

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 490

6 By: Crain

7 COMMITTEE SUBSTITUTE

8 [public finance - taxpayer instituted lawsuits -
9 effective date]

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 62 O.S. 2001, Section 372, as
13 amended by Section 8, Chapter 367, O.S.L. 2008 (62 O.S. Supp. 2008,
14 Section 372), is amended to read as follows:

15 Section 372. Every officer of the state and of any county,
16 township, city, town or school district, who shall hereafter order
17 or direct the payment of any money or transfer of any property
18 belonging to the state or to such county, city, town or school
19 district, in settlement of any claim or in pursuance of any
20 unauthorized, unlawful or fraudulent contract or agreement made or
21 attempted to be made, for the state or any such county, city, town
22 or school district, by any officer thereof, known to such officer to
23 be fraudulent or void, and every person, having notice of the facts,
24 with whom such unauthorized, unlawful or fraudulent contract shall

1 have been made, or to whom, or for whose benefit such money shall be
2 paid or such transfer of property shall be made, ~~shall be jointly~~
3 ~~and severally liable in damage to all innocent persons in any manner~~
4 ~~injured thereby, and shall be furthermore jointly and severally~~
5 liable to the state, county, city, town or school district affected,
6 for triple the amount of all such sums of money so paid, and triple
7 the value of property so transferred, as a penalty, to be recovered
8 at the suit of the proper officers of the state or such county,
9 city, town or school district, ~~or of any resident taxpayer thereof,~~
10 ~~pursuant to Section 373 of this title;~~ provided, however, no action
11 for personal liability shall lie against any such officer for a
12 transaction approved in good-faith reliance on advice of legal
13 counsel for the public entity authorizing the transaction or which
14 has been submitted to a court of competent jurisdiction for
15 determination of legality.

16 SECTION 2. AMENDATORY 62 O.S. 2001, Section 373, is
17 amended to read as follows:

18 Section 373. Upon the refusal, failure, or neglect of the
19 proper officers of the state or of any county, township, city, town,
20 or school district, after written demand signed, verified and served
21 upon them by ~~ten~~ a number of resident taxpayers of the state or such
22 county, township, city, town, or school district equal to one-tenth
23 of one percent (0.1%) of the population that resides within the
24 county, township, city, town or school district according to the

1 latest federal decennial census, or twenty-five (25) persons,
2 whichever number is greater, to institute or diligently prosecute
3 proper proceedings at law or in equity for the recovery of any money
4 or property belonging to the state, or such county, township, city,
5 town, or school district, paid out or transferred by any officer
6 thereof in pursuance of any unauthorized, unlawful, fraudulent, or
7 void contract made, or attempted to be made, by any of its officers
8 for the state or any such county, township, city, town, or school
9 district, ~~or for the penalty provided in the preceding section,~~ any
10 resident taxpayer of the state or such county, township, city,
11 town, or school district affected by such payment or transfer after
12 serving the notice aforesaid and after giving security for cost, may
13 in the name of the State of Oklahoma as plaintiff, institute and
14 maintain any proper action which the proper officers of the state,
15 county, township, city, town, or school district might institute and
16 maintain for the recovery of such property, ~~or for said penalty;~~ and
17 such ~~municipality~~ county, township, city, town or school district
18 shall in such event be made defendant, ~~and one half (1/2) the amount~~
19 ~~of money and one half (1/2) the value of the property recovered in~~
20 ~~any action maintained at the expense of a resident taxpayer under~~
21 ~~this section, shall be paid to such resident taxpayer as a reward.~~
22 If a plaintiff prevails, the contract shall be void and the money or
23 property, if previously transferred, shall be returned to the
24 county, township, city, town or school district. The county,

1 township, city, town or school district shall be liable to the
2 resident taxpayer or taxpayers for all reasonable attorney fees and
3 court costs incurred. If all claims stated by the resident
4 taxpayers in the written demand are determined in a court of
5 competent jurisdiction to be frivolous, the resident taxpayers who
6 signed such demand and who are parties to the lawsuit in which such
7 claims are determined to be frivolous shall be jointly and severally
8 liable for all reasonable attorney fees and court costs incurred by
9 any public officer or officers or any other person alleged in such
10 demand to have paid out, transferred, or received any money or
11 property belonging to the state, or such county, township, city,
12 town or school district in pursuance of any alleged unauthorized,
13 unlawful, fraudulent, or void claim paid or contract or conveyance
14 made, or attempted to be made, by such officer or officers.

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

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