
By: **Delegate Getty**
Introduced and read first time: February 11, 2000
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Private Attorney Procurement Sunshine Act**

3 FOR the purpose of requiring an executive unit of State government to use an open
4 and competitive bidding process in retaining an attorney or group of attorneys to
5 perform legal services on behalf of the unit; requiring the unit to submit a
6 contract for legal services that exceeds a certain amount to certain committees
7 of the General Assembly for review and comment; providing a procedure and
8 time line for the review and comment process; providing for the application of
9 this Act; prohibiting an executive unit of State government from paying total
10 legal fees and expenses exceeding a certain amount for contracted legal services
11 rendered on a contingent fee basis; requiring that an attorney or group of
12 attorneys rendering legal services on a contingent fee basis provide a certain
13 statement of fees and expenses at a certain time after the conclusion of legal
14 proceedings; requiring the reduction of fees and expenses under certain
15 circumstances; providing for the severability of this Act; and generally relating
16 to the rendering of legal services on a contract basis to executive units of State
17 government and the fees and expenses charged for those services.

18 BY adding to
19 Article - State Finance and Procurement
20 Section 13.5-101 through 13.5-103, to be under the new title "Title 13.5. Private
21 Attorney Procurement Sunshine Act"
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1999 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - State Finance and Procurement**

2 TITLE 13.5. PRIVATE ATTORNEY PROCUREMENT SUNSHINE ACT.

3 13.5-101.

4 (A) (1) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (2) "A CONTRACT EXCEEDING \$1 MILLION" MEANS ONE IN WHICH THE
7 FEE PAID TO AN ATTORNEY OR GROUP OF ATTORNEYS, EITHER IN THE FORM OF A
8 FLAT, HOURLY, OR CONTINGENT FEE, PLUS EXPENSES, EXCEEDS OR CAN BE
9 REASONABLY EXPECTED TO EXCEED \$1 MILLION.

10 (3) "COMMITTEE" MEANS:

11 (I) WHEN THE GENERAL ASSEMBLY IS NOT IN SESSION, THE
12 LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY; OR13 (II) WHEN THE GENERAL ASSEMBLY IS IN SESSION, ONE OR MORE
14 OF THE APPROPRIATE STANDING COMMITTEES OF THE GENERAL ASSEMBLY, AS
15 DETERMINED BY THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
16 HOUSE.

17 (4) "UNIT" MEANS AN EXECUTIVE UNIT OF STATE GOVERNMENT.

18 (B) A UNIT MAY NOT CONTRACT WITH AN ATTORNEY OR GROUP OF
19 ATTORNEYS WHO ARE NOT STATE EMPLOYEES TO PERFORM LEGAL SERVICES ON
20 BEHALF OF THE UNIT UNTIL AFTER THE UNIT HAS CONDUCTED AN OPEN AND
21 COMPETITIVE BIDDING PROCESS.22 (C) (1) ON OR BEFORE 75 DAYS BEFORE EXECUTING A CONTRACT FOR
23 LEGAL SERVICES EXCEEDING \$1 MILLION, A UNIT SHALL PROVIDE A COPY OF THE
24 CONTRACT TO THE COMMITTEE.25 (2) ON OR BEFORE 30 DAYS AFTER RECEIVING THE CONTRACT, THE
26 COMMITTEE MAY HOLD A PUBLIC HEARING.27 (3) (I) AFTER THE PUBLIC HEARING, THE COMMITTEE MAY MAKE
28 COMMENTS AND RECOMMENDATIONS TO THE UNIT THAT MAY INCLUDE PROPOSED
29 CHANGES TO THE PROPOSED CONTRACT.30 (II) IF THE UNIT DOES NOT INCORPORATE INTO THE CONTRACT
31 THE COMMENTS AND RECOMMENDATIONS PROPOSED BY THE COMMITTEE, THE
32 UNIT SHALL SEND THE COMMITTEE A COPY OF THE FINAL CONTRACT, WITH ITS
33 REASONS FOR NOT INCORPORATING THE CHANGES.34 (III) ON OR AFTER 45 DAYS AFTER THE COMMITTEE RECEIVES THE
35 FINAL CONTRACT AND LETTER FROM THE UNIT, THE UNIT MAY EXECUTE THE FINAL
36 CONTRACT.

1 (4) IF THE COMMITTEE DOES NOT PROPOSE CHANGES TO THE
2 CONTRACT, THE UNIT MAY EXECUTE THE FINAL CONTRACT ON OR AFTER 60 DAYS
3 AFTER THE COMMITTEE RECEIVES THE FINAL CONTRACT.

4 (D) IF AN EXECUTIVE UNIT OF STATE GOVERNMENT IS NOT GRANTED THE
5 AUTHORITY TO CONTRACT FOR LEGAL SERVICES EXCEEDING \$1 MILLION UNDER
6 ANY OTHER STATE LAW OR REGULATION, THIS SECTION MAY NOT BE CONSTRUED TO
7 GRANT THAT AUTHORITY.

8 13.5-102.

9 (A) A UNIT MAY NOT PAY TOTAL LEGAL FEES AND EXPENSES EXCEEDING
10 \$1,000 PER HOUR FOR CONTRACTED LEGAL SERVICES RENDERED ON A CONTINGENT
11 FEE BASIS BY AN ATTORNEY OR GROUP OF ATTORNEYS WHO ARE NOT STATE
12 EMPLOYEES.

13 (B) ON OR BEFORE 30 DAYS AFTER THE CONCLUSION OF A LEGAL
14 PROCEEDING FOR WHICH A UNIT HAS CONTRACTED FOR LEGAL SERVICES ON A
15 CONTINGENT FEE BASIS, THE ATTORNEY OR GROUP OF ATTORNEYS RENDERING THE
16 SERVICES SHALL PROVIDE THE UNIT WITH A STATEMENT OF:

17 (1) THE HOURS WORKED BY THE ATTORNEY OR GROUP OF ATTORNEYS;

18 (2) THE EXPENSES INCURRED BY THE ATTORNEY OR GROUP OF
19 ATTORNEYS;

20 (3) THE HOURLY RATE CHARGED BY THE ATTORNEY OR GROUP OF
21 ATTORNEYS; AND

22 (4) THE AGGREGATE AMOUNT OF FEES CHARGED BY THE ATTORNEY OR
23 GROUP OF ATTORNEYS.

24 (C) IF A DISCLOSURE SUBMITTED UNDER SUBSECTION (B) OF THIS SECTION
25 INDICATES AN HOURLY RATE FOR THE TOTAL AMOUNT OF FEES AND EXPENSES
26 THAT EXCEEDS \$1,000 PER HOUR, THE UNIT AND THE ATTORNEY OR GROUP OF
27 ATTORNEYS SHALL AGREE TO REDUCE THE TOTAL AMOUNT OF THE FEES AND
28 EXPENSES FOR THE LEGAL SERVICES RENDERED TO AN AMOUNT EQUAL TO \$1,000
29 PER HOUR.

30 13.5-103.

31 THIS TITLE MAY BE CITED AS THE "PRIVATE ATTORNEY PROCUREMENT
32 SUNSHINE ACT".

33 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
34 Act or the application thereof to any person or circumstance is held invalid for any
35 reason in a court of competent jurisdiction, the invalidity does not affect other
36 provisions or any other application of this Act which can be given effect without the
37 invalid provision or application, and for this purpose the provisions of this Act are
38 declared severable.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2000.