

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2278

By: Jolley

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6 AS INTRODUCED

7 An Act relating to government actions; amending 74
8 O.S. 2001, Section 18b, which relates to the duties
9 of the Attorney General; declaring certain duty for
10 certain state positions; adding method of requesting
11 action of recovery of certain property; declaring
12 certain duty for certain political subdivision
13 officials; amending 62 O.S. 2001, Section 374, which
14 relates to civil actions; modifying certain time
15 limitation; providing for codification; and providing
16 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
19 amended to read as follows:

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

22 1. To appear for the state and prosecute and defend all actions
23 and proceedings, civil or criminal, in the Supreme Court and Court
24 of Criminal Appeals in which the state is interested as a party;

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

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

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

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

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

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

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

16 10. To institute actions to recover state monies illegally
17 expended, to recover state property and to prevent the illegal use
18 of any state property, upon the request of the Governor, ~~or~~ the
19 Legislature or as directed by subsection D of this section;

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

23 12. To keep and file copies of all opinions, contracts, forms
24 and letters of the office, and to keep an index of all opinions,

1 contracts and forms according to subject and section of the law
2 construed or applied;

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

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

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

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

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

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

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

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

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

19 22. To certify local crimestoppers programs qualified to
20 receive repayments of rewards pursuant to Section 991a of Title 22
21 of the Oklahoma Statutes; and

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

3 B. Nothing in this section shall be construed as requiring the
4 Attorney General to appear and defend or prosecute in any court any
5 cause or proceeding for or on behalf of the Oklahoma Tax Commission,
6 the Board of Managers of ~~the State Insurance Fund~~ CompSource
7 Oklahoma, or the Commissioners of the Land Office, except as may be
8 required pursuant to subsection D of this section.

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

17 D. It shall be the duty of every director, chief officer, or
18 administrative head of any state agency, board, commission,
19 authority, bureau, office, or other entity created with authority to
20 make rules or formulate orders as defined in the Administrative
21 Procedures Act to request, within a reasonable time, that the
22 Attorney General recover public monies illegally expended, recover
23 state property and prevent the illegal use of any state property
24 when the value of loss of such illegal activity exceeds Fifty

1 Thousand Dollars (\$50,000.00) and when such director, chief officer,
2 or administrative head has knowledge that such activity has or is
3 taking place within the agency, board, commission, authority, bureau
4 or office that he or she administers. If the value of loss of the
5 illegal activity is equal to or less than Fifty Thousand Dollars
6 (\$50,000.00), then the director, chief officer, or administrative
7 head shall request the Legislature to initiate an action pursuant to
8 his or her power specified in paragraph 10 of subsection A of this
9 section.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 13-116 of Title 11, unless there
12 is created a duplication in numbering, reads as follows:

13 It shall be the duty of every elected municipal officer to take
14 reasonable steps to institute actions to recover public monies
15 illegally expended, to recover public property and to prevent the
16 illegal use of any municipal property when the officer has knowledge
17 that such activity has taken place or is taking place. The
18 municipality is authorized to utilize a municipal attorney, if
19 available, or contract for legal services in order to institute
20 necessary actions for recovery. If it is determined that the cost
21 of the actions and/or litigation for recovery exceed the value of
22 the object to be recovered, then such action and/or litigation shall
23 not be required, and the duty required by this section shall be
24 deemed satisfied.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 178.6 of Title 19, unless there
3 is created a duplication in numbering, reads as follows:

4 It shall be the duty of every elected county officer to take
5 reasonable steps to institute actions to recover public monies
6 illegally expended, to recover public property and to prevent the
7 illegal use of any county property when the officer has knowledge
8 that such activity has taken place or is taking place. The county
9 is authorized to utilize the district attorney or contract for legal
10 services in order to institute necessary actions for recovery. If
11 it is determined that the cost of the actions and/or litigation for
12 recovery exceed the value of the object to be recovered, then such
13 action and/or litigation shall not be required, and the duty
14 required by this section shall be deemed satisfied.

15 SECTION 4. AMENDATORY 62 O.S. 2001, Section 374, is
16 amended to read as follows:

17 Section 374. Civil actions filed by taxpayers for the recovery
18 of real or personal property can only be brought if the written
19 demand upon the proper officers is made by the required resident
20 taxpayers ~~within two (2) years of the transfer of the property,~~ and
21 ~~the civil suit is filed within six (6) months following the refusal,~~
22 ~~failure,~~ officers refuse, fail, or neglect ~~of the proper officers~~ to
23 act upon the written demand within ninety (90) days. Any other
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1 limitations of actions provided pursuant to Sections 93 or 95 of
2 Title 12 of the Oklahoma Statutes shall not apply.

3 SECTION 5. This act shall become effective November 1, 2010.

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