

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 3275

By: Joyner and Duncan of the
House

6 and

7 Nichols of the Senate

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to counties and county officers;
11 amending 19 O.S. 2001, Sections 215.4, 215.28,
12 215.30, as amended by Section 1, Chapter 389, O.S.L.
13 2002 and 215.37M (19 O.S. Supp. 2007, Section
14 215.30), which relate to district attorneys;
15 modifying persons who may assist the district
16 attorney; removing District Attorneys Council from
17 the Office of the Attorney General; modifying persons
18 who prosecute a criminal matter in certain
19 circumstances; and providing an effective date.

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

21 SECTION 1. AMENDATORY 19 O.S. 2001, Section 215.4, is
22 amended to read as follows:

23 Section 215.4 The district attorney, assistant district
24 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 the

1 district, whether the venue is changed or not; the district attorney
2 or assistant district attorneys shall prosecute or defend in all
3 courts, state and federal, in any county in this state, all civil
4 actions or proceedings in which any county in the district is
5 interested, or a party unless representation for the county is
6 provided pursuant to subsection A of Section 215.37M of this title;
7 and the district attorney or assistant district attorneys shall
8 assist the grand jury, if required, pursuant to Section 215.13 of
9 this title. The district attorney may at all times request the
10 assistance of district attorneys, assistant district attorneys ~~or,~~
11 district attorney investigators from other districts, or any
12 attorney employed by the District Attorneys Council who then may
13 appear and assist in the prosecution of actions for crime or assist
14 in investigation of crime in like manner as assistants or
15 investigators in the district.

16 SECTION 2. AMENDATORY 19 O.S. 2001, Section 215.28, is
17 amended to read as follows:

18 Section 215.28 A. There is hereby created ~~a special division~~
19 ~~of the office of Attorney General to be known as the District~~
20 Attorneys Council which shall be organized and administered as
21 herein provided. Any reference in the Oklahoma Statutes to the
22 District Attorneys Training Coordination Council shall mean the
23 District Attorneys Council.

24

1 B. The chief executive officer of the office of the Council is
2 the Executive Coordinator who shall be appointed and supervised by
3 the Council. The Executive Coordinator shall serve at the pleasure
4 of the Council. The Executive Coordinator shall be licensed to
5 practice law in Oklahoma and shall have been a district attorney or
6 assistant district attorney or have held an equivalent position in
7 state or federal government for at least three (3) years prior to
8 ~~his~~ appointment. The Executive Coordinator may appoint an Assistant
9 Coordinator, both of whom shall be in the unclassified service of
10 the state. The Executive Coordinator and the Assistant Coordinator,
11 who shall also be licensed to practice law in Oklahoma, shall devote
12 full time to their duties and shall not engage in the private
13 practice of law. The Executive Coordinator shall perform the
14 functions and duties as may be assigned ~~to him~~ by the Council. The
15 Executive Coordinator shall be named the project director and fiscal
16 officer of any grant or fund received by the Council. The Executive
17 Coordinator and the Assistant Coordinator shall receive compensation
18 for their services within the pay scale limits for district
19 attorneys.

- 20 C. 1. The Council shall be composed of the following members:
- 21 a. the Attorney General, or ~~his~~ a designated
22 representative of the Attorney General,
 - 23 b. the President of the Oklahoma District Attorneys
24 Association,

- 1 c. the President-elect of the Oklahoma District Attorneys
2 Association~~+~~,
3 d. one district attorney selected by the Court of
4 Criminal Appeals for a three-year term~~+~~, and
5 e. one district attorney selected by the Board of
6 Governors of the Oklahoma Bar Association for a three-
7 year term.

8 2. A member of the Council shall vacate ~~his~~ the appointment
9 upon termination of ~~his~~ the member's official position as Attorney
10 General or district attorney. A vacancy shall be filled in the same
11 manner as the original appointment. A member appointed to fill a
12 vacancy created other than by expiration of a term shall be
13 appointed for the unexpired term of the member whom ~~he~~ the appointed
14 member is to succeed in the same manner as the original appointment.
15 Any member may serve more than one term.

16 D. The Council shall designate from among its members a
17 Chairman and Vice Chairman who shall serve for one-year terms and
18 who may be reelected. Membership on the Council shall not
19 constitute holding a public office. The Council shall not have the
20 right to exercise any portion of the sovereign power of the state.
21 A member of the Council shall not be disqualified from holding any
22 public office or employment by reason of ~~his~~ appointment or
23 membership on the Council, nor shall ~~he~~ the member forfeit the
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1 office or employment, by reason of ~~his~~ appointment ~~hereunder~~ to the
2 Council.

3 E. The Council shall meet at least four times in each year and
4 shall hold special meetings when called by the Chairman, or, in the
5 absence of the Chairman, by the Vice Chairman or when called by the
6 Chairman upon the written request of two members of the Council.

7 The Council shall establish its own procedures and requirements with
8 respect to quorum, place and conduct of its meetings and other
9 matters.

10 F. The members of the Council shall not receive a salary for
11 duties performed as members of the Council but shall be entitled to
12 be reimbursed for their travel expenses in accordance with the State
13 Travel Reimbursement Act.

14 G. The Council shall make an annual report to the Governor, the
15 President Pro Tempore of the Senate, the Speaker of the House of
16 Representatives, and the President of the Oklahoma District
17 Attorneys Association regarding its efforts to implement the
18 purposes of this act.

19 H. The Council shall have the power to perform such functions
20 as in its opinion shall strengthen the criminal justice system in
21 Oklahoma, to provide a professional organization for the education,
22 training and coordination of technical efforts of all state
23 prosecutors and to maintain and improve prosecutor efficiency and
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1 effectiveness in enforcing the laws of this state including, but not
2 limited to, the following:

3 1. Organize, supervise and perform functions consistent with
4 this act;

5 2. Convene regional or statewide conferences and training
6 seminars for the purpose of implementing the provisions of this act;

7 3. Accept and expend monies, gifts, grants or services from any
8 public or private source; contract or enter into agreements with
9 educational institutions or state or federal agencies; and employ
10 personnel as the Council in its judgment finds necessary to
11 effectively carry out the provisions of this act. Such employees
12 shall be in the unclassified service of the state;

13 4. Serve in an advisory capacity to the district attorneys of
14 the state;

15 5. Provide and coordinate training and continuing legal
16 education for district attorneys and their assistants, including
17 participation in nationally recognized prosecutorial seminars
18 conducted in other states;

19 6. Gather and disseminate information to district attorneys
20 relative to their official duties, including changes in the law
21 relative to their office;

22 7. Coordinate with law enforcement officers, the courts and
23 corrections workers providing interdisciplinary seminars to augment
24 the effectiveness of the criminal justice system;

1 8. Require statistical reports from district attorneys' offices
2 relating to functions and workload performance;

3 9. Recommend additional legislation necessary to upgrade the
4 Oklahoma District Attorneys System to professional status;

5 10. Establish an equitable distribution plan for allocation of
6 any funds or gifts received from public or private sources for state
7 prosecution and distribute such funds in accordance with such plan;
8 and

9 11. Appoint a larger Advisory Council made up of district
10 attorneys and assistant district attorneys to discuss problems and
11 hear recommendations concerning necessary research, minimum
12 standards, educational needs, and other matters imperative to
13 upgrading Oklahoma prosecution to professional status.

14 I. There is hereby created in the State Treasury a revolving
15 fund for the Council, to be designated the "District Attorneys
16 Council Revolving Fund". The fund shall consist of all monies
17 received by the Council other than appropriated funds. The
18 revolving fund shall be a continuing fund not subject to fiscal year
19 limitations and shall be under the control and management of the
20 Council. Expenditures from this fund shall be made pursuant to the
21 purposes of this act and without legislative appropriation.

22 Warrants for expenditures shall be drawn by the State Treasurer
23 based on claims signed by the authorized employee or employees of
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1 the Council and approved for payment by the Director of State
2 Finance.

3 J. The Council may accept operation and supervision of the Law
4 Enforcement Assistance Administration grants presently being
5 administered by the Oklahoma District Attorneys Association.

6 SECTION 3. AMENDATORY 19 O.S. 2001, Section 215.30, as
7 amended by Section 1, Chapter 389, O.S.L. 2002 (19 O.S. Supp. 2007,
8 Section 215.30), is amended to read as follows:

9 Section 215.30 A. Beginning January 1, 1997, each district
10 attorney shall receive a salary of Seventy-one Thousand Six Hundred
11 Sixty-three Dollars (\$71,663.00) per year, payable monthly.
12 Beginning January 1, 1999, each district attorney shall receive a
13 salary of Eighty-five Thousand Dollars (\$85,000.00) per year,
14 payable monthly. Beginning July 1, 2003, each district attorney
15 shall receive a salary equal to ninety-eight percent (98%) of the
16 salary of a district judge.

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

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

9 1. In counties having a population of four hundred thousand
10 (400,000) or more, the salary of the district attorney and assistant
11 district attorneys may be supplemented by the county. Such
12 supplement for the district attorney shall not exceed twenty-five
13 percent (25%) of the salary provided for district attorneys by this
14 section. Such supplement for the assistant district attorneys shall
15 not exceed twenty-five percent (25%) of the salary authorized for
16 assistant district attorneys in Section 215.34 of this title.

17 2. The salaries and operating expenses of those assistant
18 district attorneys who are assigned to child support enforcement
19 duties shall be paid by funds received as reimbursement from the
20 Department of Human Services under terms of a contract with the
21 office of the district attorney as authorized by Section 237.1 of
22 Title 56 of the Oklahoma Statutes.

23 D. The District Attorneys Council, which may hereinafter be
24 referred to as the "Council", ~~a special division of the Attorney~~

1 ~~General's Office,~~ is hereby designated as the state agency for the
2 administration and disbursement of all salaries and expenses of the
3 offices of district attorneys authorized by law. All such payrolls
4 and claims against State Treasury funds must be approved by the
5 Council prior to submission to the Office of State Finance for
6 payment. The Council and the Director of State Finance shall
7 promulgate reasonable rules and regulations covering the preparation
8 of estimates of needs, budgets and claims for the administration of
9 this act, Section 215.1 et seq. of this title, the transmittal of
10 county funds to the State Treasury and the disbursement of all state
11 and county funds under this act.

12 SECTION 4. AMENDATORY 19 O.S. 2001, Section 215.37M, is
13 amended to read as follows:

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

22 B. If the district attorney and the board of county
23 commissioners of any county agree, legal representation in any civil
24 case in which a county officer or employee is a party and the

1 district attorney is required to represent the county pursuant to
2 Section 215.25 of this title may be provided by contract with a
3 private attorney. The costs of such contract shall be paid by the
4 board of county commissioners out of its account for general
5 government operation, or other account, as may be appropriate.

6 C. If a district attorney and the District Attorneys Council
7 agree, prosecution of any criminal matter may be provided by
8 contract with a ~~private~~ an attorney not employed by a district
9 attorney, who shall be designated as a special assistant district
10 attorney, if the case load of the office of the district attorney is
11 such that adequate representation of the interest of the state is
12 not possible without appointment of one or more special assistant
13 district attorneys. The special assistant district attorney shall
14 be appointed by the district attorney. The special assistant
15 district attorney may serve with or without compensation, however,
16 compensation shall be allowed only if the cost of compensation can
17 be paid out of funds for the current fiscal year, designated for the
18 salaries and operating expenses, for the office of the district
19 attorney requesting the appointment or appointments. No
20 supplemental appropriations shall be authorized for appointment of
21 special assistant district attorneys.

22 D. If the district attorney and the board of education of any
23 school district agree, legal representation in any ad valorem tax
24 matter in which the district attorney is required to represent the

1 school district may be assisted by an attorney employed or retained
2 by the school district. The board of education is authorized to pay
3 the costs of such representation out of its account for general
4 government operation, or other account, as may be appropriate.
5 However, this subsection shall not be construed to permit a school
6 district or any other entity to be a party to the proceeding or give
7 standing to such entity to be a party to the civil case in which the
8 county is interested.

9 SECTION 5. This act shall become effective November 1, 2008.

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