

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 728

BY: WRIGHT

AS INTRODUCED

AN ACT RELATING TO THE LEGAL DIVISION OF THE OKLAHOMA PUBLIC WELFARE COMMISSION AND THE COLLECTION OF FEES FOR LEGAL SERVICES; AMENDING 56 O.S. 1991, SECTION 236, WHICH RELATES TO THE LEGAL DIVISION, AND 74 O.S. 1991, SECTIONS 18c AND 18 1 (SECTION 29, CHAPTER 335, O.S.L. 1991), WHICH RELATE TO EMPLOYMENT OF ATTORNEYS AND COLLECTION OF FEES FOR LEGAL SERVICES; DELETING PROVISIONS FOR A LEGAL DIVISION OR UNIT IN THE OKLAHOMA PUBLIC WELFARE COMMISSION; ADDING CERTAIN AGENCY TO THE LIST OF AGENCIES FROM WHICH THE ATTORNEY GENERAL MAY COLLECT FEES; DELETING THE OKLAHOMA PUBLIC WELFARE COMMISSION FROM THE LIST OF AGENCIES WHICH SHALL HAVE AUTHORITY TO EMPLOY OR APPOINT ATTORNEYS; REPEALING 74 O.S. 1991, SECTION 18 1 (SECTION 8, CHAPTER 282, O.S.L. 1991), WHICH IS A DUPLICATE SECTION AND WHICH RELATES TO COLLECTION OF FEES FOR LEGAL SERVICES; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

Section 236. ~~The Oklahoma Public Welfare Commission shall establish or provide for a Legal Division or Unit in the Department of Public Welfare, and the Director of Public Welfare 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~~ It shall be the duty of the Attorney General to give his official opinion to the Oklahoma Public Welfare Commission, the Director of the Department of Human Services, or the Department of Human Services, and to prosecute and defend actions therefor, if requested to do so.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 18c, is amended to read as follows:

Section 18c. 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 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.

SECTION 3. 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 Oklahoma Public Welfare Commission, also known as the 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 4. 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.

43-2-1683

CJ