

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.