STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2746 By: Hamilton

COMMITTEE SUBSTITUTE

An Act relating to the Corporation Commission; authorizing the Commission to employ expert witnesses for certain matters; exempting expert witness contracts from the Oklahoma Central Purchasing Act; providing for documentation; amending 17 O.S. 1991, Section 31, which relates to Senior Utility Rate Analyst position; increasing the number of Senior Utility Rate Analysts the Commission is authorized to employ; modifying qualifications and duties; amending 17 O.S. 1991, Section 162, which relates to assignment of Corporation Commission employees as examiners; changing designation of examiners to administrative law judge; amending 52 O.S. 1991, Section 149, as amended by Section 2, Chapter 315, O.S.L. 1994 (52 O.S. Supp. 1997, Section 149), which relates to the oil and gas Conservation Division of the Corporation Commission; modifying the duties of the Conservation Division; modifying employment requirements for certain employees; creating employee positions; eliminating certain employee positions; removing provision relating to employment of certain employees; amending 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 20, Chapter 2, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-5.5), which relates to the unclassified service; adding certain positions within the Corporation Commission to the unclassified service; providing for codification; 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 18 of Title 17, unless there is created a duplication in numbering, reads as follows:

The Corporation Commission is authorized to employ expert witnesses to prepare and present testimony in matters pending before the Commission or in matters concerning the Commission pending in other state or federal forums. The selection and compensation of expert witnesses by the Corporation Commission shall be exempt from the Oklahoma Central Purchasing Act. For expert witnesses selected pursuant to this section, the Commission shall document, in writing, the justification for choosing the person selected. The justification shall include the number of expert witnesses considered and the cost to the state. Such documentation shall be available for public inspection and maintained for a period of not less than five (5) years.

SECTION 2. AMENDATORY 17 O.S. 1991, Section 31, is amended to read as follows:

Section 31. The Corporation Commission shall employ ~~one (1)~~ two Senior Utility Rate ~~Analyst~~ Analysts. Said ~~position~~ positions shall be in the unclassified service and shall have a maximum annual salary, payable monthly, which shall be specified in the Commission's annual appropriation bill. ~~Any person filling said position shall possess either:~~

~~A. A bachelor's degree or advanced degree in the area of accounting, business administration, economics, engineering, finance, law, or equivalent and a minimum of two (2) years' experience in the planning, preparation, or conduct of utility rate proceedings on behalf of utility applicants, commission staff, or intervenors in proceedings involving the determination of utility rates for electric, gas, water, or telephone utilities, or~~

~~B. A minimum of five (5) years' experience in the planning, preparation, or conduct of utility rate proceedings on behalf of utility applicants, commission staff, or intervenors in proceedings involving the determination of utility rates for electric, gas, water, or telephone utilities.~~

~~The duties of said employee shall include the organization, planning and conducting of rate case analysis activities required on behalf of the Oklahoma Corporation Commission for gas,~~

~~electric, water, and telephone utilities~~ The qualifications for the Senior Utility Rate Analyst positions shall be determined by the Commission.

SECTION 3. AMENDATORY 17 O.S. 1991, Section 162, is amended to read as follows:

Section 162. The Corporation Commission is authorized and empowered to assign persons in its regular employ as ~~examiners, who shall be designated as referee, and~~ administrative law judges who shall have power to administer oaths, examine witnesses, and receive evidence and report the same to the Corporation Commission, under such rules ~~and regulations~~ as the Commission may adopt~~; provided that such~~. A person or persons so assigned shall not be entitled to any compensation other than the regular salary for the position for which they may be regularly employed for performing the services of ~~examiner~~ administrative law judge.

SECTION 4. AMENDATORY 52 O.S. 1991, Section 149, as amended by Section 2, Chapter 315, O.S.L. 1994 (52 O.S. Supp. 1997, Section 149), is amended to read as follows:

Section 149. There is hereby created within the Corporation Commission of Oklahoma, herein called "Commission", a Conservation Division, the duties and functions of which, subject to the supervision and direction of the Commission, shall be to aid the Commission in the administration and performance of the powers, duties and functions of the Commission with respect to oil and gas conservation and the prevention of pollution resulting from oil and gas production~~,~~ and transportation~~, and refining operations~~. The Conservation Division so created shall consist of the following personnel:

1. A Director of Conservation, who, in addition to the duties and functions now or hereafter prescribed for such officer in this title, shall have overall responsibility, supervision and direction of the activities of the Conservation Division and the administration and enforcement of the rules, regulations and orders of the Commission relating to oil and gas conservation and the prevention of pollution. The Director of Conservation shall be a graduate of an accredited college or university with a

Bachelor's Degree and shall have five (5) years' experience in a supervisory capacity in an administrative or personnel management position;

2. A Manager of Pollution Abatement, whose duties and functions shall be to direct and supervise the activities of the Conservation Division with respect to the prevention of pollution. The Manager of Pollution Abatement shall be a graduate of an accredited college or university with a Bachelor of Science Degree in petroleum, civil or mechanical engineering, geology, environmental science or a related field and shall have at least five (5) years' practical or regulatory experience in the production of oil and gas, three (3) years of which must have been in an administrative or supervisory capacity;

3. A Manager of Field Operations, whose duties and functions shall be to direct, supervise and coordinate the activities of the district offices and all the field activities of the Conservation Division with respect to both oil and gas conservation and the prevention of pollution. The Manager of Field Operations shall be a graduate of an accredited college or university with a Bachelor of Science Degree in ~~Petroleum Engineering~~ petroleum, civil or mechanical engineering, geology, environmental science or a related field and at least five (5) years' practical or regulatory experience in the production of oil and gas, three (3) years of which must have been in an administrative or supervisory capacity or~~, in the alternative, shall have at least ten (10) years' experience in the production of oil and gas, of which five (5) years shall be in a supervisory capacity~~ an equivalent combination of education and experience, substituting one (1) additional year of qualifying experience for each year of the required degree;

4. A Deputy Director of Conservation, whose duties and functions shall be the administrative management of the various offices of the Conservation Division including, but not limited to, office services and procedures, coordinating personnel administration, processing of expense statements, budget preparation and cost accounting, procurement and use of supplies, files, records, and other professional and clerical services,

computer services, with other divisions of the Commission and providing technical assistance as necessary. The Deputy Director of Conservation shall be a graduate of an accredited college or university with a ~~Bachelor's~~ Bachelor of Science Degree in petroleum, civil or mechanical engineering, geology, environmental science or a related field and shall have five (5) years' practical or regulatory experience in ~~a~~ the production of oil and gas, three (3) years of which must have been in an administrative or supervisory capacity ~~in an administrative or personnel management position~~;

5. A ~~Senior Engineer and a Senior Geologist~~ Manager of Technical Services, whose duties and functions shall be to ~~provide the Commission, the Director of Conservation, and~~ direct, supervise and coordinate the technical activities of the Conservation Division ~~with engineering, geological and other technical advice and assistance as needed~~ with respect to oil and gas conservation ~~and the~~, prevention of waste and prevention of pollution~~, including participation in hearings before the Commission or Administrative Law Judges~~. The ~~Senior Engineer~~ Manager of Technical Services shall be a graduate of an accredited college or university, with a Bachelor of Science Degree in ~~Petroleum Engineering~~ petroleum, civil or mechanical engineering, geology, environmental science or a related field and at least five (5) years' practical or regulatory experience ~~as a petroleum engineer. The Senior Geologist shall be a graduate of an accredited college or university, with a Bachelor of Science Degree in Geology and shall have five (5) years' practical experience in petroleum geology~~ in the production of oil and gas, three (3) years of which must have been in an administrative or supervisory capacity;

6. ~~Staff Engineers and Geologists to serve on the staff and as assistants to the Senior Engineer. The Staff Engineers and Geologists shall be graduates of accredited colleges or universities, with Bachelor of Science Degrees in Engineering or Geology, as the case may be, and have a knowledge of petroleum engineering or geology and its application;~~

~~7.~~ District Managers, whose duties and functions shall be to supervise and direct the district offices and all field activities of the Conservation Division, including both oil and gas conservation and the prevention of pollution in the respective districts to which they are assigned. A District Manager shall be a graduate of an accredited college or university with a Bachelor of Science Degree in ~~Petroleum Engineering~~ petroleum, civil or mechanical engineering, geology, environmental science or a related field and shall have five (5) years' practical or regulatory experience in the production of oil and gas, three (3) years of which must have been in an administrative or supervisory capacity or~~, in lieu of a college degree, shall have ten (10) years'~~ an equivalent combination of education and experience, substituting one (1) year of practical or regulatory experience in the production of oil and gas~~, of which five (5) years' experience shall be in a supervisory capacity~~ for each year of the required degree;

~~8.~~ 7. Assistant District Managers, whose duties and functions shall be to supervise, direct and coordinate the activities of field and office personnel and who shall be under the supervision of the District Managers. An Assistant District Manager shall be a graduate from an accredited college or university with a Bachelor of Science degree in petroleum, civil or mechanical engineering, geology, environmental science or related field and shall have ~~three (3)~~ four (4) years' practical or regulatory experience in the production of oil and gas, one (1) year of which must have been in a supervisory capacity or~~, in lieu of a college degree, shall have seven (7) years'~~ an equivalent combination of education and experience, substituting one (1) year of practical or regulatory experience in the production of oil and gas ~~of which three (3) years', experience shall be in a supervisory capacity~~ for each year of the required degree;

~~9.~~ 8. Oil and Gas Field Inspectors, whose duties and functions, subject to the direction and supervision of the Oil and Gas ~~Inspection~~ Field Inspector Supervisor of the respective district to which they are assigned, shall be to make inspections

and investigations, witness tests, and generally serve as enforcement officers and representatives of the Commission in the administration and enforcement of the rules, regulations and orders of the Commission relating to both oil and gas conservation and the prevention of pollution. An Oil and Gas Field Inspector shall ~~be a high school graduate with at least five (5)~~ have four (4) years' practical experience in oil field production and drilling operations ~~or equivalent training and experience with the Commission~~;

~~10.~~ 9. Assistant Manager of Field Operations, who under the general direction of the Manager of Field Operations, shall direct, supervise and coordinate office personnel and the activities of the district office and other field programs. An Assistant Manager of Field Operations shall be a graduate of an accredited college or university with a Bachelor of Science Degree in ~~Petroleum Engineering~~ petroleum, civil or mechanical engineering, geology, environmental science or related fields and shall have five (5) years' practical or regulatory experience in the production of oil and gas or~~, in lieu of a college degree, shall have ten (10) years'~~ an equivalent combination of education and experience, substituting one (1) year of practical or regulatory experience in the production of oil and gas~~, of which five (5) years' experience shall be in a supervisory capacity~~ for each year of the required degree;

~~11.~~ 10. Oil and Gas Safety Specialist, who, under the general direction of the Assistant District Manager of the respective district to which they are assigned, shall be trained in Hydrogen Sulfide Gas control and safety and in hazardous chemical detection and shall investigate incidents of public safety concerns. An Oil and Gas Safety Specialist shall have five (5) years' regulatory experience ~~as an Oil and Gas Field Inspector with the Corporation Commission and be fully competent in well control and blowout prevention for drilling operations, in Hydrogen Sulfide control and safety and in hazardous chemical detection~~ in the production of oil and gas or a Bachelor of Science Degree in Industrial

Safety and one (1) year of regulatory experience in the production of oil and gas;

~~12.~~ 11. Senior Field Inspector, who, under the general direction ~~or~~ of the Oil and Gas Field Inspector Supervisor of the respective district to which they are assigned, shall perform detailed inspections and investigations and provide expert testimony concerning the enforcement of rules of the Corporation Commission. A Senior Field Inspector shall have ~~five (5)~~ four (4) years' practical and two (2) years' regulatory experience in the production of oil and gas ~~industry or shall have at least three (3) years' experience as an Oil and Gas Field Inspector with the Corporation Commission~~; and

~~13.~~ 12. Oil and Gas Inspector Supervisor, who, under the supervision of the Assistant District Manager of the respective district to which they are assigned, shall supervise and perform field inspection activities related to tests, surveys and investigations of oil and gas production, pollution control and environmental protection. An Oil and Gas Inspector Supervisor shall ~~be a high school graduate with at least five (5)~~ have four (4) years' practical and three (3) years' regulatory experience in the production of oil ~~field production and drilling operations or equivalent training and experience with the Commission~~ and gas~~;~~

~~14. A Senior Statistician and Assistant Statisticians, whose duties and functions shall be the procurement, compilation, analysis and preparation of reports and schedules containing statistics necessary or desirable to the administration or performance of the powers, duties and functions of the Commission and of the Conservation Division with respect to oil and gas conservation and the prevention of pollution. The Senior Statistician shall be a graduate of an accredited college or university with a Bachelor's Degree in Accounting, Business Administration, Mathematics or the sciences and at least two (2) years' experience in the processing of large volumes of data with respect to oil and gas operations. An Assistant Statistician shall have at least a high school education and an aptitude and experience in working with the tabulation of numbers; and~~

~~15. Secretaries, who shall be qualified to accurately take and transcribe dictation and perform normal duties performed by a secretary; stenographer-clerks who shall be qualified to do typing, filing, handling of mail, and the routine clerical duties of an office; file clerks or librarians who shall be qualified to keep and maintain the central files and records of the Division; and duplicating machine operators.~~

The employees of the Commission who at the effective date of this act are holding positions or performing functions corresponding to those herein prescribed but who do not have the qualifications required by this act for such positions or functions shall not, for that reason, be disqualified to continue in such positions or to perform such functions, but at such time as there is a vacancy in such position it shall be filled by an employee having the qualifications herein prescribed.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 20, Chapter 2, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-5.5), is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified 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. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided. Provided any person unclassified pursuant to this paragraph on April 11, 1995, in a capacity that does not meet the

criteria listed in this paragraph may continue to be employed in such status until July 1, 1995;

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. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person;

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 may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety 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. For purposes of this act a student shall be considered a regularly enrolled student if he or she is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, and such student is regularly attending classes during that semester of employment, or

c. 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 either the House of Representatives or the State Senate or the Legislative Service Bureau;

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

a. Administrative aides, and executive secretaries to the Commissioners,

b. Directors of all the divisions, personnel managers and comptrollers,

c. General Counsel,

d. Public Utility Division Chief Engineer,

e. Public Utility Division Chief Accountant,

f. Public Utility Division Chief Economist,

g. Public Utility Division Deputy Director, ~~and~~

h. Secretary of the Commission,

i. Deputy Conservation Director,

j. Manager of Pollution Abatement,

k. Manager of Field Operations,

l. Manager of Technical Services,

m. Public Utility Division Chief of Telecommunications, and

n. Director of Information Services;

16. 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;

17. 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,

d. Executive Secretary to Director, and

e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

a. State Comptroller,

b. Information Services Divisions Manager,

c. Network Manager, and

d. Network Technician;

19. Employees of the Oklahoma Development Finance Authority;

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

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

22. 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 subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

a. the Carl Albert Internship Program Coordinator, and

b. one Administrative Assistant;

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

a. two Deputy Commissioners,

b. Executive Secretary to the Commissioner,

c. Chief of Staff, and

d. two Administrative Assistants;

25. The State Bond Advisor and his employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

a. Associate Director,

b. Secretary to the Associate Director, and

c. Assistant to the Executive Director;

27. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;

28. The officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel

System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the three Administrative Service Assistant positions;

31. The Oklahoma State Bureau of Investigation employee occupying the Special Investigator position and one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Governor's Representative of the Oklahoma Highway Safety Office of the Oklahoma Department of Public Safety who shall be appointed by the Governor;

33. Oklahoma Department of Transportation employee occupying the position of the Director of the Oklahoma Aeronautics Commission;

34. Commissioners of the Land Office employees occupying the following positions:

a. Director of the Investments Division,

b. Assistant Director of the Investments Division, and

c. one Administrative Assistant;

35. Within the Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

a. two Narcotics Agent positions, provided, authorization for such positions shall be terminated when federal support for the positions by the Gang Intelligence/Enforcement Program is discontinued, and

b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

36. A maximum of one hundred (100) positions, within full-time-employee limitations of the Oklahoma Military Department, to work in any of the Department of Defense directed youth programs or the State of Oklahoma Juvenile Justice Youth Programs. The authorization for such positions shall be terminated if the federal funding for the positions is discontinued;

37. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

a. one Oversight Specialist and one Community Development Planner,

b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and

c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

38. The following positions and employees of the Department of Central Services:

a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,

b. the Director of Central Purchasing, and

c. one Alternate Fuels Administrator;

39. One Environmental Specialist I within the Water Resources Board;

40. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

a. Physical Therapists,

b. Physical Therapist Assistants,

c. Occupational Therapists,

d. Certified Occupational Therapist Aides, and

e. Speech Pathologists;

41. The Development Officer within the Oklahoma Historical Society;

42. State Department of Agriculture personnel occupying the following positions:

a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,

b. Agricultural Marketing Coordinator III, and

c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the State Department of Agriculture during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees; and

43. The Contracts Administrator within the Oklahoma State Employees Benefits Council.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

1. Licensed medical doctors, osteopathic physicians, dentists, and psychologists;

2. Certified public accountants;

3. Licensed attorneys; and

4. Licensed veterinarians.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

SECTION 6. This act shall become effective July 1, 1998.

SECTION 7. 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.

46-2-10314 JB