

1 STATE OF OKLAHOMA

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

3 SENATE BILL 490

By: Crain

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5
6 AS INTRODUCED

7 An Act relating to public finance; amending 62 O.S.
8 2001, Sections 372, as amended by Section 8, Chapter
9 367, O.S.L. 2008, and 373 (62 O.S. Supp. 2008,
10 Section 362), which relates to fraudulent claims and
11 suits instituted by taxpayers; modifying certain
12 liability; modifying number of persons required to
13 institute certain suit; declaring certain contracts
14 void under specified circumstances; allowing award of
15 certain fees and costs; and providing an effective
16 date.

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

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

21 Section 372. Every officer of the state and of any county,
22 township, city, town or school district, who shall hereafter order
23 or direct the payment of any money or transfer of any property
24 belonging to the state or to such county, city, town or school
district, in settlement of any claim or in pursuance of any
unauthorized, unlawful or fraudulent contract or agreement made or
attempted to be made, for the state or any such county, city, town

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

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

21 Section 373. Upon the refusal, failure, or neglect of the
22 proper officers of the state or of any county, township, city, town,
23 or school district, after written demand signed, verified and served
24 upon them by ~~ten resident taxpayers~~ a number of registered voters of

1 the state or such county, township, city, town, or school district
2 equal to one hundred (100) registered voters or five percent (5%) of
3 the registered voters who reside within the county, township, city,
4 town or school district, whichever number is less, to institute or
5 diligently prosecute proper proceedings at law or in equity for the
6 recovery of any money or property belonging to the state, or such
7 county, township, city, town, or school district, paid out or
8 transferred by any officer thereof in pursuance of any unauthorized,
9 unlawful, fraudulent, or void contract made, or attempted to be
10 made, by any of its officers for the state or any such county,
11 township, city, town, or school district, ~~or for the penalty~~
12 ~~provided in the preceding section,~~ any resident taxpayer of the
13 state or such county, township, city, town, or school district
14 affected by such payment or transfer after serving the notice
15 aforesaid and after giving security for cost, may in the name of the
16 State of Oklahoma as plaintiff, institute and maintain any proper
17 action which the proper officers of the state, county, township,
18 city, town, or school district might institute and maintain for the
19 recovery of such property, ~~or for said penalty;~~ and such
20 ~~municipality~~ county, township, city, town or school district shall
21 in such event be made defendant, ~~and one half (1/2) the amount of~~
22 ~~money and one half (1/2) the value of the property recovered in any~~
23 ~~action maintained at the expense of a resident taxpayer under this~~
24 ~~section, shall be paid to such resident taxpayer as a reward. If a~~

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

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

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