

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7101**

**BILL NUMBER: SB 214**

**NOTE PREPARED: Apr 8, 2011**

**BILL AMENDED: Apr 7, 2011**

**SUBJECT:** State Use of Contingency Fee Counsel.

**FIRST AUTHOR:** Sen. Bray

**FIRST SPONSOR:** Rep. Foley

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State.

**Summary of Legislation:** (Amended) This bill requires an agency to make certain determinations before entering into a contingency fee contract with a private attorney, and requires the Inspector General to review the proposed contract and determine whether the contract would violate the code of ethics or any statute or rule concerning conflict of interest. It provides that the Attorney General shall publish certain information concerning contingency fee contracts on the Attorney General's web site, unless the Attorney General determines that disclosing the contingency fee contract while the action is pending is not in the best interests of the state. The bill also requires the Attorney General to publish a contingency fee contract not later than 15 days after the action is concluded if the Attorney General determines that disclosing the contract while the action is pending is not in the best interests of the state, and it makes a technical correction.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Attorney General:* The bill requires every agency that has hired or employed a private attorney on a contingency fee basis during the calendar year to submit a report to the Attorney General. The Attorney General will compile these reports and submit a comprehensive report to the Legislative Council. The bill also requires that copies of any executed contingency fee contract and payments of contingency fees are to be posted on the Attorney General's web site. These requirements could increase expenditures for the Attorney General, and will depend upon the extent that contingency fee contracts are entered into with private attorneys by agencies.

(Revised) *Inspector General:* This bill requires the Inspector General to make a written determination before agencies enter into contingency fee contracts that the proposed contracts would not violate the code of ethics or any statute or agency rule concerning conflict of interest. These requirements could increase expenditures

for the Inspector General, and will depend upon the extent that proposed contingency fee contracts need to be reviewed.

*Additional Information* - The bill limits contingency fee contracts entered into between agencies and private attorneys so that the attorney may not receive aggregate contingency fees that exceed the sum of the following:

- (1) 25% of any recovery that exceeds \$2 M, but does not exceed \$10 M;
- (2) 20% of any part of a recovery that exceeds \$10 M, but does not exceed \$15 M;
- (3) 15% of any part of a recovery that exceeds \$15 M, but does not exceed \$20 M;
- (4) 10% of any part of a recovery that exceeds \$20 M, but does not exceed \$25 M;
- (5) 5% of any part of a recovery that exceeds \$25 M; and
- (6) no more than \$50 M, excluding reasonable costs and expenses.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** All; Attorney General; Inspector General.

**Local Agencies Affected:**

**Information Sources:**

**Fiscal Analyst:** Jessica Harmon, 317-232-9854.