

SENATE BILL NO. 420—SENATORS SEEVERS GANSERT,
GOICOECHEA, TITUS, HANSEN, STONE; BUCK AND
KRASNER

MARCH 27, 2023

JOINT SPONSORS: ASSEMBLYMEN O’NEILL, HAFEN,
DICKMAN; DELONG, GRAY AND YUREK

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the payment of certain
fees for legal services. (BDR S-667)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to legal services; revising provisions relating to
the payment of fees for certain legal services on a
contingent basis; and providing other matters properly
relating thereto.

Legislative Counsel’s Digest:

Existing law establishes certain requirements governing any contract for legal
services entered into by the Attorney General or, with certain exceptions, any other
officer, agency or employee in the Executive Department of the State Government
pursuant to which a private attorney or law firm is to be paid a contingent fee.
(NRS 228.111-228.1118) Existing law limits the amount of the fee that may be paid
to an attorney or law firm retained in any matter that is the subject of such a
contingent fee contract to not more than 25 percent of the amount recovered,
exclusive of certain costs and expenses. (NRS 228.1116) This bill replaces that
maximum limitation based on the percentage of recovery with a sliding scale of
fees ranging from 25 percent to 5 percent of the amount recovered and places a
maximum limitation on the amount of a contingency fee of \$50 million.

WHEREAS, The use by states of contingent fee contracts with
private attorneys is becoming more common; and

WHEREAS, On the final day of the 2017 Regular Session of the
Nevada Legislature, NRS 228.1116 was amended to change the



1 maximum contingent fee authorized in contingent fee contracts
2 between the State of Nevada and private attorneys from a maximum
3 dollar amount of \$10 million to a maximum percentage of 25
4 percent of the recovery; and

5 WHEREAS, Recently, the State of Nevada entered into a
6 contingent fee contract with private attorneys concerning
7 opioid-related litigation, which has and is expected to generate
8 significant monetary recoveries and, accordingly, significant
9 contingent fees; and

10 WHEREAS, The contingent fee required in that contract ranges
11 from 19 percent to 21.5 percent after commencement of discovery,
12 depending on the total aggregate recovery; and

13 WHEREAS, In August 2021, the federal district judge who
14 oversees thousands of federal lawsuits relating to the opioid
15 epidemic found that contingent fees in excess of 15 percent of the
16 client's award "is presumptively unreasonable"; and

17 WHEREAS, At least 10 other states currently limit contingent
18 fees payable to a private firm by the state based on a sliding scale of
19 fees, depending on the size of the recovery, with a limit on the total
20 maximum fee of \$50 million; and

21 WHEREAS, Such limits on contingent fees will maximize the
22 money going into the State Treasury to be used to address the issue
23 for which the litigation was originally commenced and its effects;
24 now therefore,

25
26 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
27 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
28

29 **Section 1.** NRS 228.1116 is hereby amended to read as
30 follows:

31 228.1116 1. *Except as otherwise provided in subsection 2, a*
32 *retained attorney or law firm is not entitled to a fee, exclusive of*
33 *any costs and expenses described in that subsection, of more than:*

34 (a) *Twenty-five percent of that portion of any amount*
35 *recovered of less than \$10,000,000;*

36 (b) *Twenty percent of that portion of any amount recovered of*
37 *\$10,000,000 or more but less than \$15,000,000;*

38 (c) *Fifteen percent of that portion of any amount recovered of*
39 *\$15,000,000 or more but less than \$20,000,000;*

40 (d) *Ten percent of that portion of any amount recovered of*
41 *\$20,000,000 or more but less than \$25,000,000; and*

42 (e) *Five percent of that portion of any amount recovered of*
43 *\$25,000,000 or more.*

44 2. The total fee payable to all retained attorneys or law firms in
45 any matter that is the subject of a contingent fee contract must not



1 exceed ~~{25 percent of the amount recovered,}~~ **\$50,000,000,**
2 exclusive of any costs and expenses provided for by the contract and
3 actually incurred by the retained attorneys or law firms, regardless
4 of the number of actions or proceedings or the number of retained
5 attorneys or law firms involved in the matter.

6 ~~{2.}~~ **3.** A contingent fee:

7 (a) Is payable only from money that is actually received
8 pursuant to a judgment or settlement agreement.

9 (b) Must not be based on any amount attributable to a fine or
10 civil penalty, but may be based on an amount attributable to punitive
11 damages.

12 ~~{3.}~~ **4.** As used in this section, "amount recovered" does not
13 include any money paid as costs.

14 **Sec. 2.** The provisions of this act do not apply to a contingent
15 fee contract entered into before the effective date of this act, but do
16 apply to any renewal or extension of such a contingent fee contract.
17 As used in this section, "contingent fee contract" has the meaning
18 ascribed to it in NRS 228.111.

19 **Sec. 3.** This act becomes effective upon passage and approval.

