

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2895

By: Taylor and West (Tammy)

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6 AS INTRODUCED

7 An Act relating to state government; providing for  
8 determinations of dishonorable conduct by legislator;  
9 providing for determination by the Attorney General;  
10 prescribing notice procedures; providing for reversal  
11 of determinations by Attorney General; requiring  
12 reversal based on verdict of acquittal in certain  
13 criminal proceedings; providing for reversal of  
14 certain determination by action of either the  
15 Oklahoma House of Representatives or the Oklahoma  
16 State Senate; prescribing time periods for actions by  
17 legislative chamber; providing for transfer of funds  
18 to State Election Board; providing for authorized use  
19 of funds; requiring certain legislators to execute  
20 waiver and release of liability; providing for  
21 forfeiture of retirement benefits; imposing  
22 requirements with respect to timing of forfeiture of  
23 retirement benefits; authorizing Oklahoma Public  
24 Employees Retirement System to offset certain  
expenses; providing for codification; and providing  
an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 4265 of Title 74, unless there  
is created a duplication in numbering, reads as follows:

A. The Attorney General shall have the authority to make a  
determination if a legislator has engaged in dishonorable conduct.

1 A legislator who is determined by the Attorney General to have  
2 engaged in dishonorable conduct shall be required to forfeit any  
3 unencumbered balance in the legislator's campaign account to the  
4 State Election Board for purposes of offsetting the cost of any  
5 special election required to fill a vacancy resulting from the  
6 dishonorable conduct. The Attorney General shall provide an  
7 official notice of such determination, which shall be transmitted to  
8 the legislator by certified mail, with return receipt requested, at  
9 the Capitol address for the legislator and to the home address for  
10 the legislator as listed in the official records of the chamber in  
11 which the legislator serves. Such notice shall not be transmitted  
12 in a way which restricts delivery of the item to the addressee.

13 B. The Attorney General may, within thirty (30) days of the  
14 original determination, reverse a prior determination regarding  
15 dishonorable conduct committed by a legislator and shall transmit  
16 notice of such reversal to the legislator in the same manner as  
17 prescribed by subsection A of this section for the original  
18 determination. The thirty-day period shall be computed from the  
19 date of the notice required by subsection A of this section and  
20 shall begin with the date immediately after the date of the original  
21 notice document. No campaign account balance shall be transferred  
22 until expiration of the thirty-day period within which the Attorney  
23 General is allowed to reverse a prior determination.

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1 C. The Attorney General shall reverse a prior determination of  
2 dishonorable conduct if a verdict of "not guilty" is reached in a  
3 criminal proceeding in which the legislator is a defendant, whether  
4 in federal or state court, if the conduct forming the factual basis  
5 of the dishonorable conduct determination made by the Attorney  
6 General is substantially the same conduct forming the factual basis  
7 of the criminal charge or charges against the legislator in the  
8 criminal proceeding.

9 D. The Oklahoma House of Representatives or the Oklahoma State  
10 Senate may, by a two-thirds (2/3) vote of those elected to and  
11 constituting the chamber in which the legislator who was determined  
12 to have engaged in dishonorable conduct serves or served, reverse an  
13 original determination of dishonorable conduct made by the Attorney  
14 General. Any such action by the chamber in which the legislator  
15 serves shall be taken not later than the last legislative day of the  
16 regular session of the Legislature as it is constituted when the  
17 Attorney General makes the final determination authorized by  
18 subsection A of this section. For determinations made by the  
19 Attorney General which become final while the Legislature is not in  
20 session or which become final within ten (10) days of the sine die  
21 adjournment of a regular session required by the Oklahoma  
22 Constitution, action by the applicable chamber of the Legislature  
23 shall be taken, if at all, not later than the twentieth legislative  
24 day of the regular legislative session that commences after the date

1 as of which the determination authorized by subsection A of this  
2 section becomes final.

3 E. Subject to the limitations prescribed by this section, the  
4 campaign account balance of a legislator determined to have engaged  
5 in dishonorable conduct shall be transferred by the legislator or a  
6 person authorized to make a transfer from the account in which such  
7 funds are held to the State Election Board within ten (10) days of  
8 the date as of which the determination authorized by this section  
9 becomes final in order to offset costs related to the conduct of a  
10 special election required to fill a vacancy resulting from the  
11 dishonorable conduct and may also be expended by the State Election  
12 Board in order to perform the duties imposed upon the Board by law.

13 F. The balance in the campaign account may not be transferred  
14 until the time period for any action which may be taken by the  
15 Attorney General to reverse an original determination of  
16 dishonorable conduct has expired and may not be transferred until  
17 after the expiration of any time period within which either the  
18 Oklahoma House of Representatives or the Oklahoma State Senate is  
19 authorized to reverse an original determination made by the Attorney  
20 General as provided by subsection D of this section.

21 SECTION 2. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 4266 of Title 74, unless there  
23 is created a duplication in numbering, reads as follows:

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1           A. A legislator who has no prior service as a legislator and  
2 who begins his or her first legislative term of office in either the  
3 Oklahoma House of Representatives or the Oklahoma State Senate after  
4 the General Election in November 2018 shall be required to sign a  
5 waiver and release, in such form as may be prescribed by the  
6 Oklahoma Public Employees Retirement System, which acknowledges that  
7 the legislator understands that a determination of dishonorable  
8 conduct pursuant to the provisions of Section 1 of this act will  
9 result in the forfeiture of the legislator's retirement benefits  
10 with respect to any period of legislative service performed after  
11 such General Election date and that the legislator releases the  
12 Oklahoma Public Employees Retirement System from any liability  
13 arising from such forfeiture.

14           B. No balance of a legislator's retirement plan account shall  
15 be forfeited until the time period for the Attorney General to  
16 reverse an original determination of dishonorable conduct has  
17 expired and not until the expiration of any time period within which  
18 either the Oklahoma House of Representatives or the Oklahoma State  
19 Senate is authorized to reverse an original determination made by  
20 the Attorney General as prescribed by subsection B of Section 1 of  
21 this act.

22           C. Forfeitures of a retirement plan account may be used by the  
23 Oklahoma Public Employees Retirement System to offset administrative  
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1 expenses of maintaining the accounts created pursuant to the  
2 Oklahoma Retirement Freedom Act.

3 SECTION 3. This act shall become effective November 1, 2018.

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