

SHORT TITLE: Public health and safety and state government;  
clarifying language; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 455

By: Robinson

AS INTRODUCED

An Act relating to public health and safety and state government; amending Section 1, Chapter 95, O.S.L. 1995 (63 O.S. Supp. 1996, Section 5015.1), which relates to the legal division or unit of the Oklahoma Health Care Authority, and 74 O.S. 1991, Section 19, as last amended by Section 1, Chapter 347, O.S.L. 1996 (74 O.S. Supp. 1996, Section 19), which relates to the Attorney General's Evidence Fund and Revolving Fund; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 95, O.S.L. 1995 (63 O.S. Supp. 1996, Section 5015.1), is amended to read as follows:

Section 5015.1 A. The Oklahoma Health Care Authority Board shall establish a legal division or unit in the Oklahoma Health Care Authority. The Administrator of the Oklahoma Health Care Authority may employ attorneys as needed, which may be on full-time and part-time basis. ~~Provided;~~ provided, the Oklahoma Health Care Authority shall not exceed the authorized full-time equivalent limit for attorneys as specified by the Legislature in the appropriations bill for the Authority. Except as otherwise provided by this section, such attorneys, in addition to advising the Board,

Administrator and Authority personnel on legal matters, may appear for and represent the Board, Administrator and Authority in legal actions and proceedings.

B. The Legislature shall establish full-time-equivalent limits for attorneys employed by the Oklahoma Health Care Authority.

C. It shall continue to be the duty of the Attorney General to give official opinions to the Board, Administrator and Authority, and to prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney fee for such legal services from the Authority. The Attorney General is authorized to levy and collect costs, expenses and fees which exceed the costs associated with the salary and benefits of one attorney FTE position per fiscal year.

D. The Board, Administrator or Authority shall not contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state.

E. 1. The Attorney General shall be notified by the Board or its counsel of all lawsuits against the Authority, its officers or employees that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year.

2. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in subsection C of this section. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the Board, Administrator and Authority as necessary to avoid conflicts of interest.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 19, as last amended by Section 1, Chapter 347, O.S.L. 1996 (74 O.S. Supp. 1996, Section 19), is amended to read as follows:

Section 19. A. 1. Out of all money received or collected by the Attorney General on behalf of the state or any department or agency thereof, and paid by ~~him~~ paid the Attorney General into the State Treasury, twenty-five percent (25%) thereof shall be deposited as follows:

- a. three-fourths (3/4) in a special agency account fund in the State Treasury, designated the Attorney General's Evidence Fund, which fund shall be a continuing fund, not subject to fiscal year limitations, and
- b. one-fourth (1/4) in the Attorney General's Revolving Fund created by Section 20 of this title.

2. All money paid to the Attorney General for reimbursement of court costs, fees and other expenses and appropriated monies authorized to be transferred to the agency special account shall be deposited in the Attorney General's Evidence Fund. Such fund shall be used by the Attorney General for necessary expenses relative to any pending case or other matter within the official responsibility of the Attorney General. ~~Provided;~~ provided, that the balance on deposit in such fund shall never exceed the sum of Five Hundred Thousand Dollars (\$500,000.00).

B. All money received or credited by the Attorney General on behalf of the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System or the Uniform Retirement System for Justices and Judges shall be paid to the State Treasurer of the state and ~~by him~~ distributed by the State Treasurer to the appropriate fund of the respective retirement

system as directed by the board of trustees of ~~said~~ such respective retirement system. The Attorney General shall invoice the respective retirement system and the respective retirement system shall pay for reasonable attorney's fee for actual legal services rendered by the Attorney General's office related to the money received or credited on behalf of the respective retirement system based on an hourly rate determined by the Attorney General. The hourly rate charged by the Attorney General to a retirement system for services related to the collection of money received or credited on behalf of the respective retirement system shall be based on the labor, time and problems involved, the skill and expertise called for in the performance of the services and the standing of the specific attorney or attorneys involved. The hourly rate charged by the Attorney General to a retirement system shall not be based on the value of the property at issue or recovered. The Attorney General shall not separately invoice a retirement system for the work performed by an attorney employed by the Attorney General's office whose salary and other related costs are paid in part or in whole by said retirement system pursuant to an agreement entered into between the Attorney General and the retirement system for legal services.

SECTION 3. This act shall become effective November 1, 1997.

46-1-0953

CJ