

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 2163

By: Pfeiffer

AS INTRODUCED

An Act relating to open records; creating the Public Access Counselor within the Office of the Attorney General; allowing certain persons to file review of denial of open records requests with the Public Access Counselor; providing instructions for filing; prohibiting filings made for a commercial purpose; establishing procedures for review of requests; directing Public Access Counselor to notify public body; requiring certain furnishing of records; permitting subpoena by the Attorney General; prohibiting disclosure of certain protected information; allowing public body chance to respond to request; directing for binding opinion to be made within time frame; permitting Attorney General to choose other means for resolving review requests; permitting parties to file in district court; directing for notification of certain proceedings; permitting the Attorney General to issue advisory opinions to public bodies regarding compliance; exempting certain failures to comply made under good faith; 74 O.S. 2021, Section 18b, as last amended by Section 170, Chapter 452, O.S.L. 2024 (74 O.S. Supp. 2024, Section 18b), which relates to duties of the Attorney General; modifying duties related to violations of the Oklahoma Open Records Act and the Oklahoma Open Meetings Act; providing for codification; and declaring an emergency.

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

2 SECTION 1. NEW LAW A new section of law to be codified  
3 in the Oklahoma Statutes as Section 24A.40 of Title 51, unless there  
4 is created a duplication in numbering, reads as follows:

5 A. There is hereby established in the Office of the Attorney  
6 General the Public Access Counselor Unit.

7 B. A person whose request to inspect or copy a public record is  
8 denied by a public body, except the Legislature and committees,  
9 commissions, and agencies thereof, may file a request for review  
10 with the Public Access Counselor not later than thirty (30) calendar  
11 days after the date of the denial. The request for review shall be  
12 in writing on a form prescribed by the Attorney General and signed  
13 by the requester, and shall include:

- 14 1. A copy of the request for access to records; and
- 15 2. Any responses from the public body.

16 C. A person whose request to inspect or copy a public record  
17 was treated by the public body as a request for a commercial purpose  
18 may file a request for review with the Public Access Counselor for  
19 the limited purpose of reviewing whether the public body properly  
20 determined that the request was made for a commercial purpose.

21 D. A person whose request to inspect or copy a public record  
22 has not been returned in a prompt or reasonable manner may file a  
23 request for review with the Public Access Counselor.

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1 E. No person whose request to inspect or copy a public record  
2 is made for a commercial purpose may file a request for review with  
3 the Public Access Counselor.

4 F. Upon receipt of a request for review, the Public Access  
5 Counselor shall determine whether further action is warranted. If  
6 the Public Access Counselor determines that the alleged violation is  
7 unfounded, they shall advise the requester and the public body and  
8 no further action shall be undertaken. In all other cases, the  
9 Public Access Counselor shall forward a copy of the request for  
10 review to the public body within seven (7) business days after  
11 receipt and shall specify the records or other documents that the  
12 public body shall furnish to facilitate the review. Within seven  
13 (7) business days after receipt of the request for review, the  
14 public body shall fully cooperate and provide a written response to  
15 the Public Access Counselor. To the extent that records or  
16 documents produced by a public body contain information claimed to  
17 be confidential or exempt from disclosure under the Oklahoma Open  
18 Records Act, the Public Access Counselor shall not further disclose  
19 that information.

20 G. 1. The Attorney General shall examine the request and  
21 response and shall issue to the public body or public official, or  
22 both, an advisement in response to the request for review within  
23 sixty (60) calendar days after its receipt. Additionally, the  
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1 Attorney General shall notify the requester when the office has  
2 completed its review.

3 2. Upon receipt of an advisement, the public body shall either  
4 take necessary action promptly and reasonably to comply with the  
5 Oklahoma Open Records Act or shall respond to the requester. If the  
6 advisement concludes that no additional response is required, the  
7 requester may file suit in the proper district court against the  
8 public body of which the request was made.

9 3. A public body that discloses records in accordance with  
10 advice of the Attorney General is immune from all liabilities by  
11 reason thereof and shall not be liable for penalties under this act.

12 H. If the requester files suit under Section 24A.17 of Title 51  
13 of the Oklahoma Statutes with respect to the same denial that is the  
14 subject of a pending request for review, the requester shall notify  
15 the Public Access Counselor, and the Public Access Counselor shall  
16 take no further action with respect to the request for review and  
17 shall so notify the public body.

18 I. The Attorney General may issue advisory opinions to advise  
19 public bodies regarding compliance with this act. A review may be  
20 initiated upon receipt of a written request from the head of the  
21 public body or its attorney, which shall contain sufficient accurate  
22 facts from which a determination can be made. The Public Access  
23 Counselor may request additional information from the public body in  
24 order to assist in the review. A public body that relies in good

1 faith on the advice of the Attorney General in responding to a  
2 request is not liable for penalties under this act if the facts upon  
3 which the advice is based have been fully and fairly disclosed to  
4 the Public Access Counselor.

5 J. If the Public Access Counselor finds that a person  
6 requesting review of an agency's action pursuant to subsections B,  
7 C, or D of this section has submitted multiple frivolous requests,  
8 the Public Access Counselor may deny future requests for review.

9 K. Notwithstanding any other provisions of law, the Attorney  
10 General shall not be required to produce pursuant to Section 24A.5  
11 of Title 51 of the Oklahoma Statutes, the following:

12 1. Any records provided under this section to the Office of the  
13 Attorney General by another public body;

14 2. Any correspondence between the Office of the Attorney  
15 General and the public body related to advice under this section; or

16 3. Any work papers or product of the Office of the Attorney  
17 General in carrying out the duties required by this section.

18 L. Nothing in this section shall be construed to limit the  
19 Attorney General from enforcing or taking action regarding the  
20 Oklahoma Open Records Act.

21 SECTION 2. AMENDATORY 74 O.S. 2021, Section 18b, as last  
22 amended by Section 170, Chapter 452, O.S.L. 2024 (74 O.S. Supp.  
23 2024, Section 18b), is amended to read as follows:

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

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

6 2. To appear for the state and prosecute and defend all actions  
7 and proceedings in any of the federal courts in which the state is  
8 interested as a party;

9 3. To initiate or appear in any action in which the interests  
10 of the state or the people of the state are at issue, or to appear  
11 at the request of the Governor, the Legislature, or either branch  
12 thereof, and prosecute and defend in any court or before any  
13 commission, board or officers any cause or proceeding, civil or  
14 criminal, in which the state may be a party or interested; and when  
15 so appearing in any such cause or proceeding, the Attorney General  
16 may, if the Attorney General deems it advisable and to the best  
17 interest of the state, take and assume control of the prosecution or  
18 defense of the state's interest therein;

19 4. To consult with and advise district attorneys, when  
20 requested by them, in all matters pertaining to the duties of their  
21 offices, when the district attorneys shall furnish the Attorney  
22 General with a written opinion supported by citation of authorities  
23 upon the matter submitted;

1           5. To give an opinion in writing upon all questions of law  
2 submitted to the Attorney General by the Legislature or either  
3 branch thereof, or by any state officer, board, commission or  
4 department, provided, that the Attorney General shall not furnish  
5 opinions to any but district attorneys, the Legislature or either  
6 branch thereof, or any other state official, board, commission or  
7 department, and to them only upon matters in which they are  
8 officially interested;

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

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

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

21           9. To enforce the proper application of monies appropriated by  
22 the Legislature and to prosecute breaches of trust in the  
23 administration of such funds;

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1        10. To institute actions to recover state monies illegally  
2 expended, to recover state property and to prevent the illegal use  
3 of any state property, upon the request of the Governor or the  
4 Legislature;

5        11. To pay into the State Treasury, immediately upon its  
6 receipt, all monies received by the Attorney General belonging to  
7 the state;

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

14       13. To keep and file copies of all opinions, contracts, forms  
15 and letters of the office, and to keep an index of all opinions,  
16 contracts and forms according to subject and section of the law  
17 construed or applied;

18       14. To keep a register or docket of all actions, demands and  
19 investigations prosecuted, defended or conducted by the Attorney  
20 General in behalf of the state. The register or docket shall give  
21 the style of the case or investigation, where pending, court number,  
22 office number, the gist of the matter, result and the names of the  
23 assistants who handled the matter;

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

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

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

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

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

21 20. To investigate any report by the State Auditor and  
22 Inspector filed with the Attorney General pursuant to Section 223 of  
23 this title and prosecute all actions, civil or criminal, relating to  
24 such reports or any irregularities or derelictions in the management

1 of public funds or property which are violations of the laws of this  
2 state;

3 21. To represent and protect the collective interests of all  
4 utility consumers of this state in rate-related proceedings before  
5 the Corporation Commission or in any other state or federal judicial  
6 or administrative proceeding;

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

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

15 24. To monitor and evaluate any action by the federal  
16 government including, but not limited to, executive orders by the  
17 President of the United States, rules or regulations promulgated by  
18 an agency of the federal government or acts of Congress to determine  
19 if such actions are in violation of the Tenth Amendment to the  
20 Constitution of the United States; ~~and~~

21 25. To cross-deputize police officers of the police department  
22 of any municipality or any officer deputized by the county sheriff  
23 or a designee subject to an interlocal governmental agreement with  
24 the Attorney General's Office in an effort to combine city, county,

1 and state law enforcement efforts and to encourage cooperation  
2 between city, county, and state law enforcement officials.  
3 Liability for the conduct of any municipal police officer cross-  
4 deputized under the terms and conditions of an interlocal  
5 governmental agreement or any officer deputized by the county  
6 sheriff under the terms and conditions of an interlocal governmental  
7 agreement shall remain the responsibility of the respective employer  
8 for that officer; ~~and~~

9 26. To maintain data related to human trafficking and to assist  
10 law enforcement, social service agencies, and victim services  
11 programs in identifying and supporting victims of human trafficking;  
12 and

13 27. To investigate and prosecute any civil or criminal action  
14 relating to violations of the Oklahoma Open Records Act, Section  
15 24A.1 et seq. of Title 51 of the Oklahoma Statutes, or the Oklahoma  
16 Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma  
17 Statutes, if the Attorney General determines that a civil or  
18 criminal prosecution is warranted or to defer such matters to a  
19 district attorney.

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

1 C. In all appeals from the Corporation Commission to the  
2 Supreme Court of Oklahoma in which the state is a party, the  
3 Attorney General shall have the right to designate counsel of the  
4 Corporation Commission as the Attorney General's legally appointed  
5 representative in such appeals, and it shall be the duty of the  
6 Corporation Commission counsel to act when so designated and to  
7 consult and advise with the Attorney General regarding such appeals  
8 prior to taking action therein.

9 SECTION 3. It being immediately necessary for the preservation  
10 of the public peace, health or safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

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