

By: Senator(s) Ross, Kirby,  
Flowers, Brown, Nunnelee,  
Moffatt, Davis, Doxey, Chaney,  
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To: Appropriations

SENATE BILL NO. 2007

1 AN ACT TO BE ENTITLED THE "MISSISSIPPI OPEN LAWYER FEES ACT  
2 OF 2005"; TO PROVIDE THAT NO STATE AGENCY SHALL ENTER INTO A  
3 CONTRACT FOR LEGAL SERVICES WITH PRIVATE ATTORNEYS EXCEEDING ONE  
4 MILLION DOLLARS WITHOUT A HEARING ON THE TERMS OF THE CONTRACT  
5 CONDUCTED BY THE LEGISLATURE; TO PROVIDE DEFINITIONS; TO ESTABLISH  
6 A JOINT LEGISLATIVE COMMITTEE ON STATE AGENCY LEGAL CONTRACTS FOR  
7 THE PURPOSE OF CONDUCTING SUCH HEARINGS; TO PROVIDE A PROCEDURE  
8 FOR THE SUBMISSION OF SUCH PROPOSED CONTRACTS FOR COMMENT BY THE  
9 LEGISLATIVE COMMITTEE; TO AMEND SECTIONS 7-5-1, 7-5-7 AND 7-1-33,  
10 MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** This act shall be known and may be cited as the  
13 Mississippi Open Lawyer Fees Act of 2005.

14 **SECTION 2.** For the purposes of this act, a contract in  
15 excess of One Million Dollars (\$1,000,000.00) is one in which the  
16 fee paid to a private attorney or group of attorneys, either in  
17 the form of a flat, hourly or contingent fee, and their expenses,  
18 exceed, or can be reasonably expected to exceed, One Million  
19 Dollars (\$1,000,000.00).

20 **SECTION 3.** No state agency, or public official on behalf of  
21 a state agency, shall enter into a contract for legal services  
22 exceeding One Million Dollars (\$1,000,000.00) without the  
23 opportunity for at least one (1) hearing in the Legislature on the  
24 terms of the legal contract in accordance with Section 4 of this  
25 act.

26 **SECTION 4.** (1) As provided in the requirements of Section  
27 3, any state agency or public official on behalf of a state agency  
28 entering into a contract for legal services in excess of One  
29 Million Dollars (\$1,000,000.00) shall file a copy of said proposed  
30 contract with the Clerk of the House of Representatives and the  
31 Secretary of the Senate who shall submit such contract to the

32 Chairman of the Joint Legislative Committee on State Agency Legal  
33 Contracts created under subsection (2).

34 (2) There is created the Joint Legislative Committee on  
35 State Agency Legal Contracts, hereinafter referred to as the  
36 "Joint Committee." The Joint Committee shall be composed of the  
37 following ten (10) members: the Chairman of the Judiciary "A"  
38 Committee of the House of Representatives, the Chairman of the  
39 Judiciary "A" Committee of the Senate, four (4) members of the  
40 House of Representatives to be named by the Speaker and four (4)  
41 members of the Senate to be named by the Lieutenant Governor. The  
42 chairmanship of the Joint Committee shall alternate for  
43 twelve-month periods, beginning on May 1 of each year, between the  
44 Chairman of the Judiciary "A" Committee of the House and the  
45 Chairman of the Judiciary "A" Committee of the Senate, with the  
46 Chairman of the Judiciary "A" Committee of the Senate serving as  
47 the first chairman.

48 There shall be no business transacted without the presence of  
49 a quorum of the Joint Committee. A quorum shall be six (6)  
50 members, to consist of three (3) members from the House of  
51 Representatives and three (3) members from the Senate. No action  
52 shall be valid unless approved by the majority of those members  
53 present and voting.

54 The members of the Joint Committee shall receive per diem as  
55 authorized by law for their services in carrying out the duties of  
56 the Joint Committee, and a daily expense allowance equal to that  
57 received for regular committee meetings, including mileage as  
58 authorized by Section 25-3-41; however, no per diem or expense for  
59 attending meetings of the Joint Committee shall be paid while the  
60 Legislature is in regular or special session.

61 The Joint Committee shall meet upon the call of the chairman.  
62 The authority of the Joint Committee to meet shall not be limited  
63 to those occasions when the Legislature is in regular session.

64           (3) Within forty-five (45) days after the receipt of a  
65 contract for legal services by the Clerk of the House and  
66 Secretary of the Senate, the Joint Committee shall hold a public  
67 hearing or hearings on the proposed contract and shall issue a  
68 report to the referring state agency or official. The report  
69 shall include any proposed changes to the proposed contract voted  
70 upon the committee. The state agency or state official shall  
71 review the report and adopt a final contract as deemed appropriate  
72 in view of the report and shall file its final contract with the  
73 Joint Committee.

74           (4) If the proposed contract does not contain the changes  
75 proposed by the Joint Committee, the referring state agency or  
76 official shall send a letter to the Joint Committee accompanying  
77 the final contract stating the reasons why such proposed changes  
78 were not adopted. The Joint Committee may again hold a public  
79 hearing or hearings on the proposed contract or take other such  
80 action it deems appropriate. Not earlier than forty-five (45)  
81 days after the filing of such letter and final contract with the  
82 committee, the state agency or official may enter into the final  
83 contract.

84           (5) Nothing in this act shall be construed to expand the  
85 authority of any state agency or public official to enter into  
86 contracts where no such authority previously existed.

87           **SECTION 5.** Section 7-5-1, Mississippi Code of 1972, is  
88 amended as follows:

89           7-5-1. The Attorney General provided for by Section 173 of  
90 the Mississippi Constitution shall be elected at the same time and  
91 in the same manner as the Governor is elected. His term of office  
92 shall be four (4) years and his compensation shall be fixed by the  
93 Legislature. He shall be the chief legal officer and advisor for  
94 the state, both civil and criminal, and is charged with managing  
95 all litigation on behalf of the state. No arm or agency of the  
96 state government shall bring or defend a suit against another such

97 arm or agency without prior written approval of the Attorney  
98 General. He shall have the powers of the Attorney General at  
99 common law and is given the sole power to bring or defend a  
100 lawsuit on behalf of a state agency, the subject matter of which  
101 is of statewide interest, and he shall intervene and argue the  
102 constitutionality of any statute when notified of a challenge  
103 thereto, pursuant to the Mississippi Rules of Civil Procedure.  
104 His qualifications for office shall be as provided for chancery  
105 and circuit judges in Section 154 of the Mississippi Constitution.  
106 This section shall be subject to the provisions of Senate Bill No.  
107 2007, 2005 Second Extraordinary Session.

108 **SECTION 6.** Section 7-5-7, Mississippi Code of 1972, is  
109 amended as follows:

110 7-5-7. The Governor may engage counsel to assist the  
111 Attorney General in cases to which the state is a party when, in  
112 his opinion, the interest of the state requires it, subject to the  
113 action of the Legislature in providing compensation for such  
114 services, and subject to the provisions of Senate Bill No. 2007,  
115 2005 Second Extraordinary Session.

116 The Attorney General is hereby authorized and empowered to  
117 appoint and employ special counsel, on a fee or salary basis, to  
118 assist the Attorney General in the preparation for, prosecution,  
119 or defense of any litigation in the state or federal courts or  
120 before any federal commission or agency in which the state is a  
121 party or has an interest.

122 The Attorney General may designate such special counsel as  
123 special assistant attorney general, and may pay such special  
124 counsel reasonable compensation to be agreed upon by the Attorney  
125 General and such special counsel, in no event to exceed recognized  
126 bar rates for similar services.

127 The Attorney General may also employ special investigators on  
128 a per diem or salary basis, to be agreed upon at the time of  
129 employment, for the purpose of interviewing witnesses,

130 ascertaining facts, or rendering any other services that may be  
131 needed by the Attorney General in the preparation for and  
132 prosecution of suits by or against the State of Mississippi, or in  
133 suits in which the Attorney General is participating on account of  
134 same being of statewide interest.

135 The Attorney General may pay travel and other expenses of  
136 employees and appointees made hereunder in the same manner and  
137 amount as authorized by law for the payment of travel and expenses  
138 of state employees and officials.

139 The compensation of appointees and employees made hereunder  
140 shall be paid out of the Attorney General's Contingent Fund, or  
141 out of any other funds appropriated to the Attorney General's  
142 Office.

143 This section shall be subject to the provisions of Senate  
144 Bill No. 2007, 2005 Second Extraordinary Session.

145 **SECTION 7.** Section 7-1-33, Mississippi Code of 1972, is  
146 amended as follows:

147 7-1-33. The Governor may order and direct suits to be  
148 brought for and in the name of the state in any other state or  
149 foreign jurisdiction for the recovery of any monies due or owing  
150 to the state, or upon any claim or demand on which the state is  
151 entitled to sue. For the prosecution of such suits he may employ  
152 counsel and, for such sum as is necessary to pay the costs or  
153 expenses thereof, order the Auditor to draw a warrant on the  
154 treasury, payable out of any sum appropriated for the purpose.

155 This section shall be subject to the provisions of Senate Bill No.  
156 2007, 2005 Second Extraordinary Session.

157 **SECTION 8.** This act shall take effect and be in force from  
158 and after its passage.