

SB 1389

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THE STATE SENATE  
Tuesday, February 9, 2010

Senate Bill No. 1389  
As Amended

SENATE BILL NO. 1389 - By: Jolley of the Senate and Cox of the House.

An Act relating to state government; amending 74 O.S. 2001, Section 18c, as last amended by Section 8, Chapter 405, O.S.L. 2005 (74 O.S. Supp. 2009, Section 18c), which relates to the employment of attorneys; permitting the State Department of Health to appoint attorneys; permitting the State Board of Pharmacy to appoint attorneys; prohibiting pharmacists from entering into certain contracts; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 18c, as last amended by Section 8, Chapter 405, O.S.L. 2005 (74 O.S. Supp. 2009, Section 18c), is amended to read as follows:

Section 18c. A. 1. Except as otherwise provided by this subsection, no state officer, board or commission shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the Corporation Commission, the Council on Law Enforcement Education and Training, the Consumer Credit Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare

1 Commission also known as the Commission for Human Services, the  
2 Board of Corrections, the Oklahoma Health Care Authority, the  
3 Department of Public Safety, the Oklahoma State Bureau of Narcotics  
4 and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement  
5 Commission, the Transportation Commission, the Oklahoma Energy  
6 Resources Board, the Department of Central Services, the Oklahoma  
7 Merit Protection Commission, the Office of Personnel Management, the  
8 Oklahoma Water Resources Board, the Department of Labor, the State  
9 Department of Agriculture, the Northeast Oklahoma Public Facilities  
10 Authority, the Oklahoma Firefighters Pension and Retirement System,  
11 the Oklahoma Public Employees Retirement System, the Uniform  
12 Retirement System for Justices and Judges, the Oklahoma Conservation  
13 Commission ~~and,~~ the Office of Juvenile Affairs, **the State Department**  
14 **of Health** and the State Board of Pharmacy.

15 3. The provisions of paragraph 2 of this subsection shall not  
16 be construed to authorize the Office of Juvenile Affairs to employ  
17 any attorneys that are not specifically authorized by law.

18 4. All the legal duties of such officer, board or commission  
19 shall devolve upon and are hereby vested in the Attorney General;  
20 provided that:

21 a. the Governor shall have authority to employ special  
22 counsel to protect the rights or interest of the state  
23 as provided in Section 6 of this title, and

1           b.    liquidation agents of banks shall have the authority  
2                   to employ local counsel, with the consent of the Bank  
3                   Commissioner and the Attorney General and the approval  
4                   of the district court.

5           B.    At the request of any state officer, board or commission,  
6    except the Corporation Commission, the Board of Managers of the  
7    CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners  
8    of the Land Office, the Grand River Dam Authority, the Oklahoma  
9    State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic  
10   Beverage Laws Enforcement Commission, the Oklahoma Firefighters  
11   Pension and Retirement System, the Oklahoma Public Employees  
12   Retirement System, the Uniform Retirement System for Justices and  
13   Judges and the Interstate Oil and Gas Compact Commission, the  
14   Attorney General shall defend any action in which they may be sued  
15   in their official capacity. At the request of any such state  
16   officer, board or commission, the Attorney General shall have  
17   authority to institute suits in the name of the State of Oklahoma on  
18   their relation, if after investigation the Attorney General is  
19   convinced there is sufficient legal merit to justify the action.

20           C.    Any officer, board, or commission which has the authority to  
21   employ or appoint attorneys may request that the Attorney General  
22   defend any action arising pursuant to the provisions of the  
23   Governmental Tort Claims Act.

1 D. Nothing in this section shall be construed to repeal or  
2 affect the provisions of the statutes of this state pertaining to  
3 attorneys and legal advisors of the several commissions and  
4 departments of state specified in subsection B of this section, and  
5 all acts and parts of acts pertaining thereto shall be and remain in  
6 full force and effect.

7 **SECTION 2. NEW LAW A new section of law to be codified**  
8 **in the Oklahoma Statutes as Section 374 of Title 59, unless there is**  
9 **created a duplication in numbering, reads as follows:**

10 Pharmacists are hereby prohibited from entering into a contract  
11 with a pharmacy benefit manager that requires pharmacists to charge  
12 a copayment for prescription drugs that is greater than the cash  
13 value of the prescription drug.

14 **SECTION 3.** This act shall become effective November 1, 2010.

15 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated  
16 2-4-10 - DO PASS, As Amended and Coauthored.