dept. of Justice Legal Support Fund.