

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1014

By: Leist

AS INTRODUCED

An Act relating to state government; providing for review of official opinions of the Attorney General; specifying who may request review; specifying where certain reviews will be conducted; providing procedures; providing for certain stays of enforcement; providing directions for review; providing for review of certain opinions by the Attorney General; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18b-1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Official opinions of the Attorney General are subject to judicial review in accordance with the provisions of this section.

B. Persons authorized to file a petition for judicial review of an official opinion of the Attorney General are:

1. Any person who requested the opinion; or
2. Any elected state officer authorized to request an Attorney General opinion pursuant to Section 18b of Title 74 of the Oklahoma Statutes.

C. 1. The review of any official opinion of the Attorney General concerning constitutional questions or issues, or concerning jurisdictional boundaries between or among state entities shall be in the Supreme Court. The judicial review by the Supreme Court shall be conducted by the Supreme Court, or except for constitutional questions or issues, may be assigned or referred to the Court of Appeals by the Supreme Court for review. If the Supreme Court assigns or refers such review to the Court of Appeals, the Supreme Court shall establish a specific period of time in which the Court of Appeals must review the opinion.

2. The review of all other opinions of the Attorney General not relating to constitutional questions or issues, or jurisdictional boundaries shall be in the district court of Oklahoma County, unless the Supreme Court accepts review of such opinions.

D. Proceedings for review shall be instituted by filing a petition with the appropriate court after official publication of the Attorney General opinion. Copies of the petition shall be served upon the Attorney General and the person who had requested the opinion if not the petitioner. Proof of such service shall be filed in the appropriate court within ten (10) days after the filing of the petition. The court, in its discretion, may permit other interested persons to intervene.

E. The filing of a proceeding for review shall not stay enforcement or effect of the Attorney General opinion; but the court may order a stay upon such terms as it deems proper.

F. The court in the review of the official opinion of the Attorney General pursuant to the provisions of this section shall exercise its own independent judgment as to both the law and the facts.

G. In any proceeding for the review of an Attorney General opinion, the court may affirm the opinion, set it aside, or reverse

and remand the opinion to the Attorney General for further action to effectuate the order of the court.

H. Any Attorney General opinion not issued by the Attorney General in office at the time of the request for review shall be first reviewable by such Attorney General. The Attorney General may affirm the opinion, set it aside, or reverse and reissue the opinion. Upon any such action, the opinion may be judicially reviewed pursuant to the provisions of this section.

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.

46-1-5302

KSM