

- SUBJECT:** Extending payment deadline for legal work provided by outside counsel
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White
- 0 nays
- SENATE VOTE:** On final passage, April 25 — 30-0
- WITNESSES:** *On House companion bill, HB 1834:*
For — None
- Against — None
- On — (*Registered, but did not testify:* Josh Godbey, Office of the Attorney General)
- BACKGROUND:** Under Government Code sec. 402.0212, a contract for legal services provided between outside counsel and a state agency in the executive department, other than an agency established by the Texas Constitution must be approved by the attorney general. Sec. 402.0212(b) requires the attorney general to review an invoice submitted to a state agency under a contract for legal services to determine whether the invoice is eligible for payment. Sec. 2251.021(a)(3) establishes that a payment by a governmental entity under a contract is overdue on the 31st day after the entity receives an invoice for the goods or service.
- Interested parties say that the 30-day deadline for state agencies to pay invoices may not leave enough time for the attorney general's office to complete its required review of invoices for legal services provided by outside counsel.
- DIGEST:** SB 1370 would establish that a payment under a contract for legal services provided by outside counsel would be overdue on the 46th day after the

date a state agency received an invoice for the services.

The bill would require that a state agency's office of general counsel submit an invoice for legal services provided by outside counsel no later than the 25th day after the date the agency received the invoice. The attorney general's review of the invoice would be limited to determining whether the legal services were performed within the term of the contract and were within the scope of the legal services authorized by the contract and were therefore eligible for payment.

A state agency's office of general counsel would have to include with an invoice submitted for review a written certification that the billed legal services were performed within the term of the contract, were within the scope of the legal services authorized by the contract, and were reasonably necessary to fulfill the purpose of the contract. To certify an invoice, a state agency would have to, at a minimum, determine that the following items were supported by proper documentation and submitted to the agency under the contract requirements:

- the amount and types of expenses billed under the invoice;
- the rates for legal services under the invoice; and
- the number of hours billed for legal services under the invoice.

If a state agency rejected or disputed the invoice as not certifiable, the agency would be required to, not later than the 21st day after receiving the invoice, notify the attorney or law firm and request a corrected invoice. The 25-day period for the attorney general review of the invoice would begin on the date the agency received a corrected invoice that was certified under the requirements of the bill.

If the attorney general rejected or disputed an invoice and certification submitted by a state agency, the attorney general would notify the agency that the invoice was not eligible for payment. A state agency could submit a corrected invoice and certification, and the bill's requirements would apply to the corrected invoice and certification.

The bill would take effect September 1, 2019.