

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 935

BY: BROWN of the SENATE

and

ADAIR of the HOUSE

AS INTRODUCED

AN ACT RELATING TO APPOINTMENTS; AMENDING 3A O.S.

1991, SECTION 201, 53 O.S. 1991, SECTION 1.6, 57  
O.S. 1991, SECTION 503, 63 O.S. 1991, SECTION 2-  
104.1, 65 O.S. 1991, SECTION 2-101, 70 O.S. 1991,  
SECTIONS 3-101 AND 16-101, 74 O.S. 1991, SECTIONS  
1804 AND 2054, AND 82 O.S. 1991, SECTION 1085.1,  
WHICH RELATE TO THE OKLAHOMA HORSE RACING  
COMMISSION, BOARD OF DIRECTORS OF THE OKLAHOMA  
HISTORICAL SOCIETY, STATE BOARD OF CORRECTIONS,  
OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS  
DRUGS CONTROL COMMISSION, OKLAHOMA DEPARTMENT OF  
LIBRARIES BOARD, STATE BOARD OF EDUCATION, STATE  
TEXTBOOK COMMITTEE, OKLAHOMA TOURISM AND RECREATION  
COMMISSION, OKLAHOMA WORLD TRADE DEVELOPMENT  
AUTHORITY, AND OKLAHOMA WATER RESOURCES BOARD;  
STRIKING CERTAIN REFERENCES; DEFINING TERM;  
REQUIRING CERTAIN APPOINTMENT ACTIONS; PROHIBITING  
CERTAIN CONSTRUCTION; STRIKING OBSOLETE LANGUAGE;  
CONFORMING STYLE; PROVIDING FOR CODIFICATION;  
PROVIDING FOR NONCODIFICATION; AND DECLARING AN  
EMERGENCY.

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 2.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Except where otherwise specified by law, the term "congressional district", when used with respect to the appointment of a member of a state board, commission, authority, or other statutory entity, shall mean the district as most recently configured by law.

B. For entities which subsection A of this section renders out of compliance with specific statutory requirements, subsequent appointments shall be so made as to cause compliance to be effected at the earliest possible date.

SECTION 2. Section 1 of this act shall not be construed as requiring the removal or resignation of any person serving a term to which appointed prior to the effective date of this act.

SECTION 3. AMENDATORY 3A O.S. 1991, Section 201, is amended to read as follows:

Section 201. A. There is hereby created the Oklahoma Horse Racing Commission, which shall consist of seven (7) members appointed by the Governor with the advice and consent of the Senate. One member shall be appointed from each congressional district ~~as such districts exist on January 1, 1983,~~ and one member who shall be experienced in the horse industry shall be appointed at large.

B. To be eligible for appointment to the Commission, a person shall:

1. be a citizen of the United States; and
2. have been a resident of this state for five (5) years immediately preceding the appointment; and

3. not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States.

C. The initial terms of office of:

1. three members shall expire on June 30, 1985; and
2. two members shall expire on June 30, 1987; and
3. two members shall expire on June 30, 1989.

Thereafter, the term of office of a member of the Commission shall be for six (6) years and until a successor is appointed and qualified.

D. The Governor may remove any member of the Commission for incompetence, neglect of duty, or malfeasance in office upon first giving the member a copy of the charges and an opportunity to be heard. A vacancy on the Commission shall be filled for the unexpired term by appointment made by the Governor.

SECTION 4. AMENDATORY 53 O.S. 1991, Section 1.6, is amended to read as follows:

Section 1.6 A. The Board of Directors of the Oklahoma Historical Society shall consist of not more than twenty-five (25) members, with the Governor as an ex officio member. The number of members of said Board may be decreased by act of the Legislature or by act of said Society by amending its constitution. Each member of the Board of Directors shall hold office until the successor of the member is elected and qualified pursuant to the provisions of the constitution of the Society or as otherwise provided by the Oklahoma Historical Preservation Act, Section 1.1 et seq. of this title. If at any time the provisions of the Society's constitution or bylaws are in conflict with statutory provisions relating to appointment of members by congressional district, statutory provisions shall prevail.

B. Members of the Board of Directors are hereby declared to be agents of the State of Oklahoma.

SECTION 5. AMENDATORY 57 O.S. 1991, Section 503, is amended to read as follows:

Section 503. There is hereby created the State Board of Corrections which shall be the governing board of the Department of Corrections herein created. The Board shall consist of seven (7) members who shall be appointed by the Governor with the advice and consent of the Senate. One member shall be appointed from each of the six congressional districts ~~as defined and in existence on July 1, 1967,~~ and the seventh member shall be appointed from the state at large. The terms of office of two members shall expire on March 15, 1969, and each six (6) years thereafter; the terms of two members shall expire on March 15, 1971, and each six (6) years thereafter; and the terms of three members shall expire on March 15, 1973, and each six (6) years thereafter. Not more than four members of the Board shall be of the same political party. Any member of the Board may be removed from office in the manner provided by law for the removal of officers not subject to impeachment. Vacancies on the Board shall be filled for the unexpired term.

SECTION 6. AMENDATORY 63 O.S. 1991, Section 2-104.1, is amended to read as follows:

Section 2-104.1 A. There is hereby created an Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission which shall consist of seven (7) members, not more than two of whom shall be from the same congressional district ~~as construed at the time of enactment of this section.~~ The members shall be appointed by the Governor and confirmed by the Senate and shall be removable only for cause, as provided by law for the removal of officers not subject to impeachment. The term of office of each member shall be seven (7) years. The first appointments shall be for the following terms as designated by the Governor: one member for a term of one (1) year; one member for a term of two (2) years; one member for a term of three (3) years; one member for a term of four (4) years; one member

for a term of five (5) years; one member for a term of six (6) years; and one member for a term of seven (7) years. A member may serve more than one term on the Commission. Each member shall continue to serve so long as he is qualified until his successor has been appointed and confirmed by the Senate. Vacancies occurring during a term shall be filled for the unexpired portion of the term by the same procedure used to make the regular appointments.

B. Four of the members shall represent the lay citizenry, one member shall be a district attorney while serving in that capacity, one member shall be a sheriff while serving in that capacity, and one member shall be a chief of police while serving in that capacity; provided that the sheriff and police chief members shall have successfully completed an approved course of instruction for peace officers as required by law.

C. Annually the Commission shall select one of the Commission members to serve as Chairman and one member to serve as Vice Chairman. The Commission shall meet at least quarterly. The Chairman shall preside at all meetings of the Commission and shall have the power to call meetings of the Commission. In addition, meetings of the Commission may be called by a majority of the members. The Vice Chairman shall perform these functions in the absence or incapacity of the Chairman. A quorum of four members of the Commission shall be necessary to conduct any official business. All actions taken by the Commission shall be by a simple majority vote of a quorum. In the event of a tie vote, the measure being voted upon shall be deemed to have failed.

The Commission shall adopt rules of procedure for the orderly performance of its functions.

D. Members of the Commission shall serve without salary but may be reimbursed for travel expenses in attending meetings and performing their duties in the manner provided for other state officers and employees under the State Travel Reimbursement Act, 1

Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. No other provisions of law shall be construed as prohibiting public officers from also serving as members of the Commission, nor shall any other provisions of law be construed as prohibiting public officers or public employees from performing services for the Commission without compensation. It is further provided that no town, city, county, or other subdivision or other agency of state government shall be prohibited from receiving a grant or from benefiting from grants or expenditures of the Commission for the reason that an officer or employee of such town, city, county, or other subdivision or agency of state government is a Commission member or employee.

E. The Commission shall have the following powers and duties and responsibilities:

1. To appoint the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, whose compensation shall be determined by the Legislature.

2. To hear any complaint against the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or any of its employees according to the following procedure:

- a. Only those complaints which have been submitted in writing and are signed will be acted upon by the Commission.
- b. All hearings on complaints shall be conducted in executive sessions, and shall not be open to the public.
- c. The Commission shall have limited access to pertinent investigative files when investigating a complaint. The Director shall provide a procedure whereby the identification of all persons named in any investigative file except the subject of the complaint and the complaining witness shall not be revealed to

the members of the Commission. Any consideration of files shall be in executive session not open to the public. No information or evidence received in connection with the hearings shall be revealed to any person or agency. Any violation hereof shall be grounds for removal from the Commission, and shall constitute a misdemeanor.

3. To make recommendations to the Director of any needed disciplinary action necessary as a result of an investigation conducted upon a complaint received.

4. To establish general procedures with regard to assisting law enforcement officers and district attorneys.

5. To establish a program of training for agents utilizing such courses as the National Police Academy conducted by the Federal Bureau of Investigation.

SECTION 7. AMENDATORY 65 O.S. 1991, Section 2-101, is amended to read as follows:

Section 2-101. The Oklahoma Department of Libraries Board is hereby created. The Board shall consist of seven (7) appointive members, and the Director, who shall be an ex officio nonvoting member. The Governor shall appoint, with the advice and consent of the Senate, one member from each congressional district ~~created by Title 14, Chapter 1, Section 1, Oklahoma Session Laws 1951 (14 O.S. 1961 Sec. 1)~~, and one member-at-large. No appointive member shall be a librarian in active practice. Appointments shall be made on the basis of ability, sound understanding of the total responsibilities and objectives of a state library agency and active interest in the attainment of these goals.

SECTION 8. AMENDATORY 70 O.S. 1991, Section 3-101, is amended to read as follows:

Section 3-101. The State Board of Education shall be the governing board of the State Department of Education and shall

consist of seven (7) members. The State Superintendent of Public Instruction shall be a member and the chairperson of said Board. The remaining six members shall be appointed by the Governor by and with the advice and consent of the Senate. Beginning April 2, 1991, no person shall be eligible to be appointed to serve on the State Board unless said person has been awarded a high school diploma or certificate of high school equivalency.

The Governor shall appoint one member to serve for one (1) year; one member to serve for two (2) years; one member to serve for three (3) years; one member to serve for four (4) years; one member to serve for five (5) years; and one member to serve for six (6) years. Said members shall serve until their successors are duly appointed and qualified. Their successors shall be appointed for a term of six (6) years, and thereafter the term of each member of said Board shall be six (6) years. An appointment shall be made to take effect on April 2 of each year. Except for the State Superintendent of Public Instruction, a member shall be appointed from each ~~of the six~~ ~~(6) congressional districts in existence on December 31, 1990~~ district, not to exceed more than one member from any one county, city or town. Upon the occurrence of a vacancy the same shall be filled by the Governor, subject to confirmation by the Senate at the next session of the Legislature, such appointments to be made for the unexpired term.

Terms of the members shall be staggered so that only one term expires each year. Each member of the Board shall receive necessary traveling expenses while in the performance of his duties in accordance with the State Travel Reimbursement Act.

Provided, that persons serving as members of the State Board of Education on the effective date of this act shall continue to serve as members of the State Board of Education for the terms for which they were appointed.

SECTION 9. AMENDATORY 70 O.S. 1991, Section 16-101, is amended to read as follows:

Section 16-101. There is hereby created the State Textbook Committee, which shall be composed of two members from each congressional district ~~as constituted on the effective date of this act,~~ appointed by the Governor with the advice and consent of the Senate and one member, appointed by the Governor with the advice and consent of the Senate, who shall be a lay citizen educator not having a teaching certificate and having at least one child in the Oklahoma Public School System. A majority of the twelve members appointed from the ~~Congressional Districts~~ congressional districts shall be classroom teachers. The regular terms of all members shall be for three (3) years. Provided, that all members of the State Textbook Committee currently appointed and serving shall serve as members of the State Textbook Committee created by this section, for the terms for which they were appointed. No member shall be eligible to succeed himself. At no time shall more than one member of the State Textbook Committee be an employee of the same school district. Each member appointed from a congressional district shall have had not less than five (5) years' teaching or supervisory experience in the public schools of Oklahoma at the time of his appointment, and shall be actively employed in the public schools of Oklahoma during the term of his service on said Committee. The State Superintendent of Public Instruction or a designated member of his staff shall serve as Secretary of said Committee and vote only when there is a tie vote in the membership of the Committee. Each member shall receive necessary traveling expenses while in the performance of his duties pursuant to the State Travel Reimbursement Act.

Within one (1) week after the first day of February of each year, said Committee may meet at the call of the State Superintendent of Public Instruction at the State Capitol and elect

by secret written ballot a chairman and vice-chairman from its membership to serve for the year. The terms for which new members from the congressional districts are appointed shall be staggered by the Governor in making his appointments to the end that the terms of four members shall expire each year. Provided, that the four new members appointed each year shall be certified in one of the curriculum areas in which the textbooks will be adopted that ensuing fiscal year.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 1804, is amended to read as follows:

Section 1804. A. The Oklahoma Tourism and Recreation Commission shall consist of one member from each ~~of the six Congressional Districts, as said Districts were defined in 1968~~ congressional district, who shall be a resident and a qualified elector in the ~~District~~ district which ~~such member is~~ appointed, and two members appointed from the state at large. No more than one member shall be from any one county. Commission members shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve at the pleasure of the Governor. ~~Of the members first appointed, the member from District One shall be appointed for a term of one (1) year; the member from District Two shall be appointed for a term of two (2) years; the member from District Three shall be appointed for a term of three (3) years; the member from District Four shall be appointed for a term of four (4) years; the member from District Five shall be appointed for a term of five (5) years; the member from District Six shall be appointed for a term of six (6) years; and the member at large shall be appointed for a term of six (6) years. By July 1, 1980, the Governor shall appoint a second member at large who shall serve in the same manner as other members of the Commission, and whose term of office shall be six (6) years. At the expiration of the term of each member and of each succeeding member,~~ the Governor shall

appoint a successor who shall serve for a term of six (6) years. The Lieutenant Governor shall serve as an ex officio voting member of the Commission. Whenever a vacancy on the Commission occurs by death, resignation, or otherwise, the Governor shall fill the same by appointment, with the advice and consent of the Senate, and the appointee shall hold office during the unexpired term. Each member shall hold office until his successor has been appointed and qualified.

B. No member of the Commission shall seek election to a federal, state, or county office while serving on the Oklahoma Tourism and Recreation Commission.

C. Each member of the Commission, before serving on the Commission, shall take and subscribe to the constitutional and statutory oaths of office and file said oaths with the Secretary of State. Members of the Commission shall be reimbursed for travel expenses to Commission meetings as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

D. Within three (3) days after appointment of the Commission, the Governor shall call said Commission to meet at Oklahoma City. The Commission shall be organized by the Governor who shall appoint from the Commission the Chairman, the Vice Chairman, and the Secretary. The Commission is authorized and directed to adopt rules and regulations for conducting its proceedings. A majority of the Commission shall constitute a quorum for transacting business. The Commission shall meet at least monthly and may meet at such other times as it deems necessary for effectively performing its duties and responsibilities. Special meetings may be called by the Chairman or by any three members of the Commission.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 2054, is amended to read as follows:

Section 2054. A. The governing and administrative powers of the Oklahoma World Trade Development Authority shall be vested in a

Board of Directors consisting of nine (9) members, four of whom shall be appointed by the Governor, two of whom shall be appointed by the Speaker of the House of Representatives, and two of whom shall be appointed by the President Pro Tempore of the Senate, with the ~~advise~~ advice and consent of the Senate. At least one member shall be appointed from each ~~Congressional District in existence as of April 1, 1980~~ congressional district. The remaining member, who shall be chairman of the Authority, shall be the Governor of the State of Oklahoma. Members shall be qualified electors of the state and actual residents of the ~~Congressional District~~ congressional district from which they are appointed. Members shall annually elect a secretary, a treasurer and a vice-chairman. Should a vacancy occur within the Office of the Governor of this state, the vice-chairman shall serve as acting chairman of the Authority. The Board may elect such other officers as it deems proper. Appointments to fill a vacancy of one of the appointed members shall be made in the same manner as the original appointment.

B. Each member of the Board shall be a person of recognized ability and experience in one of the following areas: finance; international trade; business management; economics; agriculture; livestock management; and Oklahoma international organization leadership.

C. The Governor shall appoint two members of the Board who shall hold office until the third Monday in June, 1988; the Governor, the Speaker, and the President Pro Tempore shall each appoint one member of the Board who shall hold office until the third Monday in June, 1989; and the Governor, the Speaker, and the President Pro Tempore shall each appoint one member of the Board who shall hold office until the third Monday in June, 1990. Their respective successors shall be appointed for terms of three (3) years from the third Monday in June of the year of appointment.

Members shall serve until successors are appointed, confirmed and qualified.

D. Each member before entering upon his duties shall take and subscribe to the oath or affirmation required by the Oklahoma Constitution. A record of each such oath or affirmation shall be filed in the office of the Secretary of State.

E. No member shall receive compensation for his service on the Board directly or indirectly; provided that each appointive member may receive reimbursement for travel expense pursuant to the procedures established by the Board of Directors of the Authority.

F. Five members of the Board shall constitute a quorum and the affirmative vote of the majority of members present at a meeting of the Board shall be necessary and sufficient for any action taken by the Board, except that the affirmative vote of at least five members shall be required for the approval of any resolution authorizing the issuance of any bonds pursuant to this act.

G. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all rights and perform all the duties of the Board. Any action taken by the Board may be authorized by resolution at any regular or special meeting and shall take effect upon the date the chairman certifies the action of the Authority by affixing his signature to the resolution unless some other date is otherwise provided in the resolution.

H. The Board may delegate to one or more of its members or to its officials, agents, or employees such powers and duties as it may deem proper; however, the officials, agents, or employees of the Authority shall not be considered employees of the state for any reason.

SECTION 12. AMENDATORY 82 O.S. 1991, Section 1085.1, is amended to read as follows:

Section 1085.1 A. There is hereby created the Oklahoma Water Resources Board, hereinafter referred to as the Board, consisting of

nine (9) members to be appointed by the Governor, by and with the advice and consent of the Senate. The Board shall constitute a body corporate and politic and an instrumentality, agency and department of the State of Oklahoma, and exercise by the Board of the powers conferred by this act shall be deemed and shall be held to be an essential governmental function of the State of Oklahoma. One member shall be appointed for a term of one (1) year; one member shall be appointed for a term of two (2) years; one member shall be appointed for a term of three (3) years; one member shall be appointed for a term of four (4) years; one member shall be appointed for a term of five (5) years; two members shall be appointed for a term of six (6) years; and two members shall be appointed for a term of seven (7) years. Upon the expiration of said terms, their successors shall be appointed for terms of seven (7) years. One member shall be appointed from each of the congressional districts of this state ~~as they existed in 1957,~~ and three members shall be appointed at large. Each member shall be a qualified elector of this state. At all times the membership of the Board shall have represented on it at least one member well versed in each of the following major types of water use: recreational, industrial, irrigational, municipal, rural residential, agricultural and soil conservation work. Not more than two members may be selected representing any one of the major types of water use. The Board shall meet at least once each month. The members of the Board may be removed only for cause. Whenever a vacancy shall occur, the Governor shall appoint a qualified person to fill the unexpired term of the vacant office. Each member of the Board upon entering upon his duties shall take and subscribe to the constitutional and statutory oath of office and file the same with the Secretary of State.

B. The Board shall organize annually by electing a chairman, vice chairman, and secretary from the membership of the Board, who shall perform such duties as shall be prescribed by the Board.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

If a change in the number of congressional districts creates a conflict between a requirement that a board, commission, authority, or other statutory entity shall have a specified number of members and a requirement that one or more members shall be appointed from each congressional district, the appointing authority shall make appointments as follows:

1. If the conflict has been created by a decrease in the number of districts, the appointing authority shall make additional appointments as necessary to maintain a full board and may make said additional appointments without regard to the appointee's district of residence; and

2. If the conflict has been created by an increase in the number of districts, the appointing authority shall make only such appointments as are necessary to maintain a full board, doing so in such fashion that the members are distributed among the districts to the greatest possible extent.

SECTION 14. The provisions of Section 2 shall not be codified in the Oklahoma Statutes.

SECTION 15. 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.

43-2-1322

WHT