

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 848

BY: BROWN

AS INTRODUCED

AN ACT RELATING TO PUBLIC SAFETY; AMENDING 63 O.S. 1991, SECTION 1061, WHICH RELATES TO POWERS AND DUTIES OF THE HOUSING AUTHORITY; AUTHORIZING CERTAIN CITIES TO APPOINT COMMISSIONED HOUSING AUTHORITY POLICE, PRESCRIBE DUTIES AND FIX COMPENSATION; PROVIDING SHORT TITLE; DEFINING TERMS; DEFINING JURISDICTION OF HOUSING AUTHORITY POLICE; STATING DUTIES AND AUTHORITY OF HOUSING AUTHORITY POLICE; AUTHORIZING UNIFORMS, BADGES, INSIGNIA AND TITLE DESIGNATIONS; PROVIDING FOR WRITTEN COMMISSION; RESTRICTING USE OF CERTAIN IDENTIFICATION; PROVIDING CONDITIONS FOR REVOCATION AND SUSPENSION OF COMMISSION; NAMING AUTHORITY TO REVOKE OR SUSPEND COMMISSION; PROVIDING PENALTY FOR FAILURE TO RELINQUISH CERTAIN ITEMS; REQUIRING CERTAIN INFORMATION BE GIVEN CLEET; DENYING PARTICIPATION IN CERTAIN RETIREMENT SYSTEMS; CONSTRUING ACT; PROVIDING FOR COLLECTION AND DISTRIBUTION OF FINE AND FEES; DIRECTING AUTHORITY TO PROSECUTE OFFENSE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 63 O.S. 1991, Section 1061, is amended to read as follows:

Section 1061. A. Every authority shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein specifically granted:

~~(a)~~ 1. To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations~~;~~

~~(b)~~ 2. Within its area of operation: to prepare, carry out and operate projects and to provide for the acquisition, construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof. Provided, however, that a public hearing to consider a proposed project requiring construction, purchasing, leasing or renting of more than twenty new housing units shall be held together by the authority and governing body, and any such project must be found to be in the public interest by a majority of the members constituting said authority and a majority of the members constituting said governing body as a condition precedent to the implementation of any such project. Notice of the public hearing required by this provision shall be given by publication in a newspaper of general circulation within the jurisdiction of the authority at least ten (10) days and not more than thirty (30) days prior to said hearing; provided that an additional public hearing shall be held by the authority before the same shall select any location for any contiguous or noncontiguous area of land on which the authority proposes to construct more than twenty additional new housing units, and such hearing shall have as

its subject the location of the proposed additional units. Notice of the public hearing required by this provision shall be given in a newspaper of general circulation within the jurisdiction of the authority at least ten (10) days and not more than thirty (30) days prior to said hearing and three members of the Commission must concur in the selection of any such location, except that the aforesaid proviso concerning an additional public hearing shall not apply to a location in an approved urban renewal project area-;

~~(e)~~ 3. To undertake and carry out studies and analyses of housing needs within its area of operation and ways of meeting such needs, including data with respect to population and family groups and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rental and sale prices, employment, wages and other factors affecting the local housing needs and the meeting thereof, and to make the results of such studies and analyses available to the public and the building, housing and supply industries; and to engage in research and disseminate information on housing and slum clearance-;

~~(d)~~ 4. To utilize, contract with, act through, assist and cooperate or deal with any person, agency, institution or organization, public or private, for the provision of services, privileges, works or facilities for or in connection with its projects; and, notwithstanding anything to the contrary contained in this act or in any other provision of law, to agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and to include in any contract awarded or entered into in connection with a project stipulations requiring that the contractor and all subcontractors comply with requirements as to minimum salaries or

wages and maximum hours of labor, and comply with any conditions attached to the financial aid of the project. Construction, restitution, improvement, extension, alteration or major repair of any project or any part thereof shall be open to competitive bidding: provided, however, nothing in this section shall prevent a local housing authority from requesting proposals from property owners and/or developers to provide certain kinds of housing to the housing authority either presently existing or to be developed; provided, that the local authority establish safeguards relating to laws and regulations of the United States wherein the same has entered into contracts with the authority to provide financial assistance in acquiring the same; provided, further, that no authority shall discriminate in its seeking, or in the award, of any contract for services, acquisition of real or personal property, construction of buildings, dwelling units, streets, utilities, site grading, landscaping and repairs to any of its holdings or upon property that the authority plans to acquire, to include renovations, solely based on the race, sex, color, religious beliefs or national origin of a person or firm; except an Indian authority may give preference in its awarding of a contract in all forms so long as the services to be performed, or the construction of buildings, dwellings, site improvements, repairs or renovation is to be performed or carried out on a federally recognized tribal reservation or former reservations and only then upon land held in trust by, or owned by, the respective Indian tribe; and provided, further, that all previously listed restrictions and regulations concerning public hearings and locations of said projects are complied with in their entirety;

~~(e)~~ 5. To lease, rent, sell or lease with option to purchase any dwelling, accommodations, lands, buildings, structures or facilities embraced in any project and, subject to the limitations contained in this act with respect to the rental of or charges for

dwellings in housing projects, to establish and revise the rents or charges therefor; to own, hold and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property or interest therein; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein, provided, however, that before any such personal property shall be sold it shall be advertised for sale in a newspaper of general circulation within the jurisdiction of the authority, and such advertisement shall state the time and place where written bids shall be received, or public auction shall be held, that such property shall be sold to the highest bidder, and that the authority may, within its discretion, reject all bids and readvertise such property for sale in the event any property, real or personal, acquired by the authority, by eminent domain or otherwise, is later found to be in excess of its needs, or unsuitable or unuseable for any reason, such property shall, before being sold, leased, exchanged, transferred, assigned, pledged or disposed of in any other manner, be first offered to those persons, individuals, groups, organizations, corporations, municipalities or their successors from whom it was first procured by the authority, at the same price as paid by the authority at the time of acquiring same, and except that lands acquired by the authority may be sold to other governmental agencies for public purposes, as long as such parcel of land does not exceed one percent (1%) of the total land held by the authority and the sale is made within ninety (90) days of the effective date of this act; to make loans for the provisions of housing for occupancy by persons of low income; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of government

insurance or guarantees of the payment of any bonds or parts thereof issued by the authority, including the power to pay premiums on any such insurance; provided, however, that notwithstanding any provisions in this law, the authority may develop programs for the sale of individual homes and/or two-family units to low income families or to families who have at one time qualified as low income families under this act, under terms which the housing authority may establish under conditions acceptable to bondholders, other lenders and the federal government-;

~~(f)~~ 6. To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which public funds in the custody of a county treasurer or the Treasurer of the State of Oklahoma may be legally invested; to redeem its bonds at the redemption price established therein or to purchase its bonds at less than such redemption price, all bonds so redeemed or purchased to be cancelled-;

~~(g)~~ 7. Within its area of operation: to determine where slum areas exist or where there is unsafe, unsanitary or overcrowded housing; to make studies and recommendations relating to the problem of clearing, replanning and reconstruction of slum areas and the problem of eliminating unsafe, unsanitary or overcrowded housing and providing dwelling accommodations for persons of low income; and to cooperate with the state or any state public body in action taken in connection with such problems. Provided, however, the authority shall not have the power to relocate any persons to other areas until housing has been provided for such persons under this act-;

~~(h)~~ 8. Acting through one or more commissioners or other persons designated by the authority: to conduct examinations and investigations and to hear testimony and take proof under oath at public hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue

commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions or of demolishing unsafe or unsanitary structures within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare-;

9. To appoint commissioned housing authority police officers, prescribe their duties, and fix their compensations in cities with populations over two hundred thousand (200,000) persons; and

~~(i)~~ 10. To exercise all or any part or combination of powers herein granted.

B. The powers of an authority shall not include:

~~(1) the~~ 1. The power to appropriate funds of a city or county;

~~(2) the~~ 2. The power to levy taxes and assessments;

~~(3) the~~ 3. The power to zone or rezone; or

~~(4) the~~ 4. The power to make exceptions to zoning ordinances or building regulations of a city or county.

C. No provision by law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall specifically so state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1061.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Public Housing Security Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1061.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Projects" means the real property, buildings, and other improvements within this state owned, leased or rented by a city or county housing authority;

2. "Housing authority police officer" or "housing authority public safety officer" means an individual holding a commission from and employed by a city or county housing authority pursuant to this act; and

3. "Commission" means a certificate of appointment by the governing board of an authority.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1061.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The jurisdiction of housing authority police officers includes the projects, and pursuant to an agreement authorized by this act, the highways, streets, roads, alleys, easements, and other public ways immediately adjacent to the projects and other areas authorized by such agreement. This delineation of jurisdiction, however, shall not be construed as limiting the completion of any necessary enforcement activities which begin within the jurisdiction when such activities are in compliance with the agreements made by the municipality or county sheriff pursuant to this act. In the absence of an agreement, only those law enforcement activities which begin on housing authority projects may be continued off the projects, provided such activities conclude in a timely manner. Such law enforcement activities shall only be authorized if the housing authority police have coordinated the activities with the local law enforcement agency having jurisdiction in that off-project area. In addition, a housing authority police officer shall have jurisdiction in other locations pursuant to agreements authorized by this act. Such agreements may authorize the chief administrative officer of the law enforcement agency to request assistance pursuant

to an agreement. Housing authority police officers, commissioned pursuant to this act, shall have the same powers, duties, liabilities, and immunities as sheriffs or police officers within their jurisdiction.

B. Except as otherwise provided, a CLEET certified housing authority police officer shall have the power to enforce:

1. State criminal statutes;

2. Municipal ordinances, if authorized by an agreement with the municipality; and

3. Rules, regulations and bylaws of the housing authority employing such police officer.

C. Except as otherwise provided, the housing authority police department shall have the same authority as a municipal police department.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1061.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Boards of commissioners of housing authorities in cities with a population of two hundred thousand (200,000) or more persons may establish housing authority police departments pursuant to the provisions of this act. The boards may employ and commission housing authority police officers and may designate uniforms, badges, and insignia to be worn by such officers and displayed on vehicles or other equipment of the department. Housing authority police departments shall use the following words or phrases, alone or in any combination, in conjunction with the uniform, badges, insignia or on vehicles utilized by these departments: housing police, public housing police, housing authority police, housing authority public safety department, housing authority officer, housing authority public safety officer, or any standard title such as chief, assistant chief, major, captain, lieutenant, sergeant, corporal, and patrolman.

B. Upon appointment, each such officer shall be given a written commission, with a photo identification, evidencing the officer's appointment and authority. The form for the commission shall be prescribed by the governing boards. Persons employed by a board of commissioners which have established a police department, but are not police officers shall not be permitted to wear uniforms, badges or insignia specified in subsection A of this section or receive commissions or photo identification of the type provided housing authority police officers.

C. The commission of a housing authority police officer may be suspended or revoked for any reason by the board of commissioners. Such commission shall also be suspended or revoked as follows:

1. For cause related to the housing authority officer's ability to exercise the powers of such commission in the interest of public security;

2. Upon conviction for larceny, theft, embezzlement, false pretense or fraud;

3. Upon conviction for any nonconsensual sex offense;

4. Upon conviction for any offense involving a minor as a victim;

5. Upon conviction for any offense involving the possession, use, distribution or sale of a controlled dangerous substance; or

6. Upon conviction for any offense involving a firearm.

D. The commission of a housing authority police officer convicted of a felony or of a crime involving moral turpitude shall be revoked by the district attorney upon conviction.

E. The commission of a housing authority police officer no longer employed by the board of commissioners, except an officer who is retiring, shall be relinquished to the board or its representative at the time of cessation of said employment.

F. When a commission is revoked or relinquished, the housing authority police department shall take possession of all housing

authority police officer insignia, badges, identification cards or weapons issued to the officer. A person who fails to relinquish said insignia, badges, identification cards or weapons, upon conviction, shall be deemed guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail not to exceed one (1) year, or by both such fine and imprisonment.

G. Boards of commissioners shall notify the Council on Law Enforcement Education and Training (CLEET) when an officer is commissioned or a commission is relinquished or revoked. The board of commissioners shall provide CLEET with all information regarding commissioned officers as requested by CLEET.

H. A housing authority police officer employed pursuant to this act shall not be eligible to participate in either the Oklahoma Police Pension and Retirement System or the Oklahoma Law Enforcement Retirement System unless otherwise entitled to participate by law.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1061.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall prohibit boards of commissioners from:

1. Employing personnel pursuant to the Oklahoma Security Guard and Private Investigator Act, Section 1750.1 et seq. of Title 59 of the Oklahoma Statutes, to be employed as public housing security;
2. Contracting with municipalities to authorize the municipal police departments to provide security services on housing projects;
3. Utilizing the services of local sheriff's offices or retired commissioned police officers to provide security on housing projects; or
4. Providing courtesy patrols, watchmen, traffic control personnel or other persons for the performance of safety or security duties for which the personnel are trained, but who are not police officers.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1061.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Municipalities and county sheriffs' offices having overlapping or concurrent jurisdictions with any proposed housing authority police department, may enter into agreements with the proposed housing authority police department recognizing jurisdictional boundaries and providing for mutual assistance. Any such agreements shall be executed by the governing body of the housing authority and the governing body of the municipality or the sheriff, and shall not prohibit any other law enforcement agency from having concurrent or overlapping jurisdiction.

B. Nothing in this act, or any action pursuant to this act, shall be deemed to create an agent-principal relationship between any housing authority police officer, municipality or county.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1061.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Criminal fines, penalties, fees or penalty assessments, imposed by a municipal or district court pursuant to state law or municipal ordinance as the result of an arrest or a citation issued by an officer commissioned pursuant to this act, shall be collected and distributed as required by law.

B. The district attorney of the area where the unlawful conduct is alleged to have taken place shall have the authority to prosecute such offense upon complaint being signed by a housing authority police officer commissioned pursuant to this act. Any municipal ordinance violation shall be prosecuted in the municipal court of that municipality.

SECTION 9. This act shall become effective September 1, 1992.

43-2-1853 NP

