

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1127

By: Isaac

AS INTRODUCED

An Act relating to state government; transferring certain lake patrol officers to the Division of Parks within the Oklahoma Department of Tourism and Recreation; transferring property, funds and other assets; providing for the assumption of certain liabilities and obligations; amending 47 O.S. 1991, Sections 2-103, 2-105.5, 2-134, 2-300, as amended by Section 5, Chapter 390, O.S.L. 1992, and 2-313 (47 O.S. Supp. 1992, Section 2-300), which relate to the Lake Patrol Division within the Department of Public Safety; removing such Division from the Department of Public Safety; eliminating provisions relating to officers in such Division from the jurisdiction, hiring and reinstatement procedures and expense allowance provisions; relating to the Department of Public Safety; providing for authority, salaries, expenses and equipment of recreational enforcement officers; modifying definitions; modifying retention of sidearm provisions relating to the Lake Patrol Division retired officers; amending 63 O.S. 1991, Sections 4202, as amended by Section 30, Chapter 284, O.S.L. 1992, 4204, 4205, 4207, 4214 and 4217, as amended

by Sections 31, 33, 55 and 56, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1992, Sections 4202, 4205, 4207, 4214 and 4217), which relate to the Oklahoma Boating Safety Regulation Act; transferring authority and jurisdiction to administer such act to the Oklahoma Department of Tourism and Recreation; transferring authority, powers and duties relating to said act to the Oklahoma Department of Tourism and Recreation; modifying provision relating to certain vessel equipment; modifying provisions concerning guidelines and standards for marine toilets; modifying transmission of certain information; modifying the recipient of certain reports; providing for certain powers and duties of recreational enforcement officers; amending 74 O.S. 1991, Section 840.8, as amended by Section 21, Chapter 373, O.S.L. 1992 (74 O.S. Supp. 1992, Section 840.8), which relates to positions in the exempt unclassified service; exempting temporary recreational enforcement officers from the classified service; amending 74 O.S. 1991, Sections 1811, as amended by Section 3, Chapter 368, O.S.L. 1992, and 1811.2 (74 O.S. Supp. 1992, Section 1811), which relate to the Division of Parks within the Oklahoma Department of Tourism and Recreation; providing for the commissioning of recreational enforcement officers; providing for powers, duties, immunities and employment of such officers; amending 82 O.S. 1991, Section 1470, which relates to the Scenic Rivers Commission; authorizing the contracting out of recreational enforcement personnel; repealing 47 O.S. 1991,

Section 2-135, which relates to Lake Patrol Officers; providing for codification; providing for recodification; providing an effective date; 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 1811.2a of Title 74, unless there is created a duplication in numbering, reads as follows:

Beginning July 1, 1993, all commissioned law enforcement positions in the Lake Patrol Division of the Department of Public Safety and the Lake Patrol of the Oklahoma Scenic Rivers Commission shall be transferred to the Division of Parks of the Oklahoma Department of Tourism and Recreation. All property, funds and other assets of the Lake Patrol Division are hereby transferred to the Division of Parks of the Oklahoma Department of Tourism and Recreation, which shall also assume all liabilities and obligations of the Lake Patrol Division.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 2-103, is amended to read as follows:

Section 2-103. The Commissioner shall organize the Department in such manner as he may deem necessary and proper to segregate and conduct the work of the Department, and the Department shall be divided into ~~five~~ four principal divisions, to be known respectively as the Oklahoma Highway Patrol Division, Drivers License Division, ~~Lake Patrol Division,~~ Financial Responsibility Division and Administrative Division. The latter division shall include the Technical and Communications Section, and any other section or bureau deemed necessary by the Commissioner.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 2-105.5, is amended to read as follows:

Section 2-105.5 All applicants, including reinstatements, for commissioned law enforcement positions in the Oklahoma Highway Patrol, ~~Lake Patrol~~ and the State Capitol and Cowboy Hall of Fame Parks Divisions shall, prior to initial appointment or reinstatement, be required to submit to and successfully pass a controlled substance screening conducted by a National Institute on Drug Abuse (NIDA) certified laboratory. The Commissioner of Public Safety shall establish the necessary procedures to implement this requirement. The Commissioner of Public Safety is authorized to expend the funds necessary to accomplish these screenings.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 2-134, is amended to read as follows:

Section 2-134. ~~There is hereby created in the Department of Public Safety a Division of Lake Patrol which shall consist of such employees as may be necessary to enforce the provisions of this act.~~ All ~~members of the Lake Patrol~~ recreational enforcement officers in the Division of Parks as designated by the ~~Commissioner~~ Director shall also have the authority to stop and board any vessel subject to this act and make any necessary arrest for violations of this act or the rules and regulations promulgated by the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation or the Department of Wildlife Conservation or take any other action within their lawful authority.

Unless otherwise provided by law, salaries and traveling expenses of recreational enforcement officers ~~and employees~~ of the ~~Lake Patrol~~ Division of Parks and the cost of equipment for the Division shall be paid from the appropriation made to the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 2-300, as amended by Section 5, Chapter 390, O.S.L. 1992 (47 O.S. Supp. 1992, Section 2-300), is amended to read as follows:

Section 2-300. As used in this act:

1. "System" means the Oklahoma Law Enforcement Retirement System;

2. "Act" means Sections 2-300 through 2-313 of this title;

3. "Board" means the Oklahoma Law Enforcement Retirement Board of the System;

4. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

5. "Member" means all law enforcement officers of the Oklahoma Highway Patrol, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma Alcoholic Beverage Control Board designated to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of this state, and members of the Communications Division to include radio technicians, tower technicians and commissioned officers ~~of the Lake Patrol Division~~ of the Oklahoma Department of Public Safety, ~~park rangers~~ recreational enforcement officers of the Oklahoma Tourism and Recreation Department and inspectors of the Oklahoma State Board of Pharmacy, provided that all persons who shall be offered a position of a law enforcement officer shall participate in the System upon the person meeting the requisite post offer-pre-employment physical examination standards which shall be subject to the following requirements:

a. all such persons shall be of good moral character, free from deformities, mental or physical conditions, or disease and alcohol or drug addiction which would prohibit the person from performing the duties of a law enforcement officer,

b. said physical-medical examination shall pertain to age, sight, hearing, agility and other conditions the requirements of which shall be established by the Board,

c. the person shall be required to meet the conditions of this subsection prior to the beginning of actual

employment but after an offer of employment has been tendered by a participating employer,

- d. the Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application,
- e. the Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this subsection;

6. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member:

- a. completes twenty (20) years of vesting service; or
- b. attains sixty-two (62) years of age, if:
 - i. the member has been transferred to this System from the Oklahoma Public Employees Retirement System on or after July 1, 1981; and
 - ii. the member would have been vested had the member continued to be a member of the Oklahoma Public Employees Retirement System;

A member who was required to join the System effective July 1, 1980, because of the transfer of the employing agency from the Oklahoma Public Employees Retirement System to the System, and was not a member of the Oklahoma Public Employees Retirement System on the date of such transfer shall be allowed to receive credit for prior law enforcement service rendered to this state, if the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system, upon payment to the System of the employee contribution the member would have been subject to had the member been a member of the System at the time, plus five percent (5%) interest. Service credit received pursuant to this paragraph shall be used in determining the member's

retirement benefit, and shall be used in determining years of service for retirement or vesting purposes;

7. "Actual paid base salary" means the salary received by a member, excluding payment for any accumulated leave or uniform allowance. Salary shall include any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986;

8. "Final average salary" means the average of the highest thirty (30) consecutive complete months of actual paid gross salary. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. Only salary on which required contributions have been made may be used in computing the final average salary;

9. "Credited service" means the period of service used to determine the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor Plan as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor Plan which was credited under the predecessor Plan and for officers of the Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control who became members of the System on July 1, 1980, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1980, and for members of the Communications ~~and Lake Patrol Divisions~~ Division of the Oklahoma Department of Public Safety and recreational enforcement officers of the Oklahoma Department of Tourism and Recreation, who became members of the System on July 1, 1981, any service credited under the predecessor Plan or the Oklahoma Public Employees Retirement System as of June 30, 1981, and for law enforcement officers of the Oklahoma Alcoholic Beverage Control

Board who become members of the System on July 1, 1982, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1982, and for park rangers of the Oklahoma Tourism and Recreation Department who became members of the System on July 1, 1985, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1985, and for inspectors of the Oklahoma State Board of Pharmacy who became members of the System on July 1, 1986, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1986;

10. "Disability" means a physical or mental condition which, in the judgment of the Board, totally and presumably permanently prevents the member from engaging in the usual and customary duties of the occupation of the member and thereafter prevents the member from performing the duties of any occupation or service for which the member is qualified by reason of training, education or experience. A person is not under a disability when capable of performing a service to the employer, regardless of occupation, providing the salary of the employee is not diminished thereby; and

11. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 6. AMENDATORY 47 O.S. 1991, Section 2-313, is amended to read as follows:

Section 2-313. A. A retired member of the Oklahoma Highway Patrol Division or a member of the Lake Patrol Division who retired prior to July 1, 1993, shall be entitled to receive upon retirement, by reason of length of service, the continued custody and possession of the sidearm and badge carried by such member immediately prior to retirement.

B. In the event a member retires by reason of disability, such member shall be entitled to receive the continued custody and

possession of the sidearm upon written approval of the Commissioner of the Department of Public Safety.

C. Custody and possession of the sidearm and badge of a member killed in the line of duty may be awarded by the Commissioner to the spouse or next-of-kin of the deceased member.

SECTION 7. AMENDATORY 63 O.S. 1991, Section 4202, as amended by Section 30, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1992, Section 4202), is amended to read as follows:

Section 4202. The Oklahoma Department of ~~Public Safety~~ Tourism and Recreation is hereby granted authority and jurisdiction to administer and enforce all provisions of the Oklahoma Boating Safety Regulation Act, Section 4201 et seq. of this title, and the Oklahoma Vessel and Motor Registration Act, Section 4002 et seq. of this title. The Department is authorized to promulgate and enforce all necessary rules pursuant to Article 1 of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, and shall prescribe all forms it deems necessary to implement the provisions of the Oklahoma Boating Safety Regulation Act.

SECTION 8. AMENDATORY 63 O.S. 1991, Section 4204, is amended to read as follows:

Section 4204. A. The provisions of the Oklahoma Boating Safety Regulation Act shall apply to the waters of this state under the jurisdiction of the Grand River Dam Authority, provided, the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation may have jurisdiction to administer and enforce the provisions of the Oklahoma Boating Safety Regulation Act upon waters of this state under the jurisdiction of the Grand River Dam Authority. The administration and enforcement of the Oklahoma Boating Safety Regulation Act upon the waters under the jurisdiction of the Grand River Dam Authority are vested in the Grand River Dam Authority. Said Authority, and its employees, shall, except as otherwise

provided in this section, have the same authority with respect to the enforcement and administration of the Oklahoma Boating Safety Regulation Act upon such waters as are vested by the Oklahoma Boating Safety Regulation Act in the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation with respect to the other waters of this state.

B. The Authority may be designated by the Oklahoma Tax Commission as a motor license agent to award numbers and issue certificates of title and registration for vessels and motors in accordance with the provisions of the Oklahoma Vessel and Motor Registration Act and with any rules and regulations of the said Oklahoma Tax Commission either from blocks of numbers and certificates assigned to said Authority by said Oklahoma Tax Commission or such other method as shall be prescribed by the Oklahoma Tax Commission. The Authority shall remit all fees collected by it pursuant to this section to the Oklahoma Tax Commission to be apportioned and deposited in accordance with the provisions of the Oklahoma Vessel and Motor Registration Act.

SECTION 9. AMENDATORY 63 O.S. 1991, Section 4205, as amended by Section 31, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1992, Section 4205), is amended to read as follows:

Section 4205. A. The United States Army Corps of Engineers, the Oklahoma Department of Tourism and Recreation, and the Grand River Dam Authority may authorize the holding of sanctioned events on any waters of this state under their jurisdiction. Said administering entities shall promulgate rules pursuant to Article 1 of the Oklahoma Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes, concerning the safety of other vessels and persons thereon, both observers and participants. No sanctioned event shall be held without a written permit from said administering entity, and said written permit shall be available for inspection at all times during the event.

B. Whenever a sanctioned event is proposed to be held, the administering entity shall, upon granting approval to hold such event and at least ten (10) days prior thereto, file a notification in writing of said event with the ~~Lake Patrol Division of the~~ Oklahoma Department of ~~Public Safety~~ Tourism and Recreation. Such notification shall set forth the date, time, location where the sanctioned event is proposed to be held, the type of event and the person in charge of said event.

C. No person shall hold or give permission to hold any sanctioned event in an unsafe manner or under unsafe environmental conditions so as to endanger life or property. Should any duly authorized peace officer of this state determine within their jurisdiction that such event is being held or conducted in an unsafe manner or under unsafe environmental conditions, such officer shall have the authority to cancel or terminate said event.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 4207, as amended by Section 33, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1992, Section 4207), is amended to read as follows:

Section 4207. A. Vessels subject to the provisions of the Oklahoma Boating Safety Regulation Act shall be divided into four classes as follows:

Class A. Less than sixteen (16) feet in length.

Class 1. Sixteen (16) feet or over and less than twenty-six (26) feet in length.

Class 2. Twenty-six (26) feet or over and less than forty (40) feet in length.

Class 3. Forty (40) feet or over.

B. Every vessel in all weathers between the hours from sunset to sunrise shall carry and exhibit the lights prescribed by the United States Coast Guard when under way, including, but not limited to, the following:

1. Every vessel of Classes A and 1 shall carry:

- a. a bright white light aft to show all around the horizon, and
- b. a combined lantern in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port;

2. Every vessel of Classes 2 and 3 shall carry:

- a. a bright white light in the forepart of the vessel as near the stem as practicable, and
- b. a bright white light aft to show all around the horizon and higher than the white light forward, and
- c. on the starboard side, a green light and on the port side, a red light;

3. Vessels of all classes when propelled by sail alone shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision; and

4. When propelled by sail and motor, any vessel shall carry the lights required by this section for a vessel propelled by motor only.

C. Every vessel shall be provided with an efficient whistle or other sound-producing mechanical appliance; provided, however, no vessel, except for emergency and law enforcement vessels, shall be equipped with a siren.

D. Every vessel of Class 2 and 3 shall be equipped with an efficient bell.

E. Every vessel shall be required to carry:

1. At least one wearable personal flotation device for each person on board so placed as to be readily accessible and of a size suitable to the person who is or will be wearing it; and

2. At least one type IV (throwable) personal flotation device on board, so placed as to be readily accessible.

All lifesaving devices shall be in good and serviceable condition.

F. Every vessel using flammable liquid as fuel shall be equipped with such number, size, and type of United States Coast Guard approved fire extinguisher as prescribed in the rules of the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation. Such extinguisher shall be capable of promptly and effectively extinguishing burning fuel. Fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed and secured to the vessel as to be readily accessible.

G. The provisions of subsections C, D, and F of this section shall not apply to vessels while competing in any race conducted pursuant to Section 4205 of this title, or, if such vessels are designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of vessels and motors for the race.

H. Every vessel shall have the carburetor or carburetors of every motor therein, except outboard motors, using any liquid as fuel, equipped with a United States Coast Guard or U.L. or S.A.E. approved backfire flame arrestor or other appropriate attachment, as prescribed by the rules of the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation.

I. Every vessel, except open vessels, using any liquid as fuel shall be provided with such means as may be prescribed by the United States Coast Guard for properly and efficiently ventilating the bilges of the motor and fuel tank compartments so as to remove any explosive or inflammable gases.

J. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof and as prescribed in the rules of the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation.

SECTION 11. AMENDATORY 63 O.S. 1991, Section 4214, as amended by Section 55, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1992, Section 4214), is amended to read as follows:

Section 4214. A. The operator and/or passenger of a vessel involved in a collision, accident, or other casualty, shall render to other persons involved in the collision, accident, or other casualty reasonable assistance as may be necessary and practicable and shall immediately, by the quickest means of communication, give notice of such accident to the local police department if such accident occurs within a municipality, or to the office of the county sheriff or nearest state highway patrol headquarters after complying with the requirements of this section. The operator of a vessel involved in a collision, accident, or other casualty shall give his name, address, and identification of his vessel, in writing, to any person injured in the collision, accident, or other casualty and to the owner of any property damaged in the collision, accident, or other casualty.

B. If a collision, accident, or other casualty results in death or injury to a person or damage to property in excess of Five Hundred Dollars (\$500.00), the operator of the vessel involved in the collision, accident, or other casualty shall file with the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation a full description of the collision, accident, or other casualty, and such information as the Department may require.

C. Whenever a person is halted by any duly authorized peace officer of this state for any violation of Chapters 70, 71 or 72 of this title, which shall be punishable as a misdemeanor, and is not taken before a magistrate as hereinbefore required or permitted, the officer shall prepare in quadruplicate using the "Oklahoma Uniform Violations Complaint", a written notice to appear in court, such notices to appear to be serially numbered, containing the name and address of the person, the state registration number of his vessel, if any, the offense charged, the time and place when and where the person shall appear in court, and such other pertinent information as may be necessary.

D. The time specified in the notice to appear must be at least five (5) calendar days after the alleged violation unless the person charged with the violation shall demand an earlier hearing.

E. The person charged with the violation may give his written promise to appear in court by signing the written notice to appear prepared by the recreational enforcement officer, in which event the officer shall deliver a copy of the notice to appear to the person, and thereupon the officer shall not take the person into physical custody for the violation.

F. If the person charged with the violation is a minor, then the citing officer shall ascertain from the minor the name and address of his parents or legal guardian, and said officer shall cause a copy of the "violation" to be mailed to the address of the parents or legal guardian, within three (3) calendar days after the date of violation.

G. Except for felony violations, any duly authorized peace officer of this state at the scene of a boating accident may issue a written notice to appear to the operator of a vessel involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense in connection with the accident.

H. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation pursuant to this section shall be transmitted to said official or agency of the United States.

I. Any employee or officer of an agency of this state, or employee or officer of a municipality or county in this state, shall make a written report to the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation if an occurrence involving a vessel or its equipment results in one or more of the following:

1. A person dies;

2. A person is injured and requires medical treatment beyond first aid;

3. Damage to the vessel and other property totals more than Five Hundred Dollars (\$500.00) or there is a complete loss of the vessel;

4. A person disappears from the vessel under circumstances that indicate death or injury;

5. A person drowns in swimming to retrieve a vessel that is adrift from its mooring or dock, having departed from a position of inherent safety such as a shore or pier;

6. A person drowns while swimming from a vessel for pleasure and the vessel does not contribute to the drowning;

7. A person drowns after falling from a vessel that is moored or anchored for use as a swimming platform or other purpose;

8. A person dies or is injured while in the act of launching a vessel into a body of water;

9. A person drowns or is injured while surfing;

10. A fatality or injury occurs to an operator or a crew member while participating in an organized/sanctioned race, or warm-up, in a vessel uniquely designed for racing; or

11. Damage, injury or death on a docked, moored or anchored vessel resulting from unusual wake or wave conditions.

SECTION 12. AMENDATORY 63 O.S. 1991, Section 4217, as amended by Section 56, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1992, Section 4217), is amended to read as follows:

Section 4217. A. It shall be unlawful to abandon a vessel on the waters of this state or other public property. Any recreational enforcement officer of the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation shall deem a vessel abandoned and shall have authority to remove or direct the removal of a vessel when found upon any portion of the waters of this state or other public property, if, after a period of forty-eight (48) hours, there is no

evidence of an apparent owner who intends to remove the vessel. Any ~~law~~ recreational enforcement officer prior to removing such vessel shall attempt to notify the owner of such vessel if the vessel has an identification number registered in this state or if the name and address of the owner is attached to such vessel.

B. If such officer has reasonable cause to believe a vessel has been abandoned in a location which would be hazardous to the free flow of traffic or would be highly susceptible to damage from vandalism or other harm, he shall have authority to remove or direct the removal of the vessel immediately. At the time of ordering the removal of an abandoned vessel, the authorizing officer shall also determine the sale value of the vessel and certify that amount on the removal order.

C. Any recreational enforcement officer of the Oklahoma Department of ~~Public Safety~~ Tourism and Recreation is hereby authorized to cause to be removed any vessel found upon the waters of this state or any other public property when:

1. Report has been made that such vessel has been stolen or taken without the consent of its owner;

2. The officer has reason to believe the vessel has been abandoned as defined in this section;

3. The person operating or in control of such vessel is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay;

4. At the scene of an accident, when the owner or operator is not in a position to take charge of his vessel and direct or request proper removal; or

5. When a vessel and/or motor registration is thirty (30) days past the date of expiration.

Such officer may ensure the safe removal of said vessel by use of a trailer.

SECTION 13. AMENDATORY 74 O.S. 1991, Section 840.8, as amended by Section 21, Chapter 373, O.S.L. 1992 (74 O.S. Supp. 1992, Section 840.8), is amended to read as follows:

Section 840.8 The following offices, positions, and personnel comprise the exempt unclassified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Federally funded time-limited employees hired for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and State Department of Vocational and Technical Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees shall include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary ~~lake patrol~~ recreational enforcement officers, regardless of the number of hours worked, who are employed by the

Oklahoma Department of ~~Public Safety~~ Tourism and Recreation during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in (a) an institution of higher learning within The Oklahoma State System of Higher Education (b) an institution of higher learning qualified to become coordinated with said State System of Higher Education (c) for purposes of this act a student shall be considered a regularly enrolled student if he is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, and regularly attending classes during that semester of employment or (d) high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the

Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's Full-Time-Equivalent Employee Limit;

14. Employees of State Capitol cafeterias;

15. Employees of either the House of Representatives or the State Senate;

16. Grand River Dam Authority personnel occupying the following offices and positions:

- a. The general manager, assistant general managers, secretaries to the general manager, and assistant general managers,
- b. The chief engineer and the engineers, superintendents, and assistant superintendents,
- c. The general counsel and the attorneys on the general counsel's staff,
- d. The secretary,
- e. The treasurer,
- f. Rate analysts, and
- g. Unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service;

17. Oklahoma Tax Commission personnel occupying the following offices and positions:

- a. All revenue administrators, the budget officer and the comptroller of the Tax Commission,
- b. All administrators and unit managers in the Management Information Services Division,
- c. All Computer Programming Systems Specialist positions,

- d. All Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions,
- e. All Public Affairs Officer and Assistant Public Affairs Officer positions,
- f. Public Information Officer, and
- g. All Tax Economist positions;

18. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative assistant, administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, and
- c. General Counsel;

19. State Department of Education personnel occupying the following offices and positions:

- a. Administrative Assistants,
- b. Informational Representatives III,
- c. Driver Educational Electronics Technician,
- d. Media Technical Assistants,
- e. Executive Secretaries,
- f. Accounting Supervisor,
- g. Supervisor of Records,
- h. Supervisor of Printing Services,
- i. Migrant Records Transfer System Representative,
- j. Financial Managers, and
- k. In addition to the State Department of Education offices and positions listed in this paragraph, any and all offices and positions within the State Department of Education for which the annual salary is Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall also be in the unclassified service of this state.

Nothing in this paragraph is intended to change the status, whether classified or unclassified, of any person employed by the Department of Education prior to May 1, 1989. No position shall become unclassified while it is occupied by a classified employee because of any change in salary or grade. Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be in the unclassified service upon being vacated;

20. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

21. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director, and
- d. Executive Secretary to Director;

22. The State Comptroller, Office of the Director of State Finance;

23. Employees of the Oklahoma Development Finance Authority;

24. Those positions so specified in the annual business plan of the Department of Commerce;

25. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

26. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become

unclassified because of any change in salary or grade while it is occupied by a classified employee,

- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in Section 840.10 of this title;

27. State Insurance Fund personnel occupying the following offices and positions:

- a. Commissioner,
- b. Deputy Commissioner,
- c. Administrative Assistants to the Commissioner,
- d. Executive Secretaries to the Commissioner and Deputy Commissioner,
- e. Law Clerks and Legal Assistants,
- f. Special Counsel,
- g. General Counsel,
- h. Medical Analysts Supervisor,
- i. Medical Analysts,
- j. Field Adjusters,
- k. Investment Officer, and
- l. Collections Attorneys;

28. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

29. Department of Corrections personnel occupying the following offices and positions:

- a. Associate Director,
- b. Executive Secretary,
- c. General Counsel,
- d. Assistant General Counsel,
- e. Deputy Director,
- f. Public Information Officer,

- g. Personnel Manager,
- h. Administrator of Planning and Research,
- i. Administrator of Finance and Accounting,
- j. Executive Assistant,
- k. Administrator of Information Services,
- l. Affirmative Action Officer,
- m. System Development Manager,
- n. Computer Operations Manager,
- o. Training Director,
- p. Assistant Training Director,
- q. Administrator of Construction and Maintenance,
- r. Administrative Assistant,
- s. Secretary,
- t. Administrator of Classification and Programs,
- u. Coordinator of Facility Classification,
- v. Mediation Coordinator,
- w. Inspector General,
- x. Medical Director,
- y. Psychiatrist,
- z. Physician,
- aa. Optometrist,
- ab. Dental Services Supervisor,
- ac. Dentist,
- ad. Psychologist,
- ae. Administrator of Dietary Services,
- af. Warden I,
- ag. Warden II,
- ah. Warden III,
- ai. Deputy Warden I,
- aj. Deputy Warden II,
- ak. Deputy Warden III,
- al. Community Treatment Center Superintendent,

- am. Community Treatment Center Assistant Superintendent,
- an. Probation and Parole District Supervisor,
- ao. Probation and Parole Assistant District Supervisor,
- ap. Administrator of Human Resources,
- aq. Facility Staffing Pattern Analyst, and
- ar. Correctional School Superintendent;

30. Department of Corrections personnel occupying the following offices and positions as representatives of the Oklahoma State Industries:

- a. Administrator of Industrial Production,
- b. Administrator of Agriculture Production,
- c. OSI Sales Representative,
- d. OSI Sales Manager, and
- e. Marketing Manager.

The positions listed in this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified sales representative of the Oklahoma State Industries of the Department of Corrections who is responsible for obtaining a contract for products manufactured or services provided by prison industries may, at the discretion of the Director of the Department of Corrections, be awarded additional compensation of not more than five percent (5%) of the total amount of said contracts but not more than Five Thousand Dollars (\$5,000.00) per year. This compensation may be in addition to the salary of the employee and may be paid in one lump sum from any funds available to the Department of Corrections. No such compensation shall be made unless funds are available. Funds for payment of any compensation awards shall be encumbered to the extent of the awards.

Incumbents in positions listed in paragraph 29 of this section and in this paragraph that are classified under the Merit System of Personnel Administration on the effective date of this act shall

have the option of remaining in their classified status under the Merit System of Personnel Administration. Incumbents that choose to accept unclassified appointments shall so signify in writing. All future appointees to these positions shall be unclassified.

Incumbents that choose to remain in the classified service under the Merit System of Personnel Administration shall be subject to all rules and procedures of the Merit System of Personnel Administration. By the end of the first full work week of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position;

31. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal; and

32. The State Bond Advisor and his employees.

SECTION 14. AMENDATORY 74 O.S. 1991, Section 1811, as amended by Section 3, Chapter 368, O.S.L. 1992 (74 O.S. Supp. 1992, Section 1811), is amended to read as follows:

Section 1811. The Division of Parks shall, subject to the policies, rules and regulations of the Commission:

1. Plan, supervise, acquire, construct, enlarge, erect, improve, equip, furnish, conserve and preserve public recreation facilities and resources in state parks, except lodges, but including cabins in parks where there is no state lodge, camping sites, scenic trails, picnic sites, golf courses, boating and bathing facilities and other similar facilities in state parks

reasonably necessary and useful in promoting the public use of state parks under the jurisdiction and control of the Commission;

2. Administer state parks, establish rules and regulations for the use of public recreation facilities therein and establish rentals for the use of lands or interests therein; providing, however, nothing in this paragraph shall allow the charging of admission fees to any state park. All moneys collected shall be deposited to the Oklahoma Tourism and Recreation Department Revolving Fund; provided, not less than eighty-five percent (85%) of such moneys collected shall be spent on repairs, upkeep or improvement of park areas in Pawnee Bill State Park. Within sixty (60) days of the end of the pilot program, the Division shall prepare an evaluation of the program and recommendations for continuation, termination or expansion of the program. The evaluation shall be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives;

3. Exercise all authority and powers now vested in the Division of Parks and Recreation and derived from the Oklahoma Industrial Development and Park Department relating to parks and recreation, except as regards state-owned lodges; and

4. Commission any officer or employee who is certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes as a ~~park ranger~~ recreational enforcement officer as the Department deems necessary to secure the parks and property of the Department and lakes of this state and to maintain law and order ~~therein~~ on such property and water.

SECTION 15. AMENDATORY 74 O.S. 1991, Section 1811.2, is amended to read as follows:

Section 1811.2 A. ~~Park rangers~~ Recreational enforcement officers, when commissioned, shall have all the powers of peace officers except the serving or execution of civil process, and shall have in all parts of the state the same powers with respect to

criminal matters and enforcement of the laws relating thereto as sheriffs, highway patrolmen and police officers in their respective jurisdictions and shall possess all immunities and matters of defense now available or hereafter made available to sheriffs, highway patrolmen, and police officers in any suit brought against them in consequence of acts done in the course of their employment, provided, however, they shall comply with the provisions of Section 3311 of Title 70 of the Oklahoma Statutes.

B. ~~Park rangers~~ Recreational enforcement officers, when first appointed, shall be required to serve a probationary period of twelve (12) months. The Director of state parks may extend the probationary period for up to three (3) additional months provided that the employee and the Office of Personnel Management are notified in writing as to such action and the reasons therefor. During such probationary period their services may be terminated at any time in accordance with Department procedure and at the discretion of the Director of State Parks. Retention of the employee, after expiration of the probationary period, shall entitle the employee to be classified as a permanent employee.

SECTION 16. AMENDATORY 82 O.S. 1991, Section 1470, is amended to read as follows:

Section 1470. A. The Scenic Rivers Commission for the Flint Creek, Illinois River and those portions of Barren Fork Creek within Cherokee County is authorized and directed to charge an annual use fee of Five Dollars (\$5.00) per commercially owned and operated flotation device. The operation of a commercial flotation device without displaying a proper Oklahoma Scenic Rivers Commission license is subject to a fine not to exceed One Hundred Dollars (\$100.00). Said penalty will be assessed upon the owner or operator of the commercial flotation device business and not upon the individual renting the commercial flotation device.

B. In addition to the annual use fee imposed on a commercially owned and operated flotation device, there shall be imposed a user fee of One Dollar (\$1.00) per trip per flotation device to be paid by the individual renting the commercial flotation device. Said fee shall be paid into the Scenic Rivers Commission Revolving Fund. This per-trip user fee shall also be levied on privately owned canoes except as stated by subsection E of this section.

C. The Scenic Rivers Commission for the Flint Creek, Illinois River and those portions of Barren Fork Creek within Cherokee County Scenic River Areas shall promulgate rules and regulations for the collection and administration of the fees imposed pursuant to the provisions of this section in accordance with the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

D. The Oklahoma Tax Commission shall conduct an annual on-the-scene audit of all commercial flotation device businesses to determine if all fees required are being properly collected and reported. Such audit shall be conducted at least once each three (3) years.

E. Property owners adjacent to the rivers under the operating area of the Scenic Rivers Commission may own and operate one canoe for their individual use without paying the use fee. The Commission may contract with the Oklahoma Tourism and Recreation Department or the sheriff's office of Cherokee County, Adair County, or Delaware County for the ~~ranger~~ recreational enforcement personnel necessary to secure said scenic river area.

F. For the purposes of this section, the term commercial flotation device shall mean a canoe, boat, raft, inner tube or other similar device suitable for the transportation of a person or persons on waterways which is available for hire by the public for use on waterways within the operating area of the Oklahoma Scenic Rivers Commission.

SECTION 17. RECODIFICATION Section 2-134 of Title 47 of the Oklahoma Statutes, as amended by Section 4 of this act, shall be recodified as Section 1811.2b of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 18. REPEALER 47 O.S. 1991, Section 2-135, is hereby repealed.

SECTION 19. This act shall become effective July 1, 1993.

SECTION 20. 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.

44-1-5656 MCD