

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 902

BY: HENDRICK of the SENATE

and

SETTLE of the HOUSE

AN ACT RELATING TO THE OKLAHOMA PUBLIC WELFARE

COMMISSION; AMENDING 56 O.S. 1991, SECTION 236,

WHICH RELATES TO THE LEGAL DIVISION; # # # AND

DECLARING AN EMERGENCY.

AUTHOR: Add the following House Coauthor: JOHNSON (Rob)

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

" (LEGAL SERVICES - AMENDING 56 O.S. 1991, SECTION

236 - LEGAL DIVISION OF THE OKLAHOMA COMMISSION

FOR HUMAN SERVICES - AMENDING 74 O.S. 1991,

SECTIONS 18c AND 18 1 - EFFECTIVE DATE -

EMERGENCY)

SECTION 1. AMENDATORY 56 O.S. 1991, Section 236, is amended to read as follows:

Section 236. A. The ~~Until July 1, 1993, the~~ Oklahoma ~~Public Welfare~~ Commission for Human Services shall establish or provide for a Legal Division or Unit in the Department of ~~Public Welfare~~ Human Services, and the Director of ~~Public Welfare~~ Human Services shall employ attorneys as needed, which may be on full-time and part-time basis, which attorneys, in addition to advising the Commission,

Director and Department personnel on legal matters, may appear for and represent the Commission, Director and Department in legal actions and proceedings. ~~Provided, that it shall continue to be the duty of~~

B. Beginning July 1, 1992, the Oklahoma Commission for Human Services, the Director, the Department and Department officers and employees shall be represented by the Office of the Attorney General in all legal matters involving civil rights or discrimination claims before administrative bodies or before courts of law purportedly arising under, but not limited to, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, the Equal Pay Act, the Civil Rights Act of 1866, or the Discrimination in Employment Act under state law. The Office of the Attorney General may take control of any such matters that may be pending on July 1, 1992, and all records, files and other materials relative to such pending matters shall be transferred to the Office of the Attorney General as directed by the Attorney General or designee. As of the effective date of this act, all officers, agents and employees of the Department shall cooperate, participate and assist in the efficient, effective and timely transfer of any materials related to pending matters and shall cooperate, participate and assist the Office of the Attorney General in an efficient, effective and timely transfer of representation in pending matters. Unless funds are specifically appropriated to the Office of the Attorney General to pay for the legal services to be provided pursuant to this section, the Department shall contract for and pay a reasonable fee for legal services and expenses of the Attorney General pursuant to Section 181 of Title 74 of the Oklahoma Statutes.

C. Beginning July 1, 1993, the Oklahoma Commission for Human Services shall be represented in all legal matters other than

matters which are part of the duties and responsibilities of the Child Support Enforcement Division and the Child Support Hearing Unit of the Department of Human Services by the Attorney General ~~to give his official opinion to~~ who shall represent the Commission, Director or Department, and ~~to~~ who shall prosecute and defend actions ~~therefor~~, if requested to do so.

D. On and after July 1, 1993, the Department of Human Services shall not employ or retain attorneys as such or retain outside counsel unless first approved by the Attorney General. Provided, however, the Department of Human Services may retain such attorneys as are necessary to fulfill the duties and obligations of the Child Support Enforcement Division and the Child Support Hearing Unit of the Department of Public Welfare.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 235.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Legal Division or Unit, also known as the Office of the General Counsel, within the Department of Human Services is hereby abolished. Except as otherwise provided by law, the powers, duties, and responsibilities exercised by the Division or Unit, all unexpended funds, and property and records as specified by the Attorney General, are hereby transferred to the Office of the Attorney General. The Department of Human Services shall institute a reduction-in-force plan relative to unclassified and classified employees giving due consideration to employees of the Division. The Attorney General shall interview employees of such Unit who may request consideration for employment with the Office of the Attorney General. The Attorney General shall not be required to employ any current or former employee of the Department of Human Services. No personnel who are part of the Child Support Enforcement Division or the Child Support Hearing Unit shall be transferred to the Office of the Attorney General.

B. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, and purchase orders provided for by the provisions of subsection A of this section.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 18c, is amended to read as follows:

Section 18c. A. Subject to the exceptions hereinafter set out, no state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Child Support Enforcement Division and the Child Support Hearing Unit of the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission and the Office of Public Affairs, shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission, in any matter, and all the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title; and provided further, that liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the State Insurance Fund, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which

they may be sued in their official capacity, and at their request the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, provided after investigation he is convinced there is sufficient legal merit to justify the action. Provided however, any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of the Governmental Tort Claims Act. Provided further, that nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state last hereinabove mentioned, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

B. With the approval of the Attorney General, the Oklahoma Commission for Human Services may retain outside counsel to advise or represent said Commission officers or employees in any matter.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 18 1 (Section 29, Chapter 335, O.S.L. 1991), is amended to read as follows:

Section 18 1. The Office of the Attorney General may levy and collect a reasonable fee from the Department of Consumer Credit, the Office of Personnel Management, the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System, the Oklahoma Development Finance Authority, the Oklahoma Industrial Finance Authority, the Oklahoma Student Loan Authority, the Department of Mental Health and Substance Abuse Services, the Board of Regents of Oklahoma Colleges, the Oklahoma State Regents for Higher Education, the State Department of Vocational and Technical Education, the Oklahoma Department of Veterans Affairs, the State Fire Marshal Commission, the Commission on Children and Youth, the State Department of Agriculture, the Oklahoma Human Rights

Commission, the Oklahoma Law Enforcement Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Commission for Human Services, and the Oklahoma Tourism and Recreation Department for the purpose of providing legal services requested by such entities. All fees collected in accordance with the provisions of this section shall be deposited in the Attorney General's Revolving Fund created pursuant to Section 20 of this title.

SECTION 5. REPEALER 74 O.S. 1991, Section 18 1 (Section 8, Chapter 282, O.S.L. 1991), is hereby repealed.

SECTION 6. Sections 2, 3 and 5 of this act shall become effective July 1, 1993.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 14th day of April, 1992.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1992.

President of the Senate