

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2216

BY: CAMPBELL

AS INTRODUCED

AN ACT RELATING TO THE CORPORATION COMMISSION;

AMENDING 17 O.S. 1991, SECTIONS 32 AND 51, WHICH
RELATE TO EMPLOYEES OF THE CORPORATION COMMISSION;
GIVING ADMINISTRATION SUPERVISION OVER EMPLOYEES AS
AUTHORIZED BY COMMISSION; MODIFYING PROCEDURES FOR
APPOINTMENT OF GENERAL ADMINISTRATOR; REMOVING
APPROVAL POWER OF GOVERNOR FOR CERTAIN POSITION;
PROHIBITING FORMER COMMISSION EMPLOYEES FROM ACTING
IN CERTAIN CAPACITY FOR CERTAIN TIME PERIOD;
DEFINING TERMS; AMENDING 25 O.S. 1991, SECTION 304,
WHICH RELATES TO PUBLIC MEETINGS; ADDING TO
EXCLUSIONS TO DEFINITION OF PUBLIC BODY; AMENDING
52 O.S. 1991, SECTION 111, WHICH RELATES TO POWERS
OF CORPORATION COMMISSION; PROVIDING FOR CERTAIN
DEFENSES AGAINST CERTAIN CLAIMS; AMENDING 74 O.S.
1991, SECTION 840.8b, WHICH RELATES TO MAKING
CERTAIN PERSONS CLASSIFIED; MAKING CERTAIN
POSITIONS CLASSIFIED; PROVIDING FOR CODIFICATION;
PROVIDING AN EFFECTIVE DATE; AND DECLARING AN
EMERGENCY.

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

SECTION 1. AMENDATORY 17 O.S. 1991, Section 32, is amended to read as follows:

Section 32. (a) The Corporation Commission shall employ one (1) General Administrator. Said position shall be in the unclassified service and shall have a maximum annual salary, payable monthly, which shall be specified in the Commission's annual appropriation bill. Any person filling said position shall hold at least a bachelor's degree in marketing, business administration, accounting, personnel management, public administration, counseling, political science, related fields or experience equivalent thereto, or shall hold a juris doctorate degree, and shall have experience in a supervisory capacity in administrative or personnel management work. The General Administrator shall be the chief administrative officer ~~and appointing authority~~ of the Commission ~~and~~. The General Administrator shall have such supervision and control over all Commission employees except for the administrative aide and executive secretary for each Commissioner as is specifically authorized and provided by the Commission.

(b) Whenever a vacancy occurs in the General Administrator's position, ~~the new~~ a candidate for the position of General Administrator shall be chosen by a majority vote of the Commissioners nominated from at least three (3) candidates recruited and by the Commission or any member thereof. The candidate shall be screened by the Office of Personnel Management. The Office shall either approve or disapprove the candidate based upon the candidate's knowledge, experience and other qualifications which it deems necessary. Upon approval by the Office, the Commissioners shall approve the new General Administrator by a majority vote.

SECTION 2. AMENDATORY 17 O.S. 1991, Section 51, is amended to read as follows:

Section 51. The Corporation Commission is hereby empowered and authorized to create and establish an Oil and Gas ~~Department~~

Division under the jurisdiction and supervision of the Corporation Commission, and is hereby authorized to appoint ~~with the approval and consent of the Governor, a Chief Oil and Gas Conservation Agent~~ Director of the Oil and Gas Division who shall have charge of the Oil and Gas ~~Department~~ Division herein authorized.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 176.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. No former employee of the Corporation Commission shall, for twenty-four (24) months after his employment or service with the Commission, represent a client or act in a representative capacity for any person before the Corporation Commission on any matter in which he personally participated as a Commission employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.

B. As used in this section:

1. "Matter" includes any case, proceeding, application, determination, issue, or question, but does not include the proposal, consideration, or enactment of statutes, rules, ordinances, resolutions, or charter or constitutional amendments; and

2. "Represent" includes any formal or informal appearance before, as a witness, attorney or in any other capacity, or any written or oral communication with, the Corporation Commission or any employee thereof on behalf of any person.

C. This section shall not be construed to prohibit the performance of ministerial functions, including, but not limited to, the filing or amendment of applications for permits and licenses, incorporation papers, and other similar documents.

SECTION 4. AMENDATORY 25 O.S. 1991, Section 304, is amended to read as follows:

Section 304. As used in this act:

1. "Public body" means the governing bodies of all municipalities located within the State of Oklahoma, boards of county commissioners of the counties in the State of Oklahoma, boards of public and higher education in the State of Oklahoma and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups in the State of Oklahoma supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcommittees of any public body. It shall not mean:

- a. the state judiciary ~~or,~~
- b. the State Legislature ~~or,~~
- c. administrative staffs of public bodies, including, but not limited to, faculty meetings and athletic staff meetings of institutions of higher education when said staffs are not meeting with the public body, or entry-year assistance committees, as defined in Section 6-152 of Title 70 of the Oklahoma Statutes~~;~~
~~Furthermore, it shall not mean,~~
- d. the multidisciplinary team provided for in ~~subsection B of Section 2 of this act~~ Section 1-502.2 of Title 63 of the Oklahoma Statutes or any school board meeting for the sole purpose of considering recommendations of said multidisciplinary team and deciding the placement of any child who is the subject of such recommendations, and
- e. meetings of the Corporation Commission for the purpose of deliberating upon and formulating orders, rules, or regulations, or other official actions, specifically including but not limited to decisions upon pending applications involving the Commission's oil and gas

regulatory jurisdiction, applications involving transportation and utility rates, practices and conditions of service, and all other official actions of the Commission pursuant to the quasi-judicial or quasi-legislative jurisdiction of the Commission.

2. "Meeting" means the conducting of business of a public body by a majority of its members being personally together.

3. "Regularly scheduled meeting" means a meeting at which the regular business of the public body is conducted.

4. "Special meeting" means any meeting of a public body other than a regularly scheduled meeting or emergency meeting.

5. "Emergency meeting" means any meeting called for the purpose of dealing with an emergency. For purposes of this act, an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss.

6. "Continued or reconvened meeting" means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of this act, only matters on the agenda of the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting.

SECTION 5. AMENDATORY 52 O.S. 1991, Section 111, is amended to read as follows:

Section 111. A. No collateral attack shall be allowed upon orders, rules and regulations of the Commission made hereunder, but the sole method of reviewing such orders and inquiring into and determining their validity, justness, reasonableness or correctness shall be by appeal from such orders, rules or regulations to the Supreme Court.

B. On appeal every such order, rule or regulation shall be regarded as prima facie, valid, reasonable and just. No court of this state except the Supreme Court, and it only on appeal, as herein provided, shall have jurisdiction to review, reverse, annul, modify or correct any order, rule, or regulation of the Commission within the general scope of its authority herein or to enjoin, restrain or suspend execution or operation thereof, provided that writs of mandamus and prohibition shall lie from the Supreme Court to the Commission in all cases where such writs, respectively, would under like circumstances lie to any inferior court or officer; provided, however, that no order of the Commission shall be construed in any court to preclude a litigant therein from asserting a defense against any claim made by a party other than the Commission.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 840.8b, is amended to read as follows:

Section 840.8b A. The unclassified service of the state shall include personnel employed by the Corporation Commission in positions which do not require registration with the Board of Professional Engineers and Land Surveyors but which have been employed in accordance with subparagraph 8 of paragraph 22 of Section 840.8 of Title 74 of the Oklahoma Statutes, which provides for engineer positions and employees of the Corporation Commission to be unclassified. From and after the effective date of this act, the titles of such positions and employees shall be changed to reflect the specialized nature of the positions and the intent of the Legislature that such positions be part of the unclassified service.

B. Except as otherwise provided by subsection C of this section, any trial examiner, administrative judge or other hearing officer shall be classified under the Merit System of Personnel Administration on the effective date of this act.

C. This provision is not intended to change the current status, whether classified or unclassified, of any employee or position of the Corporation Commission. Furthermore, it is not intended to authorize any increase in classified or unclassified full-time-equivalent employee positions or funding limitations.

SECTION 7. This act shall become effective July 1, 1992.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-7033

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