

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1711

By: Treat

AS INTRODUCED

An Act relating to the Attorney General; amending 74 O.S. 2011, Section 18b, which relates to duties of the Attorney General; requiring Attorney General to monitor and evaluate certain actions; modifying certain actions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 18b, is amended to read as follows:

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

1. To appear for the state and prosecute and defend all actions and proceedings, civil or criminal, in the Supreme Court and Court 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;

3. To initiate or appear in any action in which the interests of the state or the people of the state are at issue, or to appear

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

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

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

22 6. At the request of the Governor, State Auditor and Inspector,
23 State Treasurer, or either branch of the Legislature, to prosecute
24 any official bond or any contract in which the state is interested,

1 upon a breach thereof, and to prosecute or defend for the state all
2 actions, civil or criminal, relating to any matter connected with
3 either of their Departments;

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

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

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

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

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

20 12. To settle, compromise and dispose of an action in which the
21 Attorney General represents the interests of the state, so long as
22 the consideration negotiated for such settlement, compromise or
23 disposition is payable to the state or one of its agencies which is
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1 a named party of the action and any monies, any property or other
2 item of value is paid first to the State Treasury;

3 13. To keep and file copies of all opinions, contracts, forms
4 and letters of the office, and to keep an index of all opinions,
5 contracts and forms according to subject and section of the law
6 construed or applied;

7 14. To keep a register or docket of all actions, demands and
8 investigations prosecuted, defended or conducted by the Attorney
9 General in behalf of the state. The register or docket shall give
10 the style of the case or investigation, where pending, court number,
11 office number, the gist of the matter, result and the names of the
12 assistants who handled the matter;

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

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

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

1 18. To respond to any request for an opinion of the Attorney
2 General's office, submitted by a member of the Legislature,
3 regardless of subject matter, by written opinion determinative of
4 the law regarding such subject matter;

5 19. To convene multicounty grand juries in such manner and for
6 such purposes as provided by law; provided, such grand juries are
7 composed of citizens from each of the counties on a pro rata basis
8 by county;

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

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

19 22. To represent and protect the collective interests of
20 insurance consumers of this state in rate-related proceedings before
21 the Insurance Commissioner or in any other state or federal judicial
22 or administrative proceeding;

23 23. To investigate and prosecute any criminal action relating
24 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; ~~and~~

3 24. To monitor and evaluate any action by the federal
4 government including, but not limited to, executive orders by the
5 President of the United States, rules or regulations promulgated by
6 an agency of the federal government or acts of Congress to determine
7 if such actions are in violation of the Tenth Amendment to the
8 Constitution of the United States; and

9 25. To monitor and evaluate any action by the federal government
10 including, but not limited to, executive orders by the President of
11 the United States, rules or regulations promulgated by an agency of
12 the federal government or acts of Congress, practice or policy that
13 infringes on an individual's religious liberties in the workplace.

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

19 C. In all appeals from the Corporation Commission to the
20 Supreme Court of Oklahoma in which the state is a party, the
21 Attorney General shall have the right to designate counsel of the
22 Corporation Commission as the Attorney General's legally appointed
23 representative in such appeals, and it shall be the duty of the
24 Corporation Commission counsel to act when so designated and to

1 consult and advise with the Attorney General regarding such appeals
2 prior to taking action therein.

3 SECTION 2. AMENDATORY 80 O.S. 2021, Section 101, is
4 amended to read as follows:

5 Section 101. A. The Legislature may review any executive order
6 issued by the President of the United States, federal agency rule or
7 federal congressional action to determine the constitutionality of
8 such action. Upon recommendation from the Legislature, the Attorney
9 General, through the State Reserved Powers Protection Unit, shall
10 review such action by the federal government to determine the
11 constitutionality of the action and whether the state should seek an
12 exemption from the application of the action or seek to have the
13 action declared unconstitutional by a court of competent
14 jurisdiction and prevent, prohibit or enjoin enforcement of the
15 unconstitutional order, rule or action.

16 B. Should the Attorney General decline to pursue action based
17 upon the determination of the Legislature, the Legislature may by a
18 majority vote initiate an action to seek an exemption from the
19 application of the action or seek to have the action declared
20 unconstitutional by a court of competent jurisdiction and prevent,
21 prohibit or enjoin enforcement of the unconstitutional order, rule
22 or action.

23 C. Notwithstanding any other provision of law, the state,
24 county, political subdivision or any other publicly funded
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1 organization shall not implement, adopt or enforce any order,
2 federal agency rule or federal congressional action declared
3 unconstitutional by a court of competent jurisdiction under
4 subsection A or B of this section including, but not limited to:

- 5 1. Pandemics or other health emergencies;
- 6 2. The regulation of natural resources, including oil and
7 natural gas;
- 8 3. The regulation of the agriculture industry;
- 9 4. The use of land;
- 10 5. The regulation of the financial sector as it relates to
11 environmental, social or governance standards;
- 12 6. The regulation of the constitutional right to keep and bear
13 arms;
- 14 7. The regulation of education;
- 15 8. The regulation of interscholastic, intramural or other
16 extracurricular sports sponsored by an institution of higher
17 education, a school district or a charter school;
- 18 9. The protection of religious liberties in the workplace; or
19 ~~9.~~ 10. Any other powers reserved by the State of Oklahoma or the
20 people of Oklahoma.

21 SECTION 3. This act shall become effective July 1, 2022.

22 SECTION 4. It being immediately necessary for the preservation
23 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
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