

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3275

By: Duncan

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5
6 AS INTRODUCED

7 An Act relating to counties and county officers;
8 amending 19 O.S. 2001, Sections 215.4, 215.28 and
9 215.30, as amended by Section 1, Chapter 389, O.S.L.
10 2002 (19 O.S. Supp. 2007, Section 215.30), which
11 relate to district attorneys; modifying persons who
12 may assist the district attorney; removing District
13 Attorneys Council from the Office of the Attorney
14 General; creating the Immigration Enforcement
15 Training Revolving Fund; providing for codification;
16 and providing an effective date.

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

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

20 Section 215.4 The district attorney, assistant district
21 attorneys, or special assistant district attorneys authorized by
22 subsection C of Section 215.37M of this title, shall appear in all
23 trial courts and prosecute all actions for crime committed in the
24 district, whether the venue is changed or not; 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 the district is

1 interested, or a party unless representation for the county is
2 provided pursuant to subsection A of Section 215.37M of this title;
3 and the district attorney or assistant district attorneys shall
4 assist the grand jury, if required, pursuant to Section 215.13 of
5 this title. The district attorney may at all times request the
6 assistance of district attorneys, assistant district attorneys ~~or,~~
7 district attorney investigators from other districts, or any
8 attorney employed by the District Attorneys Council who then may
9 appear and assist in the prosecution of actions for crime or assist
10 in investigation of crime in like manner as assistants or
11 investigators in the district.

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

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

20 B. The chief executive officer of the office of the Council is
21 the Executive Coordinator who shall be appointed and supervised by
22 the Council. The Executive Coordinator shall serve at the pleasure
23 of the Council. The Executive Coordinator shall be licensed to
24 practice law in Oklahoma and shall have been a district attorney or

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

15 C. 1. The Council shall be composed of the following members:

- 16 a. the Attorney General, or ~~his~~ a designated
17 representative of the attorney General,
18 b. the President of the Oklahoma District Attorneys
19 Association ,
20 c. the President-elect of the Oklahoma District Attorneys
21 Association ,
22 d. one district attorney selected by the Court of
23 Criminal Appeals for a three-year term , and
24

1 e. one district attorney selected by the Board of
2 Governors of the Oklahoma Bar Association for a three-
3 year term.

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

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

22 E. The Council shall meet at least four times in each year and
23 shall hold special meetings when called by the Chairman, or, in the
24 absence of the Chairman, by the Vice Chairman or when called by the

1 Chairman upon the written request of two members of the Council.

2 The Council shall establish its own procedures and requirements with
3 respect to quorum, place and conduct of its meetings and other
4 matters.

5 F. The members of the Council shall not receive a salary for
6 duties performed as members of the Council but shall be entitled to
7 be reimbursed for their travel expenses in accordance with the State
8 Travel Reimbursement Act.

9 G. The Council shall make an annual report to the Governor, the
10 President Pro Tempore of the Senate, the Speaker of the House of
11 Representatives, and the President of the Oklahoma District
12 Attorneys Association regarding its efforts to implement the
13 purposes of this act.

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

21 1. Organize, supervise and perform functions consistent with
22 this act;

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

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

7 4. Serve in an advisory capacity to the district attorneys of
8 the state;

9 5. Provide and coordinate training and continuing legal
10 education for district attorneys and their assistants, including
11 participation in nationally recognized prosecutorial seminars
12 conducted in other states;

13 6. Gather and disseminate information to district attorneys
14 relative to their official duties, including changes in the law
15 relative to their office;

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

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

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

23 10. Establish an equitable distribution plan for allocation of
24 any funds or gifts received from public or private sources for state

1 prosecution and distribute such funds in accordance with such plan;
2 and

3 11. Appoint a larger Advisory Council made up of district
4 attorneys and assistant district attorneys to discuss problems and
5 hear recommendations concerning necessary research, minimum
6 standards, educational needs, and other matters imperative to
7 upgrading Oklahoma prosecution to professional status.

8 I. There is hereby created in the State Treasury a revolving
9 fund for the Council, to be designated the "District Attorneys
10 Council Revolving Fund". The fund shall consist of all monies
11 received by the Council other than appropriated funds. The
12 revolving fund shall be a continuing fund not subject to fiscal year
13 limitations and shall be under the control and management of the
14 Council. Expenditures from this fund shall be made pursuant to the
15 purposes of this act and without legislative appropriation.
16 Warrants for expenditures shall be drawn by the State Treasurer
17 based on claims signed by the authorized employee or employees of
18 the Council and approved for payment by the Director of State
19 Finance.

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

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

4 Section 215.30 A. Beginning January 1, 1997, each district
5 attorney shall receive a salary of Seventy-one Thousand Six Hundred
6 Sixty-three Dollars (\$71,663.00) per year, payable monthly.

7 Beginning January 1, 1999, each district attorney shall receive a
8 salary of Eighty-five Thousand Dollars (\$85,000.00) per year,
9 payable monthly. Beginning July 1, 2003, each district attorney
10 shall receive a salary equal to ninety-eight percent (98%) of the
11 salary of a district judge.

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

21 C. Population, for the purposes of Section 215 et seq. of this
22 title, shall be as determined by the last Federal Decennial Census.
23 The salaries of the district attorneys and the salaries of the
24 assistant district attorneys and their operating and maintenance

1 expenses in each county shall be paid by the state. Provided
2 however:

3 1. In counties having a population of four hundred thousand
4 (400,000) or more, the salary of the district attorney and assistant
5 district attorneys may be supplemented by the county. Such
6 supplement for the district attorney shall not exceed twenty-five
7 percent (25%) of the salary provided for district attorneys by this
8 section. Such supplement for the assistant district attorneys shall
9 not exceed twenty-five percent (25%) of the salary authorized for
10 assistant district attorneys in Section 215.34 of this title.

11 2. The salaries and operating expenses of those assistant
12 district attorneys who are assigned to child support enforcement
13 duties shall be paid by funds received as reimbursement from the
14 Department of Human Services under terms of a contract with the
15 office of the district attorney as authorized by Section 237.1 of
16 Title 56 of the Oklahoma Statutes.

17 D. The District Attorneys Council, which may hereinafter be
18 referred to as the "Council", ~~a special division of the Attorney~~
19 ~~General's Office,~~ is hereby designated as the state agency for the
20 administration and disbursement of all salaries and expenses of the
21 offices of district attorneys authorized by law. All such payrolls
22 and claims against State Treasury funds must be approved by the
23 Council prior to submission to the Office of State Finance for
24 payment. The Council and the Director of State Finance shall

1 promulgate reasonable rules and regulations covering the preparation
2 of estimates of needs, budgets and claims for the administration of
3 this act, Section 215.1 et seq. of this title, the transmittal of
4 county funds to the State Treasury and the disbursement of all state
5 and county funds under this act.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 532 of Title 19, unless there is
8 created a duplication in numbering, reads as follows:

9 There is hereby created in the State Treasury a revolving fund
10 for the municipal or county sheriff immigration enforcement training
11 to be designated as the "Immigration Enforcement Training Revolving
12 Fund". The fund shall be a continuing fund, not subject to fiscal
13 year limitations, and shall consist of all monies received from
14 funds appropriated by the Legislature. All monies accruing to the
15 credit of the fund shall be appropriated and may be budgeted and
16 expended by the State Treasurer for qualified immigration
17 enforcement training expenses incurred by municipal or county
18 sheriffs for a minimum of two full-time CLEET-certified law
19 enforcement officers, not to exceed five percent (5%) of the
20 agencies' certified officers. Expenditures from the fund shall be
21 made upon warrants issued by the State Treasurer against claims
22 filed as prescribed by law with the Director of State Finance for
23 approval and payment.

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

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