ENGROSSED HOUSE
BILL NO. 1147

By: Graves and Glover of the House

and

Douglass of the Senate

An Act relating to state government; amending 74 O.S. 1991, Section 18b, as last amended by Section 32, Chapter 349, O.S.L. 1993 (74 O.S. Supp. 1994, Section 18b), which relates to duties of the Attorney General; modifying duties imposed; requiring prosecution or defense of or intervention in actions based upon requirements of federal law; specifying basis upon which prosecution or defense of or intervention in actions to be made; stating effect of Attorney General opinions; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 18b, as last amended by Section 32, Chapter 349, O.S.L. 1993 (74 O.S. Supp. 1994, Section 18b), is amended to read as follows:

Section 18b. A. The duties of the Attorney General as the chief law officer of the state shall be:

1. To appear for the state and prosecute and defend all actions and proceedings, civil or criminal, in the Supreme Court and Court of Criminal Appeals in which the state is interested as a party.

2. To appear for the state and prosecute and defend all actions and proceedings in any of the federal courts in which the state is interested as a party, including the specific duty to prosecute, defend or to intervene in actions as may be required to preserve the reserved power of the State of Oklahoma provided by the Tenth Amendment to the United States Constitution if any provision of federal law requires the expenditure of public funds by the State of Oklahoma or its political subdivisions without a provision for reimbursement of the expenses by the federal government.

3. To appear at the request of the Governor, the Legislature, or either branch thereof, and prosecute and defend in any court or before any commission, board or officers any cause or proceeding, civil or criminal, in which the state may be a party or interested; and when so appearing in any such cause or proceeding, he may, if he deems it advisable and to the best interest of the state, take and assume control of the prosecution or defense of the state's interest therein.

4. To consult with and advise district attorneys, when requested by them, in all matters pertaining to the duties of their offices, when said district attorneys shall furnish the Attorney General with a written opinion supported by citation of authorities upon the matter submitted.

5. To give his opinion in writing upon all questions of law submitted to him by the Legislature or either branch thereof, or by any state officer, board, commission or department, provided, that the Attorney General shall not furnish opinions to any but district attorneys, the Legislature or either branch thereof, or any other state official, board, commission or department, and to them only upon matters in which they are officially interested. An opinion of the Attorney General stating an act of the Legislature to be unconstitutional shall be advisory only and shall not be considered binding upon the person or entity requesting the opinion until

finally so determined to be unconstitutional by an action in a district court of the state. An opinion of the Attorney General which does not state that an act of the Legislature is unconstitutional shall be considered binding upon the person or entity requesting the opinion.

6. At the request of the Governor, State Auditor and Inspector, State Treasurer, or either branch of the Legislature, to prosecute any official bond or any contract in which the state is interested, upon a breach thereof, and to prosecute or defend for the state all actions, civil or criminal, relating to any matter connected with either of their Departments.

7. Whenever requested by any state officer, board or commission, to prepare proper drafts for contracts, forms and other writing which may be wanted for the use of the state.

8. To prepare drafts of bills and resolutions for individual members of the Legislature upon their written request stating the gist of the bill or resolution desired.

9. To enforce the proper application of monies appropriated by the Legislature and to prosecute breaches of trust in the administration of such funds.

10. To institute actions to recover state monies illegally expended, to recover state property and to prevent the illegal use of any state property, upon the request of the Governor or the Legislature.

11. To pay into the State Treasury, immediately upon its receipt, all monies received by him belonging to the state.

12. To keep and file copies of all opinions, contracts, forms and letters of the office, and to keep an index of all opinions, contracts and forms according to subject and section of the law construed or applied.

13. To keep a register or docket of all actions, demands and investigations prosecuted, defended or conducted by him in behalf of

the state. Said register or docket shall give the style of the case or investigation, where pending, court number, office number, the gist of the matter, result and the names of the assistants who handled the matter.

14. To keep a complete office file of all cases and investigations handled by him on behalf of the state.

15. To report to the Legislature or either branch thereof whenever requested upon any business relating to the duties of his office.

16. To institute civil actions against members of any state board or commission for failure of such members to perform their duties as prescribed by the statutes and the Constitution and to prosecute members of any state board or commission for violation of the criminal laws of this state where such violations have occurred in connection with the performance of such members' official duties.

17. To respond to any request for an opinion of his office, submitted by a member of the Legislature, regardless of subject matter, by written opinion determinative of the law regarding such subject matter.

18. To convene multicounty grand juries in such manner and for such purposes as provided by law; provided, such grand juries are composed of citizens from each of the counties on a pro rata basis by county.

19. To investigate any report by the State Auditor and Inspector filed with him pursuant to Section 223 of this title and prosecute all actions, civil or criminal, relating to such reports or any irregularities or derelictions in the management of public funds or property which are violations of the laws of this state.

20. To represent and protect the collective interests of all utility consumers of this state in rate-related proceedings before the Corporation Commission or in any other state or federal judicial or administrative proceeding.

21. To represent and protect the collective interests of insurance consumers of this state in rate-related proceedings before the Insurance Property and Casualty Rate Board or in any other state or federal judicial or administrative proceeding.

22. To certify local crimestoppers programs qualified to receive repayments of rewards pursuant to Section 991a of Title 22 of the Oklahoma Statutes.

B. Nothing in this section shall be construed as requiring the Attorney General to appear and defend or prosecute in any court any cause or proceeding for or on behalf of the Oklahoma Tax Commission, the Board of Managers of the State Insurance Fund, or the Commissioners of the Land Office.

C. In all appeals from the Corporation Commission to the Supreme Court of Oklahoma in which the state is a party, the Attorney General shall have the right to designate counsel of the Corporation Commission as his legally appointed representative in such appeals, and it shall be the duty of the said Corporation Commission counsel to act when so designated and to consult and advise with the Attorney General regarding such appeals prior to taking action therein.

SECTION 2. 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 March, 1995.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate