



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1021

PRINTERS NO. 1751

PRIME SPONSOR: Krieger

COST / (SAVINGS)

| FUND | FY 2010/11 | FY 2011/12 |
|--------------|------------|------------|
| General Fund | \$0 | \$0 |

SUMMARY: Imposes requirements on Commonwealth agencies when they elect to award professional services contracts and sole source legal services contracts on a contingent fee basis. This legislation would take effect in 60 days and will be applicable to contracts solicited or entered into on or after the effective date

ANALYSIS: This legislation amends the Procurement Code to impose various requirements on Commonwealth agencies when they elect to award professional services contracts on a contingent fee basis. Under the bill, if the head of a purchasing agency determines in writing that it is in the best interests of the Commonwealth for a particular service to be provided on a contingent fee basis, the head of the agency must disclose, in the request for proposals, that the method of compensation for the procurement will be on a contingent fee basis. The bill requires compensation for any professional services contingent fee contract to be determined by negotiation between the agency and the selected offeror and be fair and reasonable. If an agency and an offeror reach agreement during negotiations, the agency is authorized to enter into the contract. The contract must be posted on the State Treasury's contract database website, which was established under the Right-to-Know Law..

This legislation also applies the additional requirements to legal services contracts issued under the sole source method of procurement or the professional services method and requires that:

- Compensation must not exceed 20% of a portion of an award or settlement
- The purchasing agency shall maintain exclusive power to accept a settlement
- The Commonwealth attorneys designated by the head of the purchasing agency must retain control over the course and conduct of the applicable legal action
- The Commonwealth attorneys designated by the head of the purchasing agency must retain the ability to have direct contact with any party to the action
- The Commonwealth attorneys designated by the head of the purchasing agency must be allowed to participate in any hearing, trial or settlement

This legislation will require each agency that enters into a contingent fee contract during a calendar year to report information on each such contract to the majority and minority chairs of the House and Senate State Government Committees.

FISCAL IMPACT: This legislation will have no adverse impact on Commonwealth funds

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: June 6, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.