

- SUBJECT:** Expanding oversight over political subdivisions' contingent fee contracts
- COMMITTEE:** State Affairs — favorable, without amendment
- VOTE:** 11 ayes — Paddie, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson
- 0 nays
- 2 absent — Hernandez, Smithee
- SENATE VOTE:** On final passage, April 19 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** No public hearing.
- BACKGROUND:** Government Code ch. 2254, subch. C governs contingent fee contracts for legal services. Sec. 2254.101(2) defines a "contingent fee contract" as a contract for legal services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained. Sec. 2254.1038 requires a political subdivision to receive attorney general approval of a contingent fee contract.
- DIGEST:** SB 1821 would expand the Government Code definition of "contingent fee contract" to include an amendment to a contract for legal services if the amendment:
- changed the scope of representation; or
 - could result in the filing of an action or the amending of a petition in an existing action.

The bill would apply only to a contract or contract amendment entered into on or after the effective date of the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2021.

SUPPORTERS SAY: SB 1821 would promote public transparency and accountability by closing a loophole in the approval process for political subdivisions seeking to enter into contingent fee contracts for legal services. The bill would address instances of political subdivisions, including school districts, amending an existing contingent fee contract rather than entering into a new contract in an apparent effort to circumvent the requirement enacted by the 86th Legislature that contingent fee contracts be reviewed and approved by the attorney general.

CRITICS SAY: SB 1821 would add an administrative burden on cities and other political subdivisions by requiring attorney general review of any change in the scope of existing representation under a contingent fee contract. Adding a second administrative procedure in order for a city to select new counsel during the course of ongoing representation could prevent the city from using outside counsel effectively, and possibly compromise attorney-client privileged communications, attorney work product, and attorney strategy.

NOTES: The House companion bill, HB 1974 by Canales, was considered by the House State Affairs Committee in a public hearing on April 20 and was left pending.