



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

Officers & Members

President - Bill Smith
National Federation of Independent Business

Vice President - Jerry Deschane
Wisconsin Builders Association

Treasurer - Andrew Franken
Wisconsin Ins. Alliance

Secretary – Scott Manley
Wisconsin Manufacturers and Commerce

John Mielke
Associated Builders & Contractors

James Boullion
Associated General Contractors of Wisconsin

Beata Kalies
Electric Cooperatives

Gary Manke
Midwest Equipment Dealers Association

Nickolas George
Midwest Food Processors Association

William Sepic
Wisconsin Automobile & Truck Dealers Association

Laurie Fischer
Wisconsin Dairy Business Association

Bryce Tolefree
Wisconsin Defense Counsel

Peter Thillman
Wisconsin Economic Development Association

Eric Borgerding
Wisconsin Hospital Association Inc.

Mark Grapentine
Wisconsin Medical Society

Thomas Howells
Wisconsin Motor Carriers Association

Matthew Hauser
Wisconsin Petroleum Marketers & Convenience Store Association

Edward Lump
Wisconsin Restaurant Association

WCJC Supports SB 19/AB 27: Transparency in Private Attorney Contracting

The purpose of [Senate Bill 19/Assembly Bill 27](#) is to provide transparency when the State of Wisconsin hires private plaintiffs' attorneys on a contingency fee basis.

The Wisconsin Civil Justice Council **SUPPORTS** SB 19/AB 27 for the following reasons:

- It provides transparency when the State decides to hire private plaintiffs' attorneys on a contingency fee basis.
- It protects taxpayers by placing reasonable limits on the private plaintiffs' attorneys' fees.
- It ensures that the State maintains control of the case.

Background

The lack of transparency in private plaintiffs' attorneys contingency fee contracts with the state has the potential for abuse and conflict of interest.

This legislation applies to contingency fee contracts with private plaintiffs' attorneys – cases where a plaintiff attorney is paid only if he or she wins or settles the case on behalf of the state. This bill does not apply to other types of contracts with private law firms.

The interests of plaintiffs' attorneys hired on a contingency fee basis are not always aligned with the interests of the state and its citizens. Private plaintiffs' attorneys who are given complete control of litigation may seek settlements and judgments that maximize their profit rather than provide a benefit to the State of Wisconsin and its citizens.

Private attorneys have also received excessive fees for their work on behalf of states in some cases. Senate Bill 19/Assembly Bill 27 ensures that Wisconsin government attorneys retain control of the litigation and that consumers, victims, and taxpayers receive their fair share of any recovery.

Summary of SB 19/AB 27 (Transparency in Government Retention of Private Attorneys on Contingency Fee Basis)

A number of states have enacted reforms that recognize the discretion and independence needed to enforce state laws free from the influence of parties that may have a private interest in the outcome of the litigation. Recently enacted laws in other states have focused on preserving the ability for states to contract with private plaintiffs' attorneys on a contingency fee basis while ensuring sufficient transparency in the process. This is what this legislation does as well.

(Over)

Specifically, SB 19/AB 27:

- Requires a written determination that a contingency fee arrangement with private plaintiffs' attorneys will be cost-effective and in the best interests of the State of Wisconsin;
- Requires the state to request proposals before entering into a contingency fee contract;
- Establishes reasonable, tiered limits on contingency fees based on a percent of the state's recovery and caps the total fees at \$30 million;
- Requires publishing of executed contingency fee contracts online;
- Requires government attorneys to participate in all settlement negotiations and retain ultimate control of the litigation; and
- Requires private plaintiffs' attorneys hired by the state to maintain all financial records related to the legal services provided to the state

Conclusion

Senate Bill 19/Assembly Bill 27 ensures contingency fee contracts with private plaintiffs' attorneys are awarded openly and that the state and its citizens receive the maximum practicable amount of any settlement or award.

Therefore, the Wisconsin Civil Justice Council SUPPORTS SB 19/AB 27.