

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 331

By: Johnson (Rob)

4
5
6 AS INTRODUCED

7 An Act relating to fraudulent claims; amending 62
8 O.S. 2001, Sections 372, as amended by Section 8,
9 Chapter 367, O.S.L. 2008, and 373 (62 O.S. Supp.
10 2010, Section 372), which relate to liability of
11 public officers and taxpayer instituted lawsuits;
12 modifying certain liability; modifying number of
13 persons required to institute certain action;
14 deleting certain penalty; providing for return of
15 certain property under specified circumstances;
16 providing for payment of certain fees and costs; and
17 providing an effective date.

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

19 SECTION 1. AMENDATORY 62 O.S. 2001, Section 372, as
20 amended by Section 8, Chapter 367, O.S.L. 2008 (62 O.S. Supp. 2010,
21 Section 372), is amended to read as follows:

22 Section 372. Every officer of the state and of any county,
23 ~~township,~~ city, town or school district, who shall hereafter order
24 or direct the payment of any money or transfer of any property
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

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

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

22 Section 373. Upon the refusal, failure, or neglect of the
23 proper officers of the state or of any county, ~~township~~, city, town,
24 or school district, after written demand signed, verified and served

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

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

19 SECTION 3. This act shall become effective November 1, 2011.

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