

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1711

By: Steidley, Johnson (Glen),  
Campbell, Vaughn (Ray),  
Davis, Henshaw, Holt and  
Sullivan of the House

and

Mickle of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to court funds; amending 12 O.S. 1991, Section 1809, which relates to the Dispute Resolution Revolving Fund; amending Section 6, Chapter 292, O.S.L. 1993 (20 O.S. Supp. 1993, Section 60.5), which relates to the Emergency Appellate Division; amending 20 O.S. 1991, Section 103.1, which relates to temporary judges of the district court; amending 20 O.S. 1991, Sections 1306, as amended by Section 4, Chapter 227, O.S.L. 1993, 1307, as amended by Section 24, Chapter 303, O.S.L. 1992, 1308, as amended by Section 26, Chapter 303, O.S.L. 1992, 1309, 1310 and 1311 (20 O.S. Supp. 1993, Sections 1306, 1307 and 1308), which relate to the court fund and the State Judicial Fund; amending 20 O.S. 1991, Section 1507, which relates to shorthand reporters; amending 20 O.S. 1991, Section 1660, which relates to the Council on Judicial Complaints; amending 22 O.S. 1991, Section 562, which relates to change of venue; amending Section 20, Chapter 245, O.S.L. 1993 (22 O.S. Supp. 1993, Section 1355.13A), which relates to compensation of certain attorneys; modifying source of payment for certain expenses; abolishing the Dispute Resolution Revolving Fund; modifying amount to be transferred from court fund to general fund of a county; modifying time for certain reports; changing the State Judicial Fund from a revolving fund to an appropriated fund; creating the Supreme Court Revolving Fund; providing for transfer of funds; providing that certain expenses are court costs, payable to the court fund; making court fund liable for certain expenses; providing for certain deficiencies; providing for transfer of monies in the Dispute Resolution Revolving Fund; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 1809, is amended to read as follows:

~~Section 1809. A. There is hereby created in the State Treasury a revolving fund for the State Supreme Court to be designated the "Dispute Resolution System Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of the court costs and fees provided for in subsection B of this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Supreme Court by and through the Administrative Director of the Courts for the establishment and maintenance of an alternative dispute resolution system as provided for by law, and personal services and operational expenses incurred in the administration of said dispute resolution system. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.~~

~~B.~~ 1. To establish and maintain an alternative dispute resolution system, court costs in the amount of Two Dollars (\$2.00) shall be taxed, collected, and paid as other court costs in all civil cases. When dispute resolution services are sought, a fee in the amount of Five Dollars (\$5.00) shall be assessed by the center and collected from the initiating party. If the responding party agrees to participate in mediation of the dispute, a fee of Five Dollars (\$5.00) shall be assessed by the center and collected from the responding party.

The fee of an initiating or responding party shall be waived by the center upon receipt of an affidavit in forma pauperis executed under oath by such party.

2. Except for the court costs and fees provided for in this subsection, dispute resolution services shall be provided without cost to participants.

~~C.~~ ~~1.~~ B. The court costs and fees provided for in subsection ~~B~~ A of this section, once collected, shall be transferred by the

court clerk to the Director who shall deposit them in the ~~Dispute Resolution System Revolving Fund~~ State Judicial Fund.

~~2. The fees provided for in subsection B of this section, once collected, shall be transferred by the center to the Director for deposit in the Dispute Resolution System Revolving Fund.~~

~~D. In the fiscal year ending June 30, 1991, the Director of State Finance shall transfer the sum of Three Hundred Ninety Thousand Five Hundred Forty-three Dollars (\$390,543.00) from the Dispute Resolution Revolving Fund to the Special Cash Fund of the State Treasury.~~

SECTION 2. AMENDATORY Section 6, Chapter 292, O.S.L. 1993 (20 O.S. Supp. 1993, Section 60.5), is amended to read as follows:

Section 60.5 A. The duties and procedures of the Emergency Appellate Division shall be as provided by rules of the Court of Criminal Appeals.

B. No district judge, associate district judge, or special judge who is temporarily assigned to sit on the Emergency Appellate Division shall be entitled to additional compensation for judicial service on the Emergency Appellate Division, unless otherwise authorized by law.

C. Travel expenses of judges of the Emergency Appellate Division incurred in performing their duties shall be reimbursed pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes from funds appropriated to the Supreme Court for the expenses of the District Courts.

D. The Court of Criminal Appeals is authorized to expend such funds as may be necessary for the purpose of transmitting case files and other relevant materials to the judges of the Emergency Appellate Division.

E. Expenses of the Emergency Appellate Division ~~authorized by paragraphs C and D of this section~~ for the purpose of transmitting case files and other relevant materials to the Court of Criminal Appeals shall be paid from the ~~State Judicial Fund~~ court fund on claims approved by the ~~Chief Justice of the Supreme Court~~ Court Fund Governing Board. The Emergency Appellate Division shall not

incur additional expenses without the approval of the Chief Justice of the Supreme Court.

F. The Court of Criminal Appeals shall prescribe by rule the scope of review it will afford when a Petition for Review to the Court of Criminal Appeals is filed.

G. The Chief Justice of the Supreme Court shall be responsible for the budgeting, management and administration of the Emergency Appellate Division, based upon rules promulgated by the Court of Criminal Appeals and approved by the Supreme Court.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 103.1, is amended to read as follows:

Section 103.1 A. Any judge of the district court designated by the Chief Justice to hold ~~a term of~~ court in another district, or appointed by the Chief Justice to hold court in another district when the public business shall require, or any judge pro tempore agreed upon by the parties or elected by the members of the bar of the district or designated by the chief judge of the district court and approved by the Chief Justice, shall have continuing authority, without further assignment, to make final disposition of any matter regularly submitted or tried before him during the term or period of time of his designation, appointment or election, including motions and petitions for new trial and for judgment notwithstanding the verdict, and of all applications and proceedings pertaining to the making, serving, amendment, settlement, signing, correcting, extending time and completing of case made, transcript, or original record for appeal, notwithstanding the term or period of time for which he was designated or appointed has expired; and when necessary for him to return to the district for the purpose of acting on such matters, his necessary travel expense shall be paid as provided by Section 105.1 of this title. Judges pro tempore designated by the chief judge of a district court, shall receive per diem and expenses as approved by the Chief Justice to be paid from ~~the State Judicial Fund~~ Supreme Court Revolving Fund on claims filed with and approved by the Administrative Director of the Courts.

B. When any judge of the district court has been lawfully designated or appointed and be sitting in any county of his own district, he may make any order of a nature not requiring notice and hearing in any cause theretofore heard, or being heard, by him in a district to which he has been properly designated or appointed; and he may sign the journal entry of any order, judgment or decree theretofore made by him, as such designated or appointed judge, if such journal entry be approved as to form by all parties affected thereby, or by their attorneys; and he may extend the time for the completion, serving, settling and signing of cases made, transcripts, or original record for appeal, and he may sign and settle any case made, transcript or original record for appeal, under the foregoing circumstances, if the parties affected thereby or their attorneys have stipulated that he may do so. If any action is taken under the foregoing circumstances, the judge shall make a minute of his action and forthwith transmit said minute to the court clerk of the county in which the action is pending.

SECTION 4. AMENDATORY 20 O.S. 1991, Section 1306, as amended by Section 4, Chapter 227, O.S.L. 1993 (20 O.S. Supp. 1993, Section 1306), is amended to read as follows:

Section 1306. Beginning on July 1, ~~1993~~ 1994, and monthly thereafter, the court clerk of each county shall transfer from the court fund to the general fund of the county a sum that is equal to ~~one-twenty-fourth (1/24th)~~ one-forty-eighth (1/48th) of the amount received by the county general fund from fees, fines, and forfeitures for the fiscal years 1965-1966 or 1966-1967, less all salaries and Justice of Peace expenses and other expenses paid that fiscal year out of the county general fund for the operation of courts within the county, and which, commencing January 13, 1969, are assumed and paid by the State of Oklahoma. The fiscal year to be used shall be that which nets the county general fund the largest sum of money.

SECTION 5. AMENDATORY 20 O.S. 1991, Section 1307, as amended by Section 24, Chapter 303, O.S.L. 1992 (20 O.S. Supp. 1993, Section 1307), is amended to read as follows:

Section 1307. ~~a.~~ A. Within ~~thirty (30)~~ fifteen (15) days after the end of ~~each quarter~~ every two months of every ~~calendar~~ fiscal year, the court clerk of each county shall report to the Supreme Court, in such manner as prescribed by the Supreme Court, the receipts that have been deposited in the court fund and the disbursements therefrom for the preceding ~~quarter~~ two-month period of the year and the total amount in the fund at the end of the ~~quarter~~ reporting period. Ten percent (10%) of the amount collected in the court fund shall be transferred to the State Judicial Retirement Fund at the end of each ~~quarter~~ reporting period.

~~b.~~ B. In the report for the last ~~quarter~~ reporting period of every fiscal year, the court clerk shall, in addition to other information required, submit the following data:

~~(1)~~ 1. The gross receipts to the court fund during the entire last fiscal year;i

~~(2)~~ 2. The total amount of expenses paid during the entire last fiscal year, including bond and interest expense as well as payments to the county general fund;i and

~~(3)~~ 3. The total amount of money transferred, and to be transferred, to the State Judicial Fund and the State Judicial Retirement Fund for the entire last fiscal year as set forth in Section 1308 of this title.

SECTION 6. AMENDATORY 20 O.S. 1991, Section 1308, as amended by Section 26, Chapter 303, O.S.L. 1992 (20 O.S. Supp. 1993, Section 1308), is amended to read as follows:

Section 1308. At the time the ~~quarterly~~ report required by Section 1307 of this title is made, the court clerk must transmit to the Supreme Court for deposit in the State Judicial Retirement Fund, ten percent (10%) of the amount collected in the court fund for the ~~quarter~~ reporting period and must also transmit for deposit in the State Judicial Fund the amount by which the receipts deposited in the court fund for the ~~quarter~~ reporting period, including the interest earned on said court fund, exceeds the expenses for said ~~quarter~~ reporting period, provided the court clerk shall retain from said excess amount a sum equal to twenty

percent (20%) of the expenses for said quarter. Within thirty (30) days ~~of~~ after the end of each fiscal year, the court clerk, in addition to the other amounts due hereunder, shall transmit to the Supreme Court for deposit in the State Judicial Fund an amount equal to the gross receipts for the entire past fiscal year less the total amount of expenses, as defined in subsection ~~B~~ B of Section 1307 of this title, and less the ~~four-quarterly~~ transfers made for the past fiscal year.

SECTION 7. AMENDATORY 20 O.S. 1991, Section 1309, is amended to read as follows:

Section 1309. All remittances transmitted to the Supreme Court for deposit to the State Judicial Fund and to the State Judicial Retirement Fund shall be placed by the Administrative Director of the Courts in a clearing account and thence transferred to the proper fund after refunds directed by State Auditor and Inspector have been effected or ~~ninety (90)~~ thirty (30) days of receipt, whichever is the shorter period of time.

SECTION 8. AMENDATORY 20 O.S. 1991, Section 1310, is amended to read as follows:

Section 1310. A. There is hereby created in the State Treasury a State Judicial Fund ~~which shall be a continuing fund not subject to fiscal year limitations. Monies budgeted and expended from said fund by the State Supreme Court in accordance with Sections 1311, 1507 and 1660 of Title 20, Section 701.14 of Title 21, and Sections 464 and 562 of Title 22, of the Oklahoma Statutes, shall be exempt from all budgetary limitations in annual appropriation bills.~~ The Fund shall be subject to legislative appropriation and shall consist of all receipts collected pursuant to law.

B. On the effective date of this act, the Director of State Finance shall transfer all unbudgeted funds from the revolving fund of the State Supreme Court, designated by the Office of State Finance as the "400" fund, to the State Judicial Fund for the current year, designated by the Office of State Finance as the "534" fund.

On November 15, 1994, the Director of State Finance shall transfer all unexpended funds from the revolving fund of the State Supreme Court, designated by the Office of State Finance as the "400" fund, to the State Judicial Fund designated by the Office of State Finance as the "534" fund.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1310.1 of Title 20, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Supreme Court, to be designated the "Supreme Court Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies appropriated by the Legislature for the purposes specified in this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Supreme Court for refunds to bondsmen and for the purpose of paying expenses authorized by Section 1809 of Title 12 of the Oklahoma Statutes, Sections 103.1, 1311, 1507 and 1660 of Title 20 of the Oklahoma Statutes, and Sections 562 and 1355.13A of Title 22 of the Oklahoma Statutes. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 10. AMENDATORY 20 O.S. 1991, Section 1311, is amended to read as follows:

Section 1311. When the court fund in any county becomes so exhausted that it appears that a party cannot procure an immediate trial by jury, the Administrative Director of the Courts upon the request of the presiding judge of the judicial administrative district and upon the approval by the Chief Justice of the Supreme Court, shall transfer from ~~the State Judicial Fund~~ Supreme Court Revolving Fund to the court fund of said county an amount that will be sufficient to permit an immediate jury trial of all cases that are triable by a jury and that are ready for trial.

SECTION 11. AMENDATORY 20 O.S. 1991, Section 1507, is amended to read as follows:

Section 1507. All fees authorized to be charged shall be paid to the Clerk of the Supreme Court who shall deposit them in the State Judicial Fund. The Chief Justice shall be authorized to draw against ~~this fund for~~ the Supreme Court Revolving Fund such amounts as are lawfully claimed by the Board for its necessary supplies and expenses. When performing essential duties each Board member shall be entitled to his actual expenses and shall receive, in addition thereto, the sum of Fifty Dollars (\$50.00) for each full day of service or a fraction thereof for less than a day's service. ~~On the effective date of this act the Clerk of the Supreme Court shall transfer and deposit to the State Judicial Fund all monies which he presently holds in the Certified Reporters Fund under the provisions of Section 962 of Title 59 of the Oklahoma Statutes.~~

SECTION 12. AMENDATORY 20 O.S. 1991, Section 1660, is amended to read as follows:

Section 1660. All expenses of the Council on Judicial Complaints incurred under the provisions of this act shall be paid out of the ~~State Judicial Fund~~ Supreme Court Revolving Fund upon a claim approved by the Administrative Director of the Courts.

SECTION 13. AMENDATORY 22 O.S. 1991, Section 562, is amended to read as follows:

Section 562. A. The order of removal from the county must be entered upon the minutes and the court clerk must thereupon make out, and within ten (10) days transmit to the county to which the action is removed, a certified copy of the order of removal and the record, and shall transmit the pleadings including the undertaking for the appearance of the defendant, and of the witnesses, and the cause must be docketed and stand for trial within six (6) months from the date the cause was ordered removed. ~~The State Judicial Fund~~

B. If an order of removal is entered, all expenses incurred as a result of the action prior to the date of the order of removal shall be taxed as costs and shall remain payable to the court fund of the county from which the action was removed.

C. Except as otherwise provided by this section, the court fund of the county from which the action is removed shall be liable for the expense and charge of removing, delivering and keeping the prisoner, and the fees of jurors and witnesses in attendance during the trial, court reporter's fees, all fees and mileage of the sheriff, and the per diem of bailiffs during the time said cause is on trial, and such other expenses as may be lawfully incurred incident to the trial, which costs and expenses shall be approved by the Court Administrator of the Supreme Court of the State of Oklahoma and certified by the clerk of the court to which the action was transferred to the court clerk of the county from which the cause was removed and shall show the name of each person and the amount due to him.

D. On receipt of such certificate, the clerk of the court from which the action was transferred shall draw his warrants on the ~~State Judicial Fund~~ court fund for the total amount of costs allowed by the transferee court, payable to the order of the court fund of the transferee court subject to the order of the person entitled thereto, and forward the same to the clerk of the court where the cause was tried, who shall deposit it in the court fund.

E. If the court fund of the county from which the action was removed does not contain sufficient revenue to make payment to the transferee court, the court clerk of the payor county shall notify the Administrative Director of the courts who shall make payment of any deficiency in the amount due and owing to the transferee court from the Supreme Court Revolving Fund.

F. All fees not claimed two (2) years after having been received by the clerk of the transferee court, shall by him be returned to the clerk of the transferor court to be held in the court fund for the benefit of the owner for a period of one (1) year, and, if not claimed within that time, such fees shall become the property of the court fund of the county.

SECTION 14. AMENDATORY Section 20, Chapter 245, O.S.L. 1993 (22 O.S. Supp. 1993, Section 1355.13A), is amended to read as follows:

Section 1355.13A In any case wherein a defendant was subject to the death penalty and counsel was appointed and assigned, prior to July 1, 1991, to represent such defendant in the case because the defendant had no means and was unable to employ counsel, the court shall allow and direct to be paid from the ~~State Judicial Fund~~ Supreme Court Revolving Fund, unless otherwise provided by law, reasonable and just compensation to the counsel so assigned for such services as counsel may render, to include expert and investigative services, as approved by the Chief Justice of the Supreme Court. This section shall not apply to cases assigned for trial to the Indigent Defense System.

In any case subject to the provisions of this section, wherein the case is reversed and remanded for new trial on appeal, the case shall be assigned pursuant to the Indigent Defense Act, Section 1355.1 et seq. of Title 22 of the Oklahoma Statutes, or pursuant to Section 138.1 et seq. of Title 19 of the Oklahoma Statutes.

SECTION 15. On the effective date of this act, the Director of State Finance shall transfer and deposit to the credit of the Supreme Court Revolving Fund all monies held in the Dispute Resolution Revolving Fund under the provisions of Section 1809 of Title 12 of the Oklahoma Statutes.

SECTION 16. The provisions of Section 15 of this act shall not be codified in the Oklahoma Statutes.

SECTION 17. Sections 1 through 7 and 9 through 16 of this act shall become effective July 1, 1994.

SECTION 18. 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.