

SHORT TITLE: Public Safety; creating the Oklahoma State Department of Public Safety Commission; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 402

By: Wilkerson

AS INTRODUCED

An Act relating to the Department of Public Safety; amending 47 O.S. 1991, Sections 2-101, 2-102, and 2-103, which relate to the creating of Department of Public Safety, Commissioner of Public Safety and organization of the Department; removing Governor as chief officer of Department of Public Safety; deleting executive appointment of Commissioner of Public Safety; modifying language; modifying references; creating Oklahoma State Department of Public Safety Commission; specifying membership, term, and duties; establishing powers and duties of Commission; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 2-101, is amended to read as follows:

Section 2-101. ~~(a)~~ A. A department of the government of this state to be known as the "Department of Public Safety" is hereby created, and offices for the Department shall be furnished by the ~~Office of Public Affairs~~ Department of Central Services. The Department of Public Safety shall be under the control and supervision of the Commissioner of Public Safety, which office and position is hereby created.

The Commissioner shall have such powers and authority as may be granted by the provisions of the Uniform Vehicle Code, Section 1-101 et seq. of this title, or as may otherwise be provided by law.

~~(b) The Governor shall be the chief officer of the Department of Public Safety and the Commissioner of Public Safety shall execute the lawful orders of the Governor and shall be responsible to him for the operation and administration of said Department.~~ B. The ~~Commissioner~~ Department of Public Safety shall provide personal security and protection, transportation, and communications capabilities for the Governor, the Governor's immediate family, and the Lieutenant Governor. The ~~Commissioner~~ Department is authorized to provide necessary communications equipment to said persons even if said persons are not on state property or in state vehicles. The ~~Commissioner~~ Department of Public Safety is hereby authorized to purchase or lease and equip motor vehicles for the use of the Governor and Lieutenant Governor. The purchase or lease price of any such motor vehicles and equipment shall be paid from any appropriation for motor vehicles made to the Department of Public Safety.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 2-102, is amended to read as follows:

Section 2-102. A. The Department shall be under the control of ~~an executive officer~~ a person to be known as the "Commissioner of Public Safety", who shall be appointed by the ~~Governor with the advice and consent of the Senate~~ Oklahoma State Department of Public Safety Commission, created in Section 4 of this act.

The Commissioner of Public Safety shall be a professional law enforcement officer with ten (10) years' experience in the field of law enforcement or with five (5) years' experience in the field of law enforcement and a graduate of a four-year college with a degree in law enforcement administration, law, criminology or a related science.

Any vacancy in the office of the Commissioner of Public Safety shall be filled in the same manner as the original appointment is made.

Said Commissioner of Public Safety shall be allowed his actual and necessary telephone and telegraph expenses incurred in the performance of his official duties while away from his office.

B. The Commissioner of Public Safety, after his appointment and before entering upon the discharge of his duties, shall take and subscribe to the oath of office required by the Constitution. Bonding of the Commissioner of Public Safety and other employees of the Department will be provided under the provisions of Section 85.26 of Title 74 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 2-103, is amended to read as follows:

Section 2-103. The Commissioner of Public Safety shall organize the Department of Public Safety in such manner as he may deem necessary and proper to segregate and conduct the work of the Department, ~~and the~~. The Department shall be divided into five 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-103.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created an Oklahoma State Department of Public Safety 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:

1. One member for a term of one (1) year;
2. One member for a term of two (2) years;
3. One member for a term of three (3) years;
4. One member for a term of four (4) years;
5. One member for a term of five (5) years;
6. One member for a term of six (6) years; and
7. 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 and 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. Any district attorney, sheriff or chief of police failing to continue to serve in that capacity during the term of office on the Commission shall be required to vacate the Commission.

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.

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

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

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-103.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Department of Public Safety Commission shall have the following powers and duties and responsibilities:

1. To appoint the Commissioner of Public Safety, whose compensation shall be determined by the Legislature;

2. To hear any complaint against the Department of Public Safety 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, and

c. the Commission shall have limited access to pertinent Department files when investigating a complaint. The Commissioner of Public Safety 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 Commissioner of Public Safety 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 review any program of training for Highway Patrol Officers; and

6. To require the Commissioner of Public Safety to advise the Commission on the progress of the Department.

SECTION 6. This act shall become effective September 1, 1993.

44-1-0050 NP