

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3546

By: Caldwell (Chad)

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2021, Section 20i, which relates to legal representation of agency; prohibiting certain attorneys from being voting members of boards or commissions; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 20i, is amended to read as follows:

Section 20i. A. An agency or official of the executive branch may obtain legal representation by one or more attorneys by means of one of the following:

1. Employing an attorney as such if otherwise authorized by law;

2. Contracting with the Office of the Attorney General; or

3. If the Attorney General is unable to represent the agency, or official due to a conflict of interest, or the Office of the Attorney General is unable or lacks the personnel or expertise to provide the specific representation required by such agency or

1 official, contracting with a private attorney or attorneys pursuant
2 to this section.

3 B. When entering into a contract for legal representation by
4 one or more private attorneys, an agency or official of the
5 executive branch shall select an attorney or attorneys from a list
6 of attorneys maintained by the Attorney General. An agency may
7 contract for legal representation with one or more attorneys who are
8 not on the list only when there is no attorney on the list capable
9 of providing the specific representation and only with the approval
10 of the Attorney General. The list shall include any attorney who
11 desires to furnish services to an agency or official of the
12 executive branch and who has filed a schedule of fees for services
13 with and on a form approved by the Attorney General. An agency or
14 official may agree to deviate from the schedule of fees only with
15 the approval of the Attorney General.

16 C. Before entering into a contract for legal representation by
17 one or more private attorneys, an agency or official of the
18 executive branch shall furnish a copy of the proposed contract to
19 the Attorney General and, if not fully described in the contract,
20 notify the Attorney General of the following:

21 1. The nature and scope of the representation including, but
22 not limited to, a description of any pending or anticipated
23 litigation or of the transaction requiring representation;
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1 2. The reason or reasons for not obtaining the representation
2 from an attorney employed by the agency or official, if an attorney
3 is employed by the agency or official;

4 3. The reason or reasons for not obtaining the representation
5 from the Attorney General by contract;

6 4. The anticipated cost of the representation including the
7 following:

8 a. the basis for or method of calculation of the fee
9 including, when applicable, the hourly rate for each
10 attorney, paralegal, legal assistant, or other person
11 who will perform services under the contract, and

12 b. the basis for and method of calculation of any
13 expenses which will be reimbursed by the agency or
14 official under the contract; and

15 5. An estimate of the anticipated duration of the contract.

16 D. Before entering into a contract for legal representation by
17 one or more private attorneys where the agency has reason to believe
18 that the case, transaction or matter will equal or exceed Twenty
19 Thousand Dollars (\$20,000.00) or after employment when it becomes
20 apparent that the case, transaction or matter will equal or exceeds
21 Twenty Thousand Dollars (\$20,000.00), an agency or official of the
22 executive branch shall obtain the approval of the Attorney General
23 when the total cost, including fees and expenses, of all contracts
24 relating to the same case, transaction, or matter will equal or

1 exceed Twenty Thousand Dollars (\$20,000.00). Any amendment,
2 modification, or extension of a contract which, had it been a part
3 of the original contract would have required approval by the
4 Attorney General, shall also require approval by the Attorney
5 General.

6 E. When an agency or official of the executive branch enters
7 into a contract for professional legal services pursuant to this
8 section, the agency shall also comply with the applicable provisions
9 of Section 85.41 of Title 74 of the Oklahoma Statutes.

10 F. The provisions of this section shall not apply to the
11 Oklahoma Indigent Defense System created pursuant to Section 1355 et
12 seq. of Title 22 of the Oklahoma Statutes.

13 G. The Attorney General shall, on or before February 1 of each
14 year, make a written report on legal representation obtained
15 pursuant to paragraphs 2 and 3 of subsection A of this section. The
16 report shall include a brief description of each contract, the
17 circumstances necessitating each contract, and the amount paid or to
18 be paid under each contract. The report shall be filed with the
19 Governor, the President Pro Tempore of the Senate, the Speaker of
20 the House of Representatives, the Chair of the Appropriations and
21 Budget Committee of the House of Representatives, and the Chair of
22 the Appropriations Committee of the Senate.

23 H. No attorney employed by an agency shall be a voting member
24 of any board or commission and no attorney shall represent any board

1 or commission if the attorney is employed by an agency that has a
2 voting member on the board or commission.

3 SECTION 2. This act shall become effective November 1, 2022.
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