ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1099

By: Helton and Weedn of the Senate

and

Wells of the House

(Peace officers - providing for certification testing and recertification testing of canine teams - authorizing the Council on Law Enforcement Education and Training to employ attorneys - creating the Peace Officer Revolving Fund - codification - effective date)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

An Act relating to peace officers; amending 70 O.S. 1991, Section 3311, as last amended by Section 1, Chapter 151, O.S.L. 1993 (70 O.S. Supp. 1997, Section 3311), which relates to the Council on Law Enforcement Education and Training; modifying duties; modifying eligibility requirements for certain persons; establishing criteria for officer suspensions; establishing fee for retesting; amending 70 O.S. 1991, Section 3311.4, which relates to training requirements; modifying number of training hours required annually; amending 74 O.S. 1991, Section 18c, as last amended by Section 1, Chapter 296, O.S.L. 1997 (74 O.S. Supp. 1997, Section 18c), which relates to employment of attorneys; adding to list of agencies exempted; creating the Peace Officer Revolving Fund;

authorizing expenditures from the fund; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 70 O.S. 1991, Section 3311, as last amended by Section 1, Chapter 151, O.S.L. 1993 (70 O.S. Supp. 1997, Section 3311), is amended to read as follows:

Section 3311. A. There is hereby re-created a Council on Law Enforcement Education and Training. The Council shall be composed of five (5) police or peace officers, one selected by each of the following: the Court of Criminal Appeals, the Commissioner of Public Safety, the Board of Directors of the Oklahoma Sheriffs and Peace Officers Association, the Board of Directors of the Fraternal Order of Police and the Governor. The Director selected by the Council shall be an ex officio member of the Council and shall act as Secretary. The Council on Law Enforcement Education and Training shall select a ~~chairman~~ chair and ~~vice-chairman~~ vice-chair from among its members. Members of the Council on Law Enforcement Education and Training shall not receive a salary for duties performed as members of the Council, but shall be reimbursed for their actual and necessary expenses incurred in the performance of Council duties pursuant to the provisions of the State Travel Reimbursement Act~~, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes~~.

B. The Council on Law Enforcement Education and Training is hereby authorized and directed to:

1. Appoint a larger Advisory Council to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to upgrading Oklahoma law enforcement to professional status.

2. Promulgate rules and regulations with respect to such matters as certification, revocation, suspension and withdrawal of certification, minimum courses of study, testing and test scores, attendance requirements, equipment and facilities, minimum qualifications for instructors, minimum standards for basic and advanced in-service courses, and seminars for Oklahoma police and peace officers.

3. Authorize research, basic and advanced courses, and seminars to assist in program planning directly and through subcommittees.

4. Authorize additional staff and services necessary for program expansion.

5. Recommend legislation necessary to upgrade Oklahoma law enforcement to professional status.

6. Establish policies and regulations concerning the number, geographic and police unit distribution, and admission requirements of those receiving tuition or scholarship aid available through the Council. Such waiver of costs shall be limited to duly appointed members of legally constituted local, county, and state law enforcement agencies on the basis of educational and financial need.

7. Appoint a Director and an Assistant Director to direct the staff, inform the Council of compliance with the provisions of this section and perform such other duties imposed on the Council by law.

8. Enter into contracts and agreements for the payment of classroom space, food, and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction approved or conducted by the Council. Such expenses may be paid directly to the contracting agency or business establishment. The food and lodging expenses for each law enforcement officer shall not exceed the authorized rates as provided for in the State Travel Reimbursement Act.

9. Certify ~~canines~~ canine teams, consisting of a dog and a handler working together as a team, trained to detect controlled dangerous substances.

C. Failure of the Legislature to appropriate necessary funds to provide for expenses and operations of the Council on Law Enforcement Education and Training shall not invalidate other provisions of this section relating to the creation and duties of the Council.

D. 1. No person shall be eligible to complete a basic police course approved by the Council until the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported to the submitting agency that such person has no felony record, and the employing agency has reported to the Council that such person has undergone psychological testing as provided for in paragraph 2 of this subsection, and ~~after the effective date of this act~~ the applicant has certified ~~he~~ that the applicant has a high school diploma or a GED equivalency certificate and is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude.

2. No person shall be certified as a police or peace officer in this state unless the employing agency has reported to the Council that:

a. the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported that such person has no record of a conviction of a felony or crime involving moral turpitude,

b. such person has undergone psychological evaluation such as the Minnesota Multiphasic Personality Inventory, the California Personality Inventory, or other psychological instrument approved by the Council on Law Enforcement Education and Training. The psychological instrument utilized shall be evaluated

by a psychologist licensed by the State of Oklahoma, and the employing agency shall certify to the Council that the evaluation was conducted in accordance with this provision and that the employee/applicant is suitable to serve as a peace officer in the State of Oklahoma. Nothing herein shall preclude a psychologist licensed in the state from employing additional psychological techniques to assist the employing agency's determination of the employee/applicant's suitability to serve as a peace officer in the State of Oklahoma. Any person found not to be suitable for employment or certification by the Council shall not be employed, retained in employment as a peace officer, or certified by the Council for at least one (1) year, at which time the employee/applicant may be re-evaluated by a psychologist licensed by the State of Oklahoma. This section shall also be applicable to all reserve peace officers in the State of Oklahoma, ~~and~~

c. such person possesses a high school diploma or a GED equivalency certificate, provided this requirement shall not affect those persons who are already employed as a police or peace officer ~~on the effective date of this section~~ prior to November 1, 1985, and

d. such person is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude,

and the Council has determined that such person has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies and not less than three hundred (300) hours for full-time salaried police or peace officers from the Council or

curriculum or course of study approved by the Council. Said training shall include training in crime and drug prevention, crisis intervention, and youth and family intervention techniques.

3. Every person who has not been certified as a police or peace officer and is duly appointed or elected as a police or peace officer shall hold such position on a temporary basis only, and shall, within one (1) year from the date of appointment or taking office, qualify as required in this subsection or forfeit such position. In computing the one (1) year, all service shall be cumulative from date of first appointment or taking office as a police or peace officer with any department in this state. The Council may extend the time requirement specified in this paragraph for good cause as determined by the Council. An elected police or peace officer shall be eligible to enroll in a basic police course in accordance with this subsection upon ~~his~~ election. A duty is hereby imposed upon the employing agency to withhold payment of the compensation or wage of said unqualified officer. If the police or peace officer fails to forfeit ~~his~~ the position or the employing agency fails to require the officer to forfeit ~~his~~ the position, the district attorney shall file the proper action to cause the forfeiting of such position. The district court of the county where the officer is employed shall have jurisdiction to hear the case.

4. The Council may certify officers who have completed a course of study in another state deemed by the Council to meet standards for Oklahoma peace officers.

5. For purposes of this section, a police or peace officer is defined as a full-time duly appointed or elected officer who is paid for working more than twenty-five (25) hours per week and whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, and enforce laws and ordinances of this state, or any political subdivision thereof; provided elected sheriffs and their deputies and elected and appointed chiefs of

police shall meet the requirements of this subsection within the first twelve (12) months after assuming the duties of the office to which they are elected or appointed; provided further that this section shall not apply to persons designated by the Director of the Department of Corrections as peace officers pursuant to Section 510 of Title 57 of the Oklahoma Statutes.

E. No person shall be certified as a police or peace officer by the Council or be employed by the state, a county, a city, or any political subdivision thereof, who has been convicted of a felony or a crime involving moral turpitude unless ~~he has been granted~~ a full pardon has been granted by the proper agency; however, any person who has been trained and certified by the Oklahoma Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of ~~the effective date of this act~~ November 1, 1985, shall not be subject to the provisions of this subsection for convictions occurring prior to ~~the effective date of this act~~ November 1, 1985.

F. Every person employed as a police or peace officer in this state shall be fingerprinted by the employing law enforcement agency ~~employing such person~~. One set of said impressions shall be mailed to the Oklahoma State Bureau of Investigation and one set to the Federal Bureau of Investigation, Washington, D.C. within ten (10) days from the initial date of employment.

G. 1. The Council is hereby authorized to provide to any employing agency the following information regarding a person who is or has applied for employment as a police or peace officer of such employing agency:

a. Oklahoma State Bureau of Investigation and Federal Bureau of Investigation reports,

b. administration of the psychological tests provided for herein,

c. performance in the course of study or other basis of certification,

d. previous certifications issued, and

e. any administrative or judicial determination denying certification.

2. An employing agency shall not be liable in any action arising out of the release of contents of personnel information relevant to the qualifications or ability of a person to perform the duties of a police or peace officer when such information is released pursuant to written authorization for release of information signed by such person and is provided to another employing agency which has employed or has received an application for employment from such person.

H. A law enforcement agency employing police or peace officers in this state shall report the hiring, resignation, or termination for any reason of a police or peace officer to the Council at a time established by the Council. Failure to comply with the provisions of this subsection may disqualify a law enforcement agency from participating in training programs sponsored by the Council.

I. As used in this section, "employing agency" means a political subdivision or law enforcement agency which either has employed or received an employment application from a person who, if employed, would be subject to this section.

J. 1. Revocation of certification proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant. The sole issue to be determined at the hearing shall be whether the person has been convicted of a felony or crime involving moral turpitude.

2. Suspension of certification proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant. The sole issue to be determined at the hearing shall be whether the person has entered a

plea of guilty or nolo contendere to a felony or crime involving moral turpitude and is currently participating in a deferred sentence which has not been completed.

3. Upon the filing of the verified complaint, the Council's Executive Director shall conduct a preliminary investigation to determine~~, in his judgment,~~ whether:

a. there is reason to believe the person has been convicted of a felony or crime involving moral turpitude, or

b. there is reason to believe the person has entered a plea of guilty or nolo contendere to a felony or a crime involving moral turpitude and is currently participating in a deferred sentence agreement.

4. If the Executive Director does not find there is reason to believe the person has been so convicted, or has entered a plea of guilty or nolo contendere to a felony or crime involving moral turpitude and is currently participating in a deferred sentence agreement, the person shall remain certified. The proceedings for the revocation or suspension of certification shall be in accordance with ~~Article~~ Articles I and II of the Administrative Procedures Act~~, Section 250.3 through 308.2 of Title 75 of the Oklahoma Statutes and Article II of the Administrative Procedures Act, Section 309 through 323 of Title 75 of the Oklahoma Statutes~~.

K. 1. The Council shall revoke the certification of any person upon determining that such person has been convicted of a felony or crime involving moral turpitude; provided, that if the conviction has been reversed, vacated or otherwise invalidated by an appellate court, such conviction shall not be the basis for revocation of certification; provided further, that any person who has been trained and certified by the Oklahoma Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of ~~the effective date of this act~~ November 1, 1985, shall

not be subject to the provisions of this subsection for convictions occurring prior to ~~the effective date of this act~~ November 1, 1985.

2. The Council shall suspend the certification of any person upon determining that such person has entered a plea of guilty or nolo contendere to a felony or crime involving moral turpitude and is currently participating in a deferred sentence agreement; provided, that if the plea of guilty or nolo contendere has been withdrawn, and the case dismissed or vacated, such plea shall not be the basis for suspension of certification; provided further, that any person who has been trained and certified by the Council and is actively employed as a full-time peace officer shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985.

L. 1. Every canine team in the state trained to detect controlled dangerous substances shall be certified, by test, in the detection of such controlled dangerous substances and shall be recertified annually so long as the canine is used for such detection purposes. The certification test and annual recertification test provisions of this subsection shall not be applicable to canines that are owned by a law enforcement agency and that are certified and annually recertified in the detection of controlled dangerous substances by the United States Custom Service.

2. The fee for the certification test shall be Two Hundred Dollars ($200.00) and the annual recertification test fee shall be One Hundred Dollars ($100.00) per canine team. A retest fee of Fifty Dollars ($50.00) will be charged if the team fails the test. No such fee shall be charged to any local, state or federal government agency. The fees provided for in this paragraph shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

M. All tribal police officers of any Indian tribe or nation which has entered into a cross-deputization agreement with the State

of Oklahoma or any political subdivision of the State of Oklahoma pursuant to the provisions of Section 1221 of Title 74 of the Oklahoma Statutes shall be eligible to enroll in and receive the training provided for in this section under the same terms and conditions that such training is made available to members of the law enforcement agencies of the State of Oklahoma and its political subdivisions, except that a fee of Three Dollars and sixteen cents ($3.16) per hour of training shall be charged for all training provided pursuant to this subsection. Such fees shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

N. If an employing law enforcement agency in this state has paid the salary of a person while that person is completing in this state a basic police course approved by the Council and if within one (1) year after certification that person resigns and is hired by another law enforcement agency in this state, the second agency or the person receiving the training shall reimburse the original employing agency for the salary paid to the person while completing the basic police course by the original employing agency.

SECTION 2. AMENDATORY 70 O.S. 1991, Section 3311.4, is amended to read as follows:

Section 3311.4 A. Beginning January 1, 1991, and annually thereafter, every active full-time peace officer, certified by the Council on Law Enforcement Education and Training pursuant to Section 3311 of this title, shall attend and complete a minimum of ~~eight (8)~~ sixteen (16) hours of continuing law enforcement training accredited or provided by the Council. The Council shall promulgate rules to enforce the provisions of this section and shall enter into contracts and agreements for the payment of classroom space, training, food, and lodging expenses as may be necessary for law enforcement officers attending such training in accordance with subsection B of Section 3311 of this title. Such training and

seminars shall be conducted in all areas of this state at vocational-technical schools, institutions of higher education, or other approved sites.

B. Every inactive full-time peace officer, certified by the Council, shall be exempt from these requirements during the inactive status. Upon re-entry to full-time active status, the peace officer shall be required to comply with paragraph A of this section. If a certified peace officer has been inactive for five (5) or more years, the officer must complete forty (40) hours of refresher training as prescribed by the Council, within one (1) year of employment.

C. Any active full-time certified peace officer, who fails to meet the annual training requirements specified in this section, shall be subject to having the certification of the peace officer suspended, after having been given written notice of noncompliance and a reasonable time, as defined by the Council, to comply with the provisions of this section. A peace officer shall not be employed in the capacity of a peace officer during any period of suspension. The suspension period shall be for a period of time until the officer files a statement attesting to full compliance with the provisions of this section. Any officer whose certification is suspended pursuant to this section may request a hearing with the Council. Said hearings shall be governed by the Administrative Procedures Act except that the affected officer has the burden to show the Council why the Council should not have the certification of the officer suspended.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 18c, as last amended by Section 1, Chapter 296, O.S.L. 1997 (74 O.S. Supp. 1997, Section 18c), is amended to read as follows:

Section 18c. A. 1. Except as otherwise provided by this subsection, no state officer, board or commission shall have

authority to employ or appoint attorneys to advise or represent said officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the Corporation Commission, the Council on Law Enforcement Education and Training, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the Board of Corrections, the Oklahoma Health Care Authority, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission, the Oklahoma Energy Resources Board, the Department of Central Services, the Oklahoma Merit Protection Commission, the Office of Personnel Management, the Oklahoma Water Resources Board, the Department of Labor, the State Department of Agriculture and the Office of Juvenile Affairs.

3. The provisions of paragraph 2 of this subsection shall not be construed to authorize the Office of Juvenile Affairs to employ any attorneys that are not specifically authorized by law.

4. All the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that:

a. the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title, and

b. liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court.

B. At the request of any state officer, board or commission, except the Corporation Commission, the Council on Law Enforcement Education and Training, the Board of Managers of the State Insurance

Fund, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity. At the request of any such state officer, board or commission, the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, if after investigation the Attorney General is convinced there is sufficient legal merit to justify the action.

C. Any officer, board, or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of the Governmental Tort Claims Act.

D. Nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state specified in subsection B of this section, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3311.7 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a fund for the Council on Law Enforcement Education and Training to be designated the "Peace Officer Revolving Fund".

B. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received from public, private, state or federal sources, grants or award monies, to include any state matching funds required by the federal government which are not designated for deposit in the C.L.E.E.T.

Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

C. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Council on Law Enforcement Education and Training for the purpose of fulfilling any grant or award provisions, providing special training programs and attendant equipment and supplies, and providing facility construction and furnishings and/or rental of facilities for special training programs.

D. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 5. This act shall become effective November 1, 1998."

Passed the House of Representatives the 30th day of March, 1998.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate