

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 266

By: Hall

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2021, Sections 18b, as last amended by Section 170, Chapter 452, O.S.L. 2024, and 20i, as last amended by Section 1, Chapter 212, O.S.L. 2024 (74 O.S. Supp. 2024, Sections 18b and 20i), which relate to legal representation of state entities; providing for certain funds to be retained by the Oklahoma Municipal Power Authority; requiring electronic submission of certain report; updating statutory language; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 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), 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;

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

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

14 4. To consult with and advise district attorneys, when
15 requested by them, in all matters pertaining to the duties of their
16 offices, when the district attorneys shall furnish the Attorney
17 General with a written opinion supported by citation of authorities
18 upon the matter submitted;

19 5. To give an opinion in writing upon all questions of law
20 submitted to the Attorney General by the Legislature or either
21 branch thereof, or by any state officer, board, commission or
22 department, provided, that the Attorney General shall not furnish
23 opinions to any but district attorneys, the Legislature or either
24 branch thereof, or any other state official, board, commission or

1 department, and to them only upon matters in which they are
2 officially interested;

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

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

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

15 9. To enforce the proper application of monies appropriated by
16 the Legislature and to prosecute breaches of trust in the
17 administration of such funds;

18 10. To institute actions to recover state monies illegally
19 expended, to recover state property and to prevent the illegal use
20 of any state property, upon the request of the Governor or the
21 Legislature;

22 11. To pay into the State Treasury, immediately upon its
23 receipt, all monies received by the Attorney General belonging to
24

1 the state. Provided, monies received on behalf of the Oklahoma
2 Municipal Power Authority shall be retained by the Authority;

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

9 13. To keep and file copies of all opinions, contracts, forms
10 and letters of the office, and to keep an index of all opinions,
11 contracts and forms according to subject and section of the law
12 construed or applied;

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

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

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

1 17. To institute civil actions against members of any state
2 board or commission for failure of such members to perform their
3 duties as prescribed by the statutes and the Constitution and to
4 prosecute members of any state board or commission for violation of
5 the criminal laws of this state where such violations have occurred
6 in connection with the performance of such members' official duties;

7 18. To respond to any request for an opinion of the Office of
8 the Attorney General's office General, submitted by a member of the
9 Legislature, regardless of subject matter, by written opinion
10 determinative of the law regarding such subject matter;

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

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

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

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

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

9 24. To monitor and evaluate any action by the federal
10 government including, but not limited to, executive orders by the
11 President of the United States, rules or regulations promulgated by
12 an agency of the federal government or acts of Congress to determine
13 if such actions are in violation of the Tenth Amendment to the
14 Constitution of the United States;

15 25. To cross-deputize police officers of the police department
16 of any municipality or any officer deputized by the county sheriff
17 or a designee subject to an interlocal governmental agreement with
18 the Office of the Attorney General's Office General in an effort to
19 combine city, county, and state law enforcement efforts and to
20 encourage cooperation between city, county, and state law
21 enforcement officials. Liability for the conduct of any municipal
22 police officer cross-deputized under the terms and conditions of an
23 interlocal governmental agreement or any officer deputized by the
24 county sheriff under the terms and conditions of an interlocal

1 governmental agreement shall remain the responsibility of the
2 respective employer for that officer; and

3 26. To maintain data related to human trafficking and to assist
4 law enforcement, social service agencies, and victim services
5 programs in identifying and supporting victims of human trafficking.

6 B. Nothing in this section shall be construed as requiring the
7 Attorney General to appear and defend or prosecute in any court any
8 cause or proceeding for or on behalf of the Oklahoma Tax Commission,
9 ~~the Board of Managers of the State Insurance Fund,~~ or the
10 Commissioners of the Land Office.

11 C. In all appeals from the Corporation Commission to the
12 Supreme Court of Oklahoma in which the state is a party, the
13 Attorney General shall have the right to designate counsel of the
14 Corporation Commission as the Attorney General's legally appointed
15 representative in such appeals, and it shall be the duty of the
16 Corporation Commission counsel to act when so designated and to
17 consult and advise with the Attorney General regarding such appeals
18 prior to taking action therein.

19 SECTION 2. AMENDATORY 74 O.S. 2021, Section 20i, as last
20 amended by Section 1, Chapter 212, O.S.L. 2024 (74 O.S. Supp. 2024,
21 Section 20i), is amended to read as follows:

22 A. An agency or official of the executive branch may obtain
23 legal representation by one or more attorneys by means of one of the
24 following:

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

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

4 3. If the Attorney General is unable to represent the agency,
5 or official due to a conflict of interest, or the Office of the
6 Attorney General is unable or lacks the personnel or expertise to
7 provide the specific representation required by such agency or
8 official, contracting with a private attorney or attorneys pursuant
9 to this section.

10 B. When entering into a contract for legal representation by
11 one or more private attorneys or law firms, an agency or official of
12 the executive branch shall select an attorney or attorneys or a law
13 firm or law firms from a list of attorneys and firms maintained by
14 the Attorney General. An agency may contract for legal
15 representation with one or more attorneys who are not on the list
16 only when there is no attorney or firm on the list capable of
17 providing the specific representation and only with the approval of
18 the Attorney General. The list shall include any attorney or firm
19 who desires to furnish services to an agency or official of the
20 executive branch and who has filed a schedule of fees for services
21 with and on a form approved by the Attorney General. The list of
22 attorneys and firms desiring to furnish services and a schedule of
23 fees for each attorney and firm shall be maintained and made
24 available to the public.

1 C. An agency or official may agree to deviate from the schedule
2 of fees only with the approval of the Attorney General and if the
3 new schedule of fees would not violate the fee schedules set forth
4 in subsections D and E of this section.

5 D. An agency or official of the executive branch shall not
6 enter into a contingency fee contract that provides for the private
7 attorney or firm to receive an aggregate contingency fee that
8 exceeds:

9 1. Twenty-five percent (25%) of that portion of any amount
10 recovered that is Ten Million Dollars (\$10,000,000.00) or less;

11 2. Twenty percent (20%) of that portion of any amount recovered
12 that is more than Ten Million Dollars (\$10,000,000.00) but less than
13 or equal to Fifteen Million Dollars (\$15,000,000.00);

14 3. Fifteen percent (15%) of that portion of any amount
15 recovered that is more than Fifteen Million Dollars (\$15,000,000.00)
16 but less than or equal to Twenty Million Dollars (\$20,000,000.00);

17 4. Ten percent (10%) of that portion of any amount recovered
18 that is more than Twenty Million Dollars (\$20,000,000.00) but less
19 than or equal to Twenty-five Million Dollars (\$25,000,000.00); and

20 5. Five percent (5%) of that portion of any amount recovered
21 that is more than Twenty-five Million Dollars (\$25,000,000.00).

22 E. Notwithstanding subsection D of this section, the total fee
23 payable to all retained private attorneys in any contingency fee
24 contract shall not exceed Fifty Million Dollars (\$50,000,000.00),

1 exclusive of any costs and expenses provided by the contract and
2 actually incurred by the retained private attorneys, regardless of
3 the number of actions or proceedings or the number of retained
4 private attorneys involved in the matter.

5 F. The Attorney General shall develop a standard clause for
6 inclusion in every contract for contingent fee attorney services
7 that shall be used in all cases, describing in detail what is
8 expected of both the contracted private attorney and the state
9 including, but not limited to, the requirements as provided in this
10 subsection. The state shall not enter into a contract for
11 contingency fee attorney services that does not incorporate such
12 requirements:

13 1. The government attorneys shall retain complete control over
14 the course and conduct of the case;

15 2. A government attorney with supervisory authority shall be
16 personally involved in oversight of the case;

17 3. The government attorneys shall retain veto power over any
18 decision made by outside counsel related to the case;

19 4. Any defendant in the case may contact the lead government
20 attorneys directly, without having to confer with outside counsel;

21 5. A government attorney with supervisory authority for the
22 case shall attend all settlement conferences; and
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1 6. Decisions regarding settlement of the case shall be reserved
2 exclusively to the discretion of the government attorneys and the
3 state.

4 G. Copies of any executed contingency fee contract with the
5 private attorney shall be posted on the Attorney General's website
6 for public inspection within five (5) business days after the date
7 the contract is executed and shall remain posted on the website for
8 the duration of the contingency fee contract including any
9 extensions or amendments to the contract. Any payment of
10 contingency fees shall be posted on the Attorney General's website
11 within fifteen (15) days after the payment of the contingency fees
12 to the private attorney or law firm and shall remain posted on the
13 website for at least three hundred sixty-five (365) days after the
14 payment is made.

15 H. Any private attorney or law firm under contract to provide
16 services to the state on a contingency fee basis shall from the
17 inception of the contract until at least four (4) years after the
18 contract expires or is terminated, maintain detailed current records
19 including documentation of all expenses, disbursements, charges,
20 credits, underlying receipts and invoices and other financial
21 transactions related to the attorney services. The private attorney
22 or law firm shall make all such records available for inspection and
23 copying upon request of the Attorney General. In addition, the
24 private attorney or law firm shall maintain detailed contemporaneous

1 time records for the attorneys and paralegals working on the matter
2 in increments of no greater than one-tenth (1/10) of an hour and
3 shall promptly provide such records to the Attorney General upon
4 request.

5 I. Before entering into a contract for legal representation by
6 one or more private attorneys, an agency or official of the
7 executive branch shall furnish a copy of the proposed contract to
8 the Attorney General and notify the Attorney General of the
9 following:

10 1. The nature and scope of the representation including, but
11 not limited to, a description of any pending or anticipated
12 litigation or of the transaction requiring representation;

13 2. The reason or reasons for not obtaining the representation
14 from an attorney employed by the agency or official, if an attorney
15 is employed by the agency or official;

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

18 4. The anticipated cost of the representation including the
19 following:

- 20 a. the basis for or method of calculation of the fee
21 including, when applicable, the hourly rate for each
22 attorney, paralegal, legal assistant, or other person
23 who will perform services under the contract, and
24

1 b. the basis for and method of calculation of any
2 expenses which will be reimbursed by the agency or
3 official under the contract;

4 5. An estimate of the anticipated duration of the contract;

5 6. The past or present relationship, if any, between such
6 attorney, law firm or any partner or other principal in such law
7 firm and the state agency or state agent proposing to enter into the
8 contract;

9 7. If the contract contemplates that all or part of the fee is
10 contingent on the outcome of the legal proceeding, the reasons the
11 contingent fee arrangement is believed to be in the state's interest
12 and any efforts undertaken to obtain private counsel on a
13 noncontingent fee basis; and

14 8. The justification for the determination that the selection
15 of a contract for legal representation by one or more private
16 attorneys or firms was made based on the ability of the private
17 attorney or firm to provide the most economical and most competent
18 service which furthers the best interest of the state.

19 J. After the approval of the contract by the Attorney General
20 for legal representation by one or more private attorneys or law
21 firms, the Attorney General shall make available to the public on
22 the Attorney General's website the information required pursuant to
23 paragraphs 1 through 8 of subsection I of this section.

1 K. 1. Before entering into a contract for legal representation
2 by one or more private attorneys or firms where the agency has
3 reason to believe that the case, transaction or matter will equal or
4 exceed Twenty Thousand Dollars (\$20,000.00) or after employment when
5 it becomes apparent that the case, transaction or matter will equal
6 or exceeds Twenty Thousand Dollars (\$20,000.00), an agency or
7 official of the executive branch shall obtain the approval of the
8 Attorney General when the total cost including fees and expenses, of
9 all contracts relating to the same case, transaction, or matter will
10 equal or exceed Twenty Thousand Dollars (\$20,000.00).

11 2. Before entering into a contract for legal representation by
12 one or more private attorneys or firms to initiate a legal action on
13 behalf of the state where the agency has reason to believe that the
14 total cost of the case, transaction or matter including fees and
15 expenses will equal or exceed One Million Dollars (\$1,000,000.00),
16 an agency or official of the executive branch shall initiate a
17 request for proposal from at least three qualified private attorneys
18 or firms, when possible, engaged in providing such services. Notice
19 of the request for proposal shall be published on the Attorney
20 General's website. The request for proposal shall solicit a
21 billable hourly rate, regardless of whether a contingency fee is
22 ultimately agreed upon, and shall specify the importance of price,
23 quality, ability and experience. The selection of a contract for
24 legal representation by one or more private attorneys or firms shall

1 be made using the criteria established in the request for proposal
2 and shall be based on the response to the request which is the most
3 economical and provides the most competent service which furthers
4 the best interests of the state. Most economical and most competent
5 shall not be construed to mean the least expensive proposal.

6 3. Any amendment, modification or extension of a contract
7 which, had it been a part of the original contract would have
8 required approval by the Attorney General, shall also require
9 approval by the Attorney General.

10 L. After entering into a contract for legal representation by
11 one or more private attorneys or firms where the agency has reason
12 to believe that the case, transaction or matter will equal or exceed
13 One Million Dollars (\$1,000,000.00), an agency or official of the
14 executive branch shall submit a copy of the contract to the
15 ~~Legislative Oversight Committee~~ legislative oversight committee
16 overseeing the operations of the Legislative Office of Fiscal
17 Transparency (LOFT) along with the following:

18 1. A description of the litigation or of the transaction
19 requiring representation;

20 2. The reason or reasons for not obtaining the representation
21 from an attorney employed by the agency or official;

22 3. The justification for selecting an attorney or firm
23 contracted to represent the state; and

24 4. An estimate of the anticipated duration of the contract.

1 M. A settlement agreement shall not contemplate the ultimate
2 use and destination of recovered funds unless done in accordance
3 with paragraphs 11 and 12 of subsection B of Section 18b of this
4 title. Provided, the provisions of this subsection shall not apply
5 to settlement agreements entered into on behalf of the Oklahoma
6 Municipal Power Authority.

7 N. Within ten (10) days of an agency or official of the
8 executive branch entering into a settlement agreement where a
9 private attorney or firm was hired on a contingency fee contract and
10 the settlement was equal to or greater than One Million Dollars
11 (\$1,000,000.00), the agency or official of the executive branch
12 shall present the settlement agreement to the ~~Legislative Oversight~~
13 ~~Committee~~ legislative oversight committee with oversight of the
14 operations of the Legislative Office of Fiscal Transparency (LOFT),
15 unless otherwise postponed by LOFT.

16 O. When an agency or official of the executive branch enters
17 into a contract for professional legal services pursuant to this
18 section, the agency shall also comply with the applicable provisions
19 of Section 85.41 of this title.

20 P. The provisions of this section shall not apply to the
21 Oklahoma Indigent Defense System created pursuant to Section 1355 et
22 seq. of Title 22 of the Oklahoma Statutes.

23 Q. Upon request of an agency or official of the executive
24 branch, the Governor, the President Pro Tempore of the ~~Oklahoma~~

1 ~~State~~ Senate and the Speaker of the ~~Oklahoma~~ House of
2 Representatives may exempt a legal matter from the requirements of
3 this section if an exemption is deemed to be in the best interest of
4 the state. Such exemption shall be issued at their discretion, in
5 writing and by unanimous consent, and shall be submitted to LOFT.

6 R. By February 1 of each year, the Attorney General shall
7 submit a report electronically to the Governor, the President Pro
8 Tempore of the Senate, the Speaker of the House of Representatives,
9 the Chair of the Appropriations and Budget Committee of the House of
10 Representatives and the Chair of the Appropriations Committee of the
11 Senate, that describes the use of contracts with private attorneys
12 or law firms in the preceding fiscal year. At a minimum, the report
13 shall identify all new contracts entered into during the fiscal year
14 being reported and all previously executed contracts that remain
15 current during any part of the fiscal year. For each contract, the
16 report shall contain:

- 17 1. The name of the private attorney with whom the agency has
18 contracted including the name of the attorney's law firm;
- 19 2. The nature and status of the legal matter;
- 20 3. The name of the parties to the legal matter;
- 21 4. The amount of any recovery;
- 22 5. The amount of any hourly rate;
- 23 6. The amount of any contingency fee paid, if applicable; and
- 24 7. The amount paid under the contract for the fiscal year.

1 S. The provisions of subsections B through R of this section
2 shall not apply to any agency that invests funds on behalf of its
3 beneficiaries and, as part of its fiduciary duty, retains one or
4 more private attorneys or law firms to pursue individual, derivative
5 or class litigation concerning its investments or assets.

6 T. The provisions of this section shall not apply to any entity
7 exempted from Article I of the Administrative Procedures Act
8 pursuant to paragraphs 6 and 7 of subsection A of Section 250.4 of
9 Title 75 of the Oklahoma Statutes.

10 SECTION 3. This act shall become effective November 1, 2025.

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