

Significant Issues

The governmental entities that this bill refers to are the Governor, Lieutenant Governor, Secretary of State, State Auditor, Commissioner of Public Lands and a governmental entity subject to the executive direction of one of the foregoing officers.

ADMINISTRATIVE IMPLICATIONS

This bill does not define how independent legal counsel is to be paid for.

TECHNICAL ISSUES

It would be advisable for the term “matter” (as used, for example, in the provision requiring the attorney general to keep the client agency “reasonably informed about the status of a matter”) to be defined in section 1 of this bill.

According to the State Land Office there appears to be a conflict between Section 1 (conferring ultimate case management and settlement authority on the client agency) and Section 2(A)(1) (conferring power on the attorney general “to take any action on behalf of the state”). A court would harmonize the two sections, but inserting “subject to Section 1” at the beginning of Section 2(A)(1) would eliminate any apparent conflict or source of dispute.

OTHER SUBSTANTIVE ISSUES

According to the State Land Office this bill would, “...transform the sometimes adversarial relationship between the attorney general and client agencies into a normal attorney-client relationship, giving the client express statutory authority to manage and compromise their own lawsuits. This would be consistent with the commissioner’s constitutional jurisdiction over state public lands, also known as state trust lands, and his responsibility to optimize revenues from these lands in accordance with the New Mexico enabling act and state constitution.”

JFS/ar