

SHORT TITLE: Wildlife; creating Department of Wildlife and Wildlife Conservation Commission; repealing Sections 1, 2, 3 and 4 of Article XXVI of Constitution of State of Oklahoma; effective date; ballot title; filing.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 489

By: Williams (Don)

AS INTRODUCED

Directing the Secretary of State to refer to the people for their approval or rejection a proposed act relating to wildlife; amending 29 O.S. 1991, Sections 2-105, 2-107 and 2-108, which relate to the Oklahoma Wildlife Conservation Commission; modifying definitions; creating Department of Wildlife and Wildlife Conservation Commission; recording rules to be filed and become effective on certain date; making Department, Commission and officers legal successors of old Department, Commission and officers; transferring records, books, papers, information, property, funds, obligations, appropriations and duties; providing for commission district membership, appointment and removal; limiting term of office; providing for reimbursement of certain travel expenses; requiring oath of office and surety bond; providing functions, powers and duties of the Commission; providing for Commission meetings and place of meetings; creating office of Director of Wildlife Conservation; providing for removal, duties and compensation of Director; requiring Commission to determine qualifications of Director and employees prohibiting Commissioners from eligibility for employment; transfer duties and authority from former Director; providing for disposition of funds; repealing 29 O.S. 1991, Sections 3-101, 3-102, 3-103, 3-104 and 3-105, which relate to Department of Wildlife and Wildlife Conservation Commission; providing an effective date; repealing Sections 1, 2, 3 and 4 of Article XXVI of the Constitution of the State of Oklahoma; providing a ballot title; and directing filing.

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

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection at the next general election, as and in the manner provided for by law, Sections 2 through 13 of this act.

SECTION 2. AMENDATORY 29 O.S. 1991, Section 2-105, is amended to read as follows:

Section 2-105. "Commission" is that body created and authorized by ~~Article XXVI of the Oklahoma Constitution~~ Sections 5 through 13

of this act and refers to the Oklahoma Wildlife Conservation Commission.

SECTION 3. AMENDATORY 29 O.S. 1991, Section 2-107, is amended to read as follows:

Section 2-107. "Department" is that agency created and authorized by ~~Article XXVI of the Oklahoma Constitution~~ Sections 5 through 13 of this act, which has charge of managing Oklahoma's wildlife and refers to the Oklahoma Department of Wildlife Conservation.

SECTION 4. AMENDATORY 29 O.S. 1991, Section 2-108, is amended to read as follows:

Section 2-108. "Director" is that official heading the "Department" and refers to the Oklahoma Wildlife Conservation Director, ~~under Article XXVI of the Oklahoma Constitution~~ in Sections 5 through 13 of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-106 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a Department of Wildlife Conservation and a Wildlife Conservation Commission in and for the State of Oklahoma, and such Department shall be governed by the State Wildlife Conservation Director, which position is created in Section 8 of this act under such rules and policies as may be prescribed by the Commission. Such rules and amendments thereto, as promulgated by the Commission pursuant to the Administrative Procedures Act, Sections 250.1 et seq. of Title 75 of the Oklahoma Statutes, shall be filed and recorded in the Office of the Secretary of State.

B. The Department, Commission and the officers thereof, as herein set forth, are hereby made the legal successors of the Wildlife Conservation Department and Commission enacted by Section 1, Article XXVI of the Oklahoma Constitution and Section 3-101 of

Title 29 of the Oklahoma Statutes and such Department, Commission and the officers thereof are hereby empowered to take charge of records, books, papers, information, property, funds, obligations and appropriations now in the possession of the former Wildlife Department and Commission and shall perform all duties now enjoined upon such former Department and Commission.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-107 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall consist of one member from each of eight districts of the state, such districts to include the areas as follows:

District No. 1: Ottawa, Delaware, Craig, Mayes, Nowata, Rogers, Washington, Tulsa, Pawnee and Osage Counties.

District No. 2: Adair, Sequoyah, Cherokee, Wagoner, Muskogee, Haskell, McIntosh and Okmulgee Counties.

District No. 3: LeFlore, Latimer, Pittsburg, Atoka, Pushmataha, McCurtain, Choctaw, Bryan, Marshall, Carter and Love Counties.

District No. 4: Creek, Lincoln, Okfuskee, Seminole, Pottawatomie, Pontotoc, Hughes, Johnston and Coal Counties.

District No. 5: Logan, Oklahoma, Cleveland, McClain, Garvin, Murray and Payne Counties.

District No. 6: Blaine, Kingfisher, Canadian, Caddo, Grady, Comanche, Stephens, Jefferson and Cotton Counties.

District No. 7: Ellis, Dewey, Roger Mills, Custer, Beckham, Washita, Kiowa, Greer, Jackson, Harmon and Tillman Counties.

District No. 8: Cimarron, Texas, Beaver, Harper, Woodward, Woods, Major, Alfalfa, Grant, Garfield, Kay and Noble Counties.

B. Each Commissioner shall be appointed by the Governor of the State of Oklahoma, by and with the consent of the Oklahoma State Senate, and shall be removed only for cause, as provided by law for

the removal of officers not subject to impeachment, pursuant to Sections 1181 through 1197 of Title 22 of the Oklahoma Statutes.

C. The term of office of each such member shall be eight (8) years, and all current members shall continue to hold the office for the terms to which they were appointed pursuant to Section 3-102 of Title 29 of the Oklahoma Statutes. In the event the Governor fails to fill a vacancy within thirty (30) days following such vacancy, the remaining members of the Commission may appoint a qualified person to fill such vacancy for the unexpired portion of the term.

D. The members of the Commission shall receive no salary or other compensation for their services, other than travel expenses as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74.

E. Each member of the Commission shall take the oaths required of other state officers, and each shall execute a good and sufficient corporate surety bond in the sum of Ten Thousand Dollars (\$10,000.00) payable to the State of Oklahoma, and conditioned upon the faithful performance of duty, and the premium thereon shall be payable by the state.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-108 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. The Wildlife Conservation Commission shall constitute an advisory, administrative and policy making board with whom the Director shall consult regarding the administration of the affairs of the Department. The Commission is authorized and empowered to require from the Director complete reports and information relative to the affairs of the Department at such time and in such manner as the Commission may deem advisable. The Commission shall meet on the first Monday in each month in regular session and in such special sessions as may be called by the Chairman or a majority of the Commission. All regular sessions and all special sessions will be

held at the Commission headquarters at 1801 North Lincoln in Oklahoma City, Oklahoma.

B. In addition to the other powers and duties prescribed by law, the Commission shall:

1. Institute an affirmative action plan setting goals of hiring women and minorities throughout the agency;

2. Elect a chairperson, vice-chairperson, and secretary, who shall perform the duties required of them by the rules and regulations

of the Commission and the statutes and Constitution of the State of Oklahoma. Said chairperson, vice-chairperson, and secretary shall receive no extra compensation therefor;

3. Appoint a Director and determine the qualifications of said Director and all assistants and employees. A Commissioner shall not be eligible for employment in any position within the Department;

4. Prescribe rules, regulations, and policies for the transaction of its business and the control of the Department;

5. Develop and implement a plan to provide step raises for Commission employees so that discrepancies within pay levels within a pay grade will be eliminated;

6. Acquire by purchase, lease, gift, grants-in-aid from the Federal Government, or devise, waters, real property, and personal property incident to the exercise of its functions and to maintain, operate, and dispose of the same;

7. Acquire real property by condemnation only when the Attorney General or other counsel deems it an appropriate means of clearing title from willing or unavailable sellers;

8. Supervise the establishment, extension, improvement, and operation of the wildlife refuges, propagation areas or stations, public hunting areas, public fishing areas, game management areas, and fish hatcheries;

9. Prescribe the manner of cooperation with the Tourism and Recreation Department, colleges and universities within the state, other state agencies, any agency of the federal government, and any city, town, school district, or other agency or organization in study of conservation and propagation of wildlife and in the establishment, maintenance, and operation of visual educational facilities, recreational facilities, and hunting and fishing facilities, in the study and propagation of wildlife;

10. Supervise the letting of all contracts and purchases for the Department, with all purchases of personal property to be made through the Purchasing Division of the Department of Central Services;

11. Authorize all claims or expenditures prior to the incurring of payment therefor except as otherwise provided in this act;

12. Prescribe rules and regulations for the sale of all regular or special licenses;

13. Publicize and encourage the conservation and appreciation of wildlife and all other natural resources;

14. Regulate the seasons and harvest of wildlife;

15. Annually report to the Governor and the Legislature on the complete operation, activities, and plans of the Department, together with such recommendations for future activities as the Commission may deem to be in the best interests of the state; and

16. Provide the Governor and the Legislature with an annual inventory of all property and equipment.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-109 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the office of Director of Wildlife Conservation. The Director shall be appointed by a majority vote of the entire Commission, and shall be removed only for cause and after public hearing by the Commission. His duties and compensation for

his services shall be fixed by a majority vote of the entire Commission.

B. The Commission shall determine the qualifications of the Director, all assistants and employees. No Commissioner shall be eligible for employment as Director or otherwise.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-110 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Immediately upon the appointment, the Director shall become vested with the duties and powers of the management and control of the Department under such provisions, orders, rules and regulations as may be prescribed by the Commission, and in addition thereto shall have the following specific powers and duties:

1. To manage and control, under the supervision of the Commission, all wildlife refuges and real or personal properties which are held, operated or maintained by the Department.

2. To appoint and employ such assistants, department heads, rangers, clerical help and other employees as the Commission may deem necessary, subject to the approval of the Commission. The Director shall fix and determine the salaries and wages to be paid under and subject to the rules and regulations as promulgated by the Commission; and the Director shall supervise and direct all employees of either the Commission or the Department and may suspend, discharge, station or transfer them at any time that, in his judgment, the Commission or the state will be best served thereby.

3. To approve or disapprove and pay all legal claims for services rendered or expenses incurred by rangers and other employees of the Department in accordance with the schedules therefor and the rules and regulations previously adopted by the Commission.

4. To establish and maintain a proper system of bookkeeping and accounting under the supervision of the State Auditor and Inspector.

5. To promote and manage wildlife propagation by raising and distributing the same over the state at the direction of the Commission; to capture, propagate, transport, buy, sell or exchange any species of fish, game, furbearing animals and protected birds needed for stocking the lands or waters of the state; and to feed, provide and care for such fish, animals and birds.

6. To make a complaint and cause proceedings to be commenced against any person for violation of any of the laws for the conservation of wildlife with the sanction of the district attorney of the county in which such proceedings are brought, and shall not be required to give security for costs. The Director may also appear in behalf of the people in any court of competent jurisdiction in any prosecution for a violation of any of the laws for the protection of wildlife, and may prosecute the same in the same manner and with the same authority as the district attorney of the county where such proceedings are pending in cases where such attorney is unable to be present or refuses to prosecute such case.

7. To make emergency purchases of equipment, materials and supplies under rules and regulations prescribed by the Commission.

B. All duties and authority imposed or conferred upon the former Wildlife Conservation Director by any statute, rule or regulation of the Commission are hereby imposed and conferred upon the Director until such time as the Commission or the Legislature shall, by appropriate measure, change such duties or authority imposed by said Commission.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-111 of Title 29, unless there is created a duplication in numbering, reads as follows:

The fees, monies, or funds arising from the operation and transactions of said Commission and from the application and the

administration of the laws and regulations pertaining to the bird, fish, game and wildlife resources of the state and from the sale of property used to said purposes shall be expended and used by said Commission for the control, management, restoration, conservation and regulation of the bird, fish, game and wildlife resources of the State, including the purchase or other acquisition of property for said purposes, and for the administration of laws pertaining thereto and for no other purpose.

SECTION 11. REPEALER 29 O.S. 1991, Sections 3-101, 3-102, 3-103, 3-104 and 3-105, are hereby repealed.

SECTION 12. This act shall become effective December 1, 1994.

SECTION 13. REPEALER Sections 1, 2, 3 and 4 of Article XXVI of the Constitution of the State of Oklahoma, are hereby repealed.

SECTION 14. The Ballot Title for the proposed act and Constitutional amendment as set forth in SECTIONS 2 through 13, of this act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure would enact new laws. It would also repeal Sections 1, 2, 3 and 4 of Article XXVI of the State Constitution. It would repeal present laws that create the Department of Wildlife. It would also repeal present laws that create the Wildlife Conservation Commission. It would create this state agency and commission in the Oklahoma Statutes. If this measure is approved, this state agency and commission would no longer be a part of the State Constitution. This state agency and commission would be a part of the Oklahoma Statutes.

SHALL THE PROPOSED ACT BE APPROVED BY THE PEOPLE?

 / YES, FOR THE ACT

 / NO, AGAINST THE ACT

SECTION 15. The President Pro Tempore of the Senate, immediately after the passage of this act, shall prepare and file one copy thereof, including the Ballot Title set forth in Section 14 hereof, with the Secretary of State and one copy with the Attorney General.

44-1-0156

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