

THE HOUSE OF REPRESENTATIVES
Monday, March 2, 2009

Committee Substitute for
House Bill No. 1765

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1765 - By: KEY of the House and BROGDON of the Senate.

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

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

- 1 SECTION 1. AMENDATORY 74 O.S. 2001, Section 18b, is amended to read as
2 follows:
- 3 Section 18b. A. The duties of the Attorney General as the chief law officer of the
4 state shall be:
- 5 1. To appear for the state and prosecute and defend all actions and proceedings,
6 civil or criminal, in the Supreme Court and Court of Criminal Appeals in which the state
7 is interested as a party;
- 8 2. To appear for the state and prosecute and defend all actions and proceedings in
9 any of the federal courts in which the state is interested as a party;

1 3. To initiate or appear in any action in which the interests of the state or the
2 people of the state are at issue, or to appear at the request of the Governor, the
3 Legislature, or either branch thereof, and prosecute and defend in any court or before
4 any commission, board or officers any cause or proceeding, civil or criminal, in which the
5 state may be a party or interested; and when so appearing in any such cause or
6 proceeding, the Attorney General may, if the Attorney General deems it advisable and to
7 the best interest of the state, take and assume control of the prosecution or defense of the
8 state's interest therein;

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

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

19 6. At the request of the Governor, State Auditor and Inspector, State Treasurer, or
20 either branch of the Legislature, to prosecute any official bond or any contract in which
21 the state is interested, upon a breach thereof, and to prosecute or defend for the state all

1 actions, civil or criminal, relating to any matter connected with either of their
2 Departments;

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

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

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

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

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

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

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

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

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

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

10 17. To respond to any request for an opinion of the Attorney General's office,
11 submitted by a member of the Legislature, regardless of subject matter, by written
12 opinion determinative of the law regarding such subject matter;

13 18. To convene multicounty grand juries in such manner and for such purposes as
14 provided by law; provided, such grand juries are composed of citizens from each of the
15 counties on a pro rata basis by county;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 5. Required legislative reports necessary for agency performance reviews and
22 budget request hearings.

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

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

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

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

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

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

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

19 G. The Secretary of State, after proper notification by certified mail of past due
20 reports, shall impose an additional penalty of Ten Dollars (\$10.00) per day, to be charged
21 to the agency of the Legislative Liaison, for each day that a report required to be filed
22 pursuant to this section is not filed by the close of the business day on the day due;

1 except that the Secretary of State may excuse such penalty for bona fide personal
2 emergencies. Revenues collected from penalties assessed by the Secretary of State shall
3 be deposited in the state General Revenue Fund.

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02-26-09 - DO PASS, As
8 Amended and Coauthored.