

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 878

By: Johnson (Mike) of the
Senate

3
4 and

5 Miller of the House

6
7
8 (public finance - duties of the Attorney General -
9 effective date -

10 emergency)

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12
13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

15 "An Act relating to the Attorney General; amending 62
16 O.S. 2001, Section 15, which relates to the duties
17 of the Attorney General; authorizing certain
18 examination fee; providing that fee be deposited in
19 the Attorney General's Revolving Fund; amending 70
20 O.S. 2001, Section 4008, which relates to necessary
21 approval by Attorney General for bonds; requiring
22 examination of certain bonds by Attorney General;
23 providing an effective date; and declaring an
24 emergency.

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

SECTION 1. AMENDATORY 62 O.S. 2001, Section 15, is
amended to read as follows:

1 Section 15. ~~(a)~~ A. In all stages of proceedings leading to the
2 issuance and sale of general obligation bonds pledging the full
3 faith and credit of the state, it shall be a duty of the Attorney
4 General to perform all necessary legal work incident thereto.
5 Neither the Attorney General nor any other officer of the state may
6 use any public funds to pay for the services of a private attorney
7 or consulting fee in connection with such work. Neither the
8 Attorney General nor Assistant Attorney General shall receive any
9 remuneration, other than ~~his~~ salary, for legal services performed in
10 proceedings leading to the issuance and sale of bonds as provided in
11 this act. If a "marketing" opinion is desired, the bond buyers
12 shall pay for its procurement.

13 ~~(b)~~ B. In all proceedings leading to the issuance and sale of
14 revenue bonds by any state agency acting pursuant to a specific
15 legislative validating act, a private attorney or attorneys may be
16 employed when the legislative validating act does not prohibit such
17 employment. The employment contract with ~~said~~ the private attorney
18 or attorneys shall be filed of record with the Attorney General. In
19 no case shall the employed private attorney be paid a fee in excess
20 of that authorized in the validating act. In addition, the Attorney
21 General is authorized to charge an examination fee for review and
22 approval of revenue bond or note proceedings, as provided for in
23 subsection E of this section. If a "marketing" opinion is desired,
24 the bond buyers shall pay for its procurement.

1 ~~(c)~~ C. In all proceedings leading to the issuance and sale of
2 general obligation bonds or revenue bonds by any state agency acting
3 pursuant to a specific legislative validating act, any financial or
4 marketing consultant employed by the state for services relative to
5 the marketing of such bonds shall not be paid a fee in excess of
6 that authorized in the validating act.

7 ~~(d) Nothing~~ D. Except for the provisions of subsection E of
8 this section, nothing herein shall apply to legal proceedings
9 leading to the issuance or sale of bonds pursuant to Article ~~10~~ X,
10 Sections 26, 27 and 35 of the Oklahoma Constitution or to any
11 obligation issued by public trusts under the Public Trust Act
12 (except those trusts created by the state as contrasted to its
13 subdivisions or other governmental entities), the Interlocal
14 Cooperation Act and the Local Industrial ~~and~~ Development Act.

15 E. In all proceedings leading to the issuance and sale of
16 revenue bonds or notes by any state agency, or the issuance and sale
17 of general or limited obligation bonds pledging the faith and
18 credit, whether general or special, of the state or any political
19 subdivision thereof, where the Attorney General is required by law
20 to review such proceedings, the Attorney General is authorized to
21 charge and collect a nonrefundable examination fee, payable at the
22 time the proceedings are finally approved and bonds or notes are
23 delivered. The issuer may reimburse itself for the examination fee
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1 from the proceeds of the bond or note issue. Such examination fee
2 shall not exceed the following amounts:

3 1. Three one-hundredths of one percent (0.03%) of the first
4 Five Million Dollars (\$5,000,000.00) of the principal amount of
5 bonds or notes issued; and

6 2. Two one-hundredths of one percent (0.02%) of any principal
7 amount of bonds or notes issued in excess of Five Million Dollars
8 (\$5,000,000.00), up to and including Fifty Million Dollars
9 (\$50,000,000.00); and

10 3. One one-hundredth of one percent (0.01%) of any principal
11 amount of bonds or notes in excess of Fifty Million Dollars
12 (\$50,000,000.00).

13 All fees collected as authorized by this subsection shall be
14 deposited in the Attorney General's Revolving Fund created in
15 Section 20 of Title 74 of the Oklahoma Statutes.

16 SECTION 2. AMENDATORY 70 O.S. 2001, Section 4008, is
17 amended to read as follows:

18 Section 4008. All bonds issued hereunder shall have on the
19 backs thereof the certificate required by Section 29 of Article ~~10~~ X
20 of the Constitution of Oklahoma. Such bonds and any bonds or other
21 obligations issued under the Oklahoma Higher Education Promise of
22 Excellence Act of 2005 shall be submitted to the Attorney General of
23 Oklahoma for ~~his~~ examination; and such bonds, when having been
24 examined and certified as legal obligations by the Attorney General

1 in accordance with such requirements as he or she may make, shall be
2 incontestable in any court in the State of Oklahoma unless suit
3 thereon shall be brought in a court having jurisdiction thereof
4 within thirty (30) days from the date of such approval. Bonds so
5 approved by the Attorney General shall be prima facie valid and
6 binding obligations according to their terms, and the only defense
7 which may be offered thereto in any suit instituted after such
8 thirty-day period shall have expired shall be forgery, fraud or
9 violation of the Constitution.

10 SECTION 3. This act shall become effective July 1, 2009.

11 SECTION 4. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval."

15 Passed the House of Representatives the 23rd day of April, 2009.

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Presiding Officer of the House of
Representatives

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20 Passed the Senate the ____ day of _____, 2009.

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Presiding Officer of the Senate

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