

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 1765

By: Key

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8 COMMITTEE SUBSTITUTE

9 An Act relating to state government; amending 74 O.S. 2001, Section 18b,  
10 which relates to the Attorney General; requiring Attorney General to keep a  
11 record of and publish certain briefs; creating the Transparency in Agency  
12 Lobbying Act; defining term; requiring certain persons to file reports; directing  
13 the Secretary of State to prescribe form; providing for contents of reports;  
14 providing time to file reports; providing for fees; providing for penalty;  
15 subjecting reports to the Oklahoma Open Records Act; providing for  
16 codification; and providing an effective date.

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

18 SECTION 1. AMENDATORY 74 O.S. 2001, Section 18b, is amended to read as follows:

19 Section 18b. A. The duties of the Attorney General as the chief law officer of the state shall be:

- 20 1. To appear for the state and prosecute and defend all actions and proceedings, civil or criminal,  
21 in the Supreme Court and Court of Criminal Appeals in which the state is interested as a party;
- 22 2. To appear for the state and prosecute and defend all actions and proceedings in any of the  
23 federal courts in which the state is interested as a party;
- 24 3. To initiate or appear in any action in which the interests of the state or the people of the state  
are at issue, or to appear at the request of the Governor, the Legislature, or either branch thereof, and

1 prosecute and defend in any court or before any commission, board or officers any cause or  
2 proceeding, civil or criminal, in which the state may be a party or interested; and when so appearing in  
3 any such cause or proceeding, the Attorney General may, if the Attorney General deems it advisable  
4 and to the best interest of the state, take and assume control of the prosecution or defense of the state's  
5 interest therein;

6 4. To consult with and advise district attorneys, when requested by them, in all matters  
7 pertaining to the duties of their offices, when said district attorneys shall furnish the Attorney General  
8 with a written opinion supported by citation of authorities upon the matter submitted;

9 5. To give an opinion in writing upon all questions of law submitted to the Attorney General by  
10 the Legislature or either branch thereof, or by any state officer, board, commission or department,  
11 provided, that the Attorney General shall not furnish opinions to any but district attorneys, the  
12 Legislature or either branch thereof, or any other state official, board, commission or department, and  
13 to them only upon matters in which they are officially interested;

14 6. At the request of the Governor, State Auditor and Inspector, State Treasurer, or either branch  
15 of the Legislature, to prosecute any official bond or any contract in which the state is interested, upon a  
16 breach thereof, and to prosecute or defend for the state all actions, civil or criminal, relating to any  
17 matter connected with either of their Departments;

18 7. Whenever requested by any state officer, board or commission, to prepare proper drafts for  
19 contracts, forms and other writing which may be wanted for the use of the state;

20 8. To prepare drafts of bills and resolutions for individual members of the Legislature upon their  
21 written request stating the gist of the bill or resolution desired;

22 9. To enforce the proper application of monies appropriated by the Legislature and to prosecute  
23 breaches of trust in the administration of such funds;

1           10. To institute actions to recover state monies illegally expended, to recover state property and  
2 to prevent the illegal use of any state property, upon the request of the Governor or the Legislature;

3           11. To pay into the State Treasury, immediately upon its receipt, all monies received by the  
4 Attorney General belonging to the state;

5           12. To keep and file copies of all opinions, contracts, forms and letters of the office, and to keep  
6 an index of all opinions, contracts and forms according to subject and section of the law construed or  
7 applied;

8           13. To keep a register or docket of all actions, demands and investigations prosecuted, defended  
9 or conducted by the Attorney General in behalf of the state. Said register or docket shall give the style  
10 of the case or investigation, where pending, court number, office number, the gist of the matter, result  
11 and the names of the assistants who handled the matter;

12           14. To keep a complete office file of all cases and investigations handled by the Attorney  
13 General on behalf of the state;

14           15. To report to the Legislature or either branch thereof whenever requested upon any business  
15 relating to the duties of the Attorney General's office;

16           16. To institute civil actions against members of any state board or commission for failure of  
17 such members to perform their duties as prescribed by the statutes and the Constitution and to  
18 prosecute members of any state board or commission for violation of the criminal laws of this state  
19 where such violations have occurred in connection with the performance of such members' official  
20 duties;

21           17. To respond to any request for an opinion of the Attorney General's office, submitted by a  
22 member of the Legislature, regardless of subject matter, by written opinion determinative of the law  
23 regarding such subject matter;  
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1 18. To convene multicounty grand juries in such manner and for such purposes as provided by  
2 law; provided, such grand juries are composed of citizens from each of the counties on a pro rata basis  
3 by county;

4 19. To investigate any report by the State Auditor and Inspector filed with the Attorney General  
5 pursuant to Section 223 of this title and prosecute all actions, civil or criminal, relating to such reports  
6 or any irregularities or derelictions in the management of public funds or property which are violations  
7 of the laws of this state;

8 20. To represent and protect the collective interests of all utility consumers of this state in rate-  
9 related proceedings before the Corporation Commission or in any other state or federal judicial or  
10 administrative proceeding;

11 21. To represent and protect the collective interests of insurance consumers of this state in rate-  
12 related proceedings before the Insurance Property and Casualty Rate Board or in any other state or  
13 federal judicial or administrative proceeding;

14 22. To certify local crimestoppers programs qualified to receive repayments of rewards pursuant  
15 to Section 991a of Title 22 of the Oklahoma Statutes; ~~and~~

16 23. To investigate and prosecute any criminal action relating to insurance fraud, if in the opinion  
17 of the Attorney General a criminal prosecution is warranted, or to refer such matters to the appropriate  
18 district attorney; and

19 24. To keep a record of all amicus curiae briefs filed by the Attorney General, and publish the  
20 briefs on the Attorney General's website.

21 B. Nothing in this section shall be construed as requiring the Attorney General to appear and  
22 defend or prosecute in any court any cause or proceeding for or on behalf of the Oklahoma Tax  
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1 Commission, the Board of Managers of the State Insurance Fund, or the Commissioners of the Land  
2 Office.

3 C. In all appeals from the Corporation Commission to the Supreme Court of Oklahoma in which  
4 the state is a party, the Attorney General shall have the right to designate counsel of the Corporation  
5 Commission as the Attorney General's legally appointed representative in such appeals, and it shall be  
6 the duty of the said Corporation Commission counsel to act when so designated and to consult and  
7 advise with the Attorney General regarding such appeals prior to taking action therein.

8 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as  
9 Section 4021 of Title 74, unless there is created a duplication in numbering, reads as follows:

10 A. This section shall be known and may be cited as the “Transparency in Agency Lobbying  
11 Act”.

12 B. As used in this section, a “Legislative Liaison” shall mean any state agency employee acting  
13 on behalf of the agency to promote or discourage passage of any legislation.

14 C. Every Legislative Liaison shall file reports required by this section with the Secretary of State  
15 concerning the activities specified in this section. The report shall account for all time spent lobbying  
16 on behalf of the state agency once the estimated amount of time exceeds five (5) hours a week. The  
17 report shall also account for expenses related to lobbying activities. The following lobbying activities  
18 shall not be included in estimates of time and reported expenses:

19 1. Recommendations or reports to the Legislature in response to a legislative request expressly  
20 requesting or directing a specific study;

21 2. Recommendations or reports by an agency on a particular subject;

22 3. Official reports including recommendations submitted to the Legislature on an annual or  
23 biennial basis by a state agency as required by law;

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1 4. Requests by the Chair of a legislative committee for committee work; and

2 5. Required legislative reports necessary for agency performance reviews and budget request  
3 hearings.

4 D. The information to be reported pursuant to the provisions of subsection C of this section shall  
5 be as follows:

6 1. The full legal name, position, agency of the Legislative Liaison, agency address, and business  
7 telephone number;

8 2. An estimate of time spent on lobbying activities or preparation thereof by any Legislative  
9 Liaison or any other employee of the agency, including but not limited to in-person meetings and  
10 telephone calls; and

11 3. Amount of funds expended on lobbying activities, including but not limited to handouts,  
12 presentations, meals, gifts and travel.

13 E. The form or computer diskette with form software for reports of the Legislative Liaison shall  
14 be prescribed by the Secretary of State.

15 F. 1. The Legislative Liaison shall file reports with the Secretary of State every two (2) weeks  
16 while the Legislature is in session, and on the last day of every month when the Legislature is not in  
17 session, which shall cover the activities during the period following the last report.

18 2. The first report filed by a Legislative Liaison in January of each odd-numbered year shall be  
19 accompanied by a one-hundred-dollar fee, to be charged to the agency of the Legislative Liaison, for  
20 administrative purposes of the Secretary of State's office.

21 G. The Secretary of State, after proper notification by certified mail of past due reports, shall  
22 impose an additional penalty of Ten Dollars (\$10.00) per day, to be charged to the agency of the  
23 Legislative Liaison, for each day that a report required to be filed pursuant to this section is not filed by  
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1 the close of the business day on the day due; except that the Secretary of State may excuse such  
2 penalty for bona fide personal emergencies. Revenues collected from penalties assessed by the  
3 Secretary of State shall be deposited in the state General Revenue Fund.

4 H. All reports filed under this section shall be subject to the Oklahoma Open Records Act.

5 SECTION 3. This act shall become effective November 1, 2009.

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