

ENROLLED SENATE
BILL NO. 878

By: Johnson (Mike) of the
Senate

and

Miller of the House

An Act relating to the Attorney General; amending 62 O.S. 2001, Section 15, which relates to the duties of the Attorney General; authorizing certain examination fee; providing that fee be deposited in the Attorney General's Revolving Fund; amending 70 O.S. 2001, Section 4008, which relates to necessary approval by Attorney General for bonds; requiring examination of certain bonds by Attorney General; providing an effective date; and declaring an 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:

Section 15. ~~(a)~~ A. In all stages of proceedings leading to the issuance and sale of general obligation bonds pledging the full faith and credit of the state, it shall be a duty of the Attorney General to perform all necessary legal work incident thereto. Neither the Attorney General nor any other officer of the state may use any public funds to pay for the services of a private attorney or consulting fee in connection with such work. Neither the Attorney General nor Assistant Attorney General shall receive any remuneration, other than ~~his~~ salary, for legal services performed in proceedings leading to the issuance and sale of bonds as provided in

this act. If a "marketing" opinion is desired, the bond buyers shall pay for its procurement.

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

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

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

E. In all proceedings leading to the issuance and sale of revenue bonds or notes by any state agency, or the issuance and sale of general or limited obligation bonds pledging the faith and credit, whether general or special, of the state or any political subdivision thereof, where the Attorney General is required by law to review such proceedings, the Attorney General is authorized to charge and collect a nonrefundable examination fee, payable at the time the proceedings are finally approved and bonds or notes are delivered. The issuer may reimburse itself for the examination fee

from the proceeds of the bond or note issue. Such examination fee shall not exceed the following amounts:

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

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

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

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

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

Section 4008. All bonds issued hereunder shall have on the backs thereof the certificate required by Section 29 of Article ~~10~~ X of the Constitution of Oklahoma. Such bonds and any bonds or other obligations issued under the Oklahoma Higher Education Promise of Excellence Act of 2005 shall be submitted to the Attorney General of Oklahoma for his examination; and such bonds, when having been examined and certified as legal obligations by the Attorney General in accordance with such requirements as he or she may make, shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction thereof within thirty (30) days from the date of such approval. Bonds so approved by the Attorney General shall be prima facie valid and binding obligations according to their terms, and the only defense which may be offered thereto in any suit instituted after such thirty-day period shall have expired shall be forgery, fraud or violation of the Constitution.

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

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

Passed the Senate the 19th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2009.

Presiding Officer of the House
of Representatives