

BILL SUMMARY
2nd Session of the 59th Legislature

Bill No.:	SB1196
Version:	FLOORAMD
Request Number:	10673
Author:	Rep. Echols
Date:	3/4/2024
Impact:	\$0

Research Analysis

The floor substitute to SB 1196 exempts the Commissioner of Agriculture who is appointed as a Secretary in the cabinet of the Governor and any member of a governing board of an institution of higher education who is appointed as a Secretary in the cabinet of the Governor from the prohibition of dual office holding.

CHANGES IN FLOOR SUB VERSION FROM ENGROSSED:

The floor substitute adds language that exempts certain officers from the prohibition of dual office holding and removes language addressing duplicate statutes.

Prepared By: Keana Swadley

Fiscal Analysis

The floor amendment to SB 1196 allows the Commissioner of Agriculture as well as any person who is a member of a governing board or body of an institution of higher education to be appointed as a Secretary in the cabinet of the Governor. As written, this measure has no direct fiscal or revenue considerations to the state.

Prepared By: Jay St Clair, House Fiscal Staff

Other Considerations

The following legislative intent was provided by the House Principal Author:

Representative Echols' intent behind floor amendment 1 to SB 1196 is to exempt from dual office holding prohibition the Director of Agriculture and Secretary of Agriculture. The current Secretary of Agriculture is a well-respected and talented public servant who is almost universally respected both in the Agriculture community and in the political world. The intent is not to take a position as to Attorney General Opinion 2024-5. It is not an expression one way or another as to its applicability to other cabinet secretaries or as to its analysis.

The framers of the Oklahoma constitution found it wise to vest statutory analysis in two separate entities. The final analysis was, is, and will continue to be vested with the judiciary. Further, and recognizing that cases can take time to adjudicate, the constitution also vested statutory analysis to the Attorney General for the State of Oklahoma and absent judiciary or legislative intervention those decisions stand.

The legislature, on the other hand, was vested with a different type of authority. It is the job of the legislature to effectuate policy for the State of Oklahoma and was vested with sole and exclusive authority to write laws. All of which must be tethered to and inextricably bound by the Oklahoma Constitution. It is absolutely true that if the legislature, in its discretion as the law-making co-equal branch of government, were to disagree with a statutory analysis of either of its other two co-equal branches of government (either the Judiciary acting through the Supreme Court or the Executive acting through the Attorney General) it could “legislatively overrule” such decision by passing new statutes. But that is not the case here.

Not every expression of the legislature that could be construed as going against or supporting any particular Jurisprudence or Attorney General opinion should be read so broadly so as to be taken as an expression of an opinion of the whole. Said simply, sometimes a piece of legislation is just that, a piece of legislation. When creating the law, the legislature both does, and I believe must, take into account things the judiciary and executive do not when interpreting the law. Again, simply put, it is the very job of the legislature to achieve effective policy outcomes. It doesn't always take into complete account what the law is but instead focuses on what the law should be. It then must find that place of agreement where at least 51 Representatives, 25 Senators, and one Governor can find consensus. That process is messy. It requires vision, diligence, and compromise. It requires having the end goal in mind and then building the necessary coalition to accomplish an end goal that benefits all four million Oklahomans.

And that is what this bill is. It is not an attempt by the legislature to wade into areas it should not. It is not an attempt to legislatively affirm or overrule any decision by the Honorable Attorney General or of the Honorable Executive. It is an attempt to reach a policy objective. And that objective is to ensure an incredible public servant does not lose her position. This state is filled with honorable, talented, and devoted public servants. The raising up of one does not diminish others. Nor does this bill attempt to make a legal statement as to the statute of any other public servant. And respectfully, as the primary author, I hope that is how this bill is read and interpreted.