

BILL ANALYSIS

Senate Research Center
86R8483 SRA-F

S.B. 1370
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State Affairs
4/12/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Prompt Pay Act, state agencies must pay for goods or services within thirty days of receiving the goods or services or the invoice for the goods or services, whichever occurs later. If a state agency does not pay an invoice within that thirty-day window, interest begins to accrue on the late payment. The Act creates a problem for agencies that must obtain OAG's approval of invoices for outside legal counsel, because the invoice must be reviewed by two separate state agencies (not just one, as contemplated by the Prompt Pay Act) within the same thirty-day period. Oftentimes, agencies do not submit invoices for OAG's approval within an appropriate amount of time. Other times, the invoices are sent to OAG with incomplete administrative and accounting work. For example, some invoices can reach up to one-hundred pages long with receipts left un-totaled, per diem amounts unverified, etc. OAG's role should be limited to legal substantive review.

We are proposing a change to Section 402.0212 that would expand timeframe for review for outside legal counsel contracts from 30 to 45 days; with 25 days for agency submittal, and 20 days for OAG review. For quality assurance purposes, we propose that the invoices be submitted by the state agency's office of the general counsel, certifying the performance of their review in the process. This bill also limits OAG's role to only reviewing invoices for compliance with legal scope of the contract.

As proposed, S.B. 1370 amends current law relating to invoices and payments under certain state contracts for outside legal services.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 402.0212, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires an invoice submitted to a state agency under a contract for legal services as described by Subsection (a) to be:

(1) submitted to the Texas attorney general (attorney general) by the agency's office of general counsel not later than the 25th day after the date the agency receives the invoice; and

(2) reviewed by the attorney general to determine whether the legal services for which the agency is billed are within the terms and scope of the legal services authorized by the contract and therefore eligible for payment, rather than reviewed by the attorney general to determine whether the invoice is eligible for payment. Creates this subdivision from existing text.

(b-1) Requires a state agency's office of general counsel to include with an invoice submitted under Subsection (b)(1) a written certification that the legal services for which

the agency is billed are within the terms and scope of the legal services authorized by the contract and reasonably necessary to fulfill the contract.

SECTION 2. Amends Section 2251.021, Government Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Provides that except as otherwise provided by this section, rather than except as provided by Subsection (b) (relating to providing that a payment executed under a contract executed on or after September 1, 1993, owed by a political subdivision fitting certain criteria is overdue on a certain date), a payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of certain specified dates.

(b-1) Provides that a payment under a contract for legal services described by Section 402.0212 (Provision of Legal Services—Outside Counsel) owed by a state agency is overdue on the 46th day after the date the agency receives an invoice for the legal services.

SECTION 3. Effective date: September 1, 2019.