ENROLLED HOUSE
BILL NO. 2918

By: Hastings, Adkins, Breckinridge, Bryant, Cozort, Miller, Smaligo, Sullivan (John), Thornbrugh and Vaughn of the House

and

Smith and Long (Lewis) of the Senate

An Act relating to district attorneys; amending 19 O.S. 1991, Sections 215.3, 215.4, as last amended by Section 9, Chapter 327, O.S.L. 1992 and 215.30, as amended by Section 2, Chapter 239, O.S.L. 1994 and Section 61, Chapter 316, O.S.L. 1992 (19 O.S. Supp. 1995, Sections 215.4, 215.30 and 215.37M), which relate to the office of district attorney; providing for special assistant district attorneys; exempting special assistant district attorneys from bond requirements; providing for duties of special assistant district attorneys; providing that special assistant district attorneys are state officers for certain purposes; providing that special assistant district attorneys may be appointed by district attorney pursuant to certain conditions; providing for compensation upon certain conditions; amending 51 O.S. 1991, Section 6, as last amended by Section 1, Chapter 127, O.S.L. 1995 (51 O.S. Supp. 1995, Section 6), which relates to dual office holding; expanding exceptions from dual office holding prohibition; and declaring an emergency.

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

SECTION 1. AMENDATORY 19 O.S. 1991, Section 215.3, is amended to read as follows:

Section 215.3 Before entering upon the duties of their office, the district attorneys, the assistant district attorneys, and the district investigators shall each execute a bond payable to the State of Oklahoma with some surety company authorized to do business in this state, as surety, conditioned upon the faithful performance of their duties as such officers, and that they will pay over, in the manner provided by law, all money which comes into their hands by virtue of their office. The bond executed by a district attorney shall be in the sum of Five Thousand Dollars ($5,000.00), and the bonds executed by an assistant district attorney or a district investigator shall each be in the sum of Two Thousand Dollars ($2,000.00). The premium on said bonds shall be paid by the state. <u>The provisions of this section shall not apply to special assistant district attorneys appointed pursuant to subsection C of Section 215.37M of this title.</u>

SECTION 2. AMENDATORY 19 O.S. 1991, Section 215.4, as last amended by Section 9, Chapter 327, O.S.L. 1992 (19 O.S. Supp. 1995, Section 215.4), is amended to read as follows:

Section 215.4 The district attorney ~~or his assistants~~, assistant district attorneys, or special assistant district attorneys authorized by subsection C of Section 215.37M of this title, shall appear in all trial courts and prosecute all actions for crime committed in ~~his~~ the district, whether the venue is changed or not; ~~he~~ the district attorney or assistant district attorneys shall prosecute or defend in all courts, state and federal, in any county in this state, all civil actions or proceedings in which any county in ~~his~~ the district is interested, or a party unless representation for the county is provided pursuant to subsection A of Section ~~61 of Enrolled House Bill No. 2425 of the 2nd Session of the 43rd Oklahoma Legislature~~ 215.37M of this title; and ~~he~~ the district attorney or assistant district attorneys shall assist the grand jury, if required, pursuant to Section 215.13 of this title. The district attorney may at all times request the assistance of district attorneys, assistant district attorneys or district attorney investigators from other districts who then may appear and assist in the prosecution of actions for crime or assist in investigation of crime in like manner as assistants or investigators in the district.

SECTION 3. AMENDATORY 19 O.S. 1991, Section 215.30, as amended by Section 2, Chapter 239, O.S.L. 1994 (19 O.S. Supp. 1995, Section 215.30), is amended to read as follows:

Section 215.30 A. Beginning January 1, 1993, each district attorney shall receive a salary of Sixty-five Thousand Dollars ($65,000.00) per year, payable monthly. Beginning January 1, 1995, each district attorney shall receive a salary of Sixty-eight Thousand Two Hundred Fifty Dollars ($68,250.00) per year, payable monthly. Beginning January 1, 1997, each district attorney shall receive a salary of Seventy-one Thousand Six Hundred Sixty-three Dollars ($71,663.00) per year, payable monthly.

B. All appointees and employees of district attorneys, except special district attorneys appointed pursuant to subsection C of Section 215.37M of this title, shall be deemed to be state officers or employees for all purposes. All special district attorneys appointed pursuant to subsection C of Section 215.37M of this title shall be deemed to be state officers only for purposes of the Governmental Tort Claims Act and Rule 1.11 of the Rules of Professional Conduct for attorneys licensed to practice law in this state.

C. Population, for the purposes of Section 215 et seq. of this title, shall be as determined by the last Federal Decennial Census. The salaries of the district attorneys and the salaries of the assistant district attorneys and their operating and maintenance expenses in each county shall be paid by the state. Provided however:

1. In counties having a population of five hundred fifty thousand (550,000) or more, the salary of the district attorney and assistant district attorneys may be supplemented by the county. Such supplement for the district attorney shall not exceed twenty-five percent (25%) of the salary provided for district attorneys by this section. Such supplement for the assistant district attorneys shall not exceed twenty-five percent (25%) of the salary authorized for assistant district attorneys in Section 215.34 of Title 19 of the Oklahoma Statutes.

2. The salaries and operating expenses of those assistant district attorneys who are assigned to child support enforcement

duties shall be paid by funds received as reimbursement from the Department of Human Services under terms of a contract with the office of the district attorney as authorized by Section 237.1 of Title 56 of the Oklahoma Statutes.

D. The District Attorneys Council, which may hereinafter be referred to as the "Council", a special division of the Attorney General's Office, is hereby designated as the state agency for the administration and disbursement of all salaries and expenses of the offices of district attorneys authorized by law. All such payrolls and claims against State Treasury funds must be approved by the Council prior to submission to the Office of State Finance for payment. The Council and the Director of State Finance shall promulgate reasonable rules and regulations covering the preparation of estimates of needs, budgets and claims for the administration of this act, Section 215.1 et seq. of this title, the transmittal of county funds to the State Treasury and the disbursement of all state and county funds under this act.

SECTION 4. AMENDATORY Section 61, Chapter 316, O.S.L. 1992 (19 O.S. Supp. 1995, Section 215.37M), is amended to read as follows:

Section 215.37M A. If the district attorney and the board of county commissioners of any county agree, legal representation in any civil case in which the county is interested or a party and the district attorney is required to represent the county pursuant to Section 215.4 of Title 19 of the Oklahoma Statutes may be provided by contract with a private attorney. The costs of such contract shall be paid by the board of county commissioners out of its account for general government operation, or other account, as may be appropriate.

B. If the district attorney and the board of county commissioners of any county agree, legal representation in any civil case in which a county officer or employee is a party and the district attorney is required to represent the county pursuant to Section 215.25 of Title 19 of the Oklahoma Statutes may be provided by contract with a private attorney. The costs of such contract shall be paid by the board of county commissioners out of its account for general government operation, or other account, as may be appropriate.

C. If a district attorney and the District Attorneys Council agree, prosecution of any criminal matter may be provided by contract with a private attorney, who shall be designated as a special assistant district attorney, if the case load of the office of the district attorney is such that adequate representation of the interest of the state is not possible without appointment of one or more special assistant district attorneys. The special assistant district attorney shall be appointed by the district attorney. The special assistant district attorney may serve with or without compensation, however, compensation shall be allowed only if the cost of compensation can be paid out of funds for the current fiscal year, designated for the salaries and operating expenses, for the office of the district attorney requesting the appointment or appointments. No supplemental appropriations shall be authorized for appointment of special assistant district attorneys.

SECTION 5. AMENDATORY 51 O.S. 1991, Section 6, as last amended by Section 1, Chapter 127, O.S.L. 1995 (51 O.S. Supp. 1995, Section 6), is amended to read as follows:

Section 6. A. Except as may be otherwise provided, no person holding an office under the laws of the state and no deputy of any officer so holding any office shall, during his term of office, hold any other office or be the deputy of any officer holding any office,

under the laws of the state. The provisions of this section shall not apply to:

1. Notaries public;

2. Members of the State Textbook Committee;

3. County free fair board members;

4. Municipal and county law enforcement officers serving in positions as law enforcement officers of both such governmental entities upon such terms and conditions as are mutually approved by resolutions adopted by the board of county commissioners and governing body of the municipality employing such officers;

5. Any person holding a county or municipal office or position, or membership on any public trust authority, who is a member of a board or commission that relates to federal, state, county or municipal government and is created by the United States Government, the State of Oklahoma or a political subdivision of the state, except where the duties of the offices or positions conflict;

6. Any elected municipal officers and school board members who are appointed to a state board, commission, or similar entity if there is no compensation for such services other than reimbursement for necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes;

7. Any trustee of a public trust, who is appointed as a trustee of a different public trust or any trustee of the Tulsa County Public Facilities Authority who may also be employed by the Department of Transportation;

8. Law enforcement officers employed by municipal or county law enforcement departments or agencies, other than those law enforcement officers elected or appointed as sheriff, chief of police or some similar position in which they are the head of a county or municipal law enforcement agency, who are elected to local boards of education; provided, the provisions of this paragraph shall not prohibit any law enforcement officer employed by a municipality having a population of ten thousand (10,000) or fewer people from serving as a member of a local board of education;

9. Any member of the Oklahoma Highway Patrol Division of the Department of Public Safety who is elected to a local board of education;

10. Any District Supervisor, Assistant District Supervisor, Team Supervisor, Parole Officer 1 or Parole Officer 2 of the Department of Corrections who is elected or appointed to a city council;

11. Any trustee or director of a rural electric cooperative, or port authority who is appointed or elected to a state, county or municipal board, commission or similar entity;

12. Deputy county treasurers who are elected as members of town or city councils;

13. Municipal, county, state or tribal law enforcement or peace officers operating under cross-deputization agreements with an Indian tribe or branch of the federal government;

14. Municipal or county law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon such terms and conditions as are mutually approved by resolution adopted by the governing body of the municipality or county and the governing board of the institution of higher education;

15. State law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon

such terms and conditions as are mutually approved by written agreement between the Commissioner of Public Safety and the governing board of the institution of higher education;

16. Municipal and county law enforcement officers serving in positions as part-time rangers under the Oklahoma Tourism and Recreation Department;

17. The Administrator of a Scenic Rivers Commission serving in the position of a park ranger under the Oklahoma Tourism and Recreation Department;

18. Members of the University Hospitals Authority; ~~and~~

19. Any person holding a state office or position who is a noncompensated reserve force deputy sheriff or a noncompensated reserve municipal police officer; and

20. Any person holding a state office or position who serves as a special assistant district attorney without compensation.

The provisions of this section shall not prohibit any person holding an office under the laws of the state or any deputy of any officer so holding any office from serving upon the board of Oklahoma Futures or upon the board of directors of the Oklahoma Center for the Advancement of Science and Technology. The provisions of this section shall not prohibit a member of the board of directors of the Oklahoma Center for the Advancement of Science and Technology from serving upon the board of Oklahoma Futures.

B. Any salaries, emoluments or benefits that would otherwise be paid by the agency or political subdivision to a loaned employee or officer shall instead be paid to the regular employer of such employee who shall in turn be paid his regular salary and benefits the same as if he were continuing his regular employment with his permanent employer.

SECTION 6. 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 26th day of February, 1996.

Speaker of the House of Representatives

Passed the Senate the 26th day of March, 1996.

President of the Senate