

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)
2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1042

By: Milacek and Long of the
Senate

and

Reese of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Horse Racing Commission; amending 3A O.S. 1991, Sections 201, as amended by Section 3, Chapter 364, O.S.L. 1992, 203.1 and 203.4, as last amended by Section 1, Chapter 305, O.S.L. 1997 (3A O.S. Supp. 1997, Sections 201 and 203.4), which relate to the Oklahoma Horse Racing Commission; amending 74 O.S. 1991, Section 150.5, as amended by Section 5, Chapter 227, O.S.L. 1994 (74 O.S. Supp. 1997, Section 150.5), which relates to investigations; amending 25 O.S. 1991, Section 304, as amended by Section 1, Chapter 282, O.S.L. 1993 (25 O.S. Supp. 1997, Section 304), which relates to the Oklahoma Open Meeting Act; requiring certain investigation and review prior to Senate approval of appointment; providing for confidentiality and disposition of report; making investigation mandatory; prohibiting certain persons from receiving certain purse supplements, stakes, rewards, awards, or monies; defining term; exempting certain actions from requirements of the Oklahoma Open Meeting Act; requiring certain compliance with Administrative Procedures Act; modifying definition; eliminating gender distinction; clarifying reference; and providing an effective date.

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

SECTION 1. AMENDATORY 3A O.S. 1991, Section 201, as amended by Section 3, Chapter 364, O.S.L. 1992 (3A O.S. Supp. 1997, Section 201), is amended to read as follows:

Section 201. A. There is hereby created the Oklahoma Horse Racing Commission, which shall consist of seven (7) members appointed by the Governor with the advice and consent of the Senate. One member shall be appointed from each congressional

district, and one member who shall be experienced in the horse industry shall be appointed at large.

B. To be eligible for appointment to the Commission, a person shall:

1. ~~be~~ Be a citizen of the United States; and

2. ~~have~~ Have been a resident of this state for five (5) years immediately preceding the appointment; and

3. ~~not~~ Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States.

C. The initial terms of office of:

1. Three members shall expire on June 30, 1985; and

2. Two members shall expire on June 30, 1987; and

3. Two members shall expire on June 30, 1989.

Thereafter, the term of office of a member of the Commission shall be for six (6) years and until a successor is appointed and qualified.

D. The Governor may remove any member of the Commission for incompetence, neglect of duty, or malfeasance in office upon first giving the member a copy of the charges and an opportunity to be heard. A vacancy on the Commission shall be filled for the unexpired term by appointment made by the Governor.

E. No appointee to a full term or appointee to fill a vacancy shall be approved by the Senate unless the appointee has been investigated as provided by Section 150.5 of Title 74 of the Oklahoma Statutes and unless the chair of the Senate committee charged with consideration of the appointment, and the ranking minority committee member, have reviewed a copy of the report of the investigation, together with such other members of the committee as the chair and the ranking minority member, in their mutual discretion, may designate to review the copy of the report. For the purposes of this section, the ranking minority committee member shall be the minority member of the committee who has seniority in the Senate. If two or more such members have equal seniority, the Senate Minority Leader shall designate the ranking member. The copy of the report being reviewed shall at all times

be treated as confidential, and the copy shall be returned to the Oklahoma State Bureau of Investigation not later than the date the appointee is approved or at the end of the legislative session during which the appointment is under consideration, whichever occurs first.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 150.5, as amended by Section 5, Chapter 227, O.S.L. 1994 (74 O.S. Supp. 1997, Section 150.5), is amended to read as follows:

Section 150.5 A. Oklahoma State Bureau of Investigation investigations not covered under Section 150.2 of this title shall be initiated at the request of the following persons:

1. The Governor;
2. The Attorney General;
3. The Council on Judicial Complaints upon a vote by a majority of said Council; or
4. The ~~chairman~~ chair of any ~~Legislative Investigating Committee~~ legislative investigating committee which has been granted subpoena powers by resolution, upon authorization by a vote of the majority of said ~~Committee~~ committee.

Such requests for investigations shall be submitted in writing and shall contain specific allegations of wrongdoing under the laws of the State of Oklahoma.

B. The Governor may initiate special background investigations with the written consent of the person who is the subject of the investigation.

C. The ~~chairman~~ chair of any Senate committee which is fulfilling the statutory responsibility for approving nominations made by the Governor ~~may, upon a vote by a majority of the committee and shall,~~ with the written consent of the person who is to be the subject of the investigation, initiate a full special background investigation of any nominee for the Oklahoma Horse Racing Commission as ~~established by Provision No. 1, State Question No. 553, Initiative Petition No. 315 (3A O.S. Supp. 1982, Section 201)~~ required for a person to be confirmed by the Senate as a member of the Commission pursuant to Section 201 of Title 3A of the Oklahoma Statutes. The Bureau shall submit a copy of its

investigative report to the chair of the committee within thirty (30) days of the receipt of the request. ~~Any consideration by the committee of a report from the Bureau shall be for the exclusive use of the committee and~~ The copy of the report shall be considered only in executive session as provided by Section 201 of Title 3A of the Oklahoma Statutes.

D. All records relating to any investigation being conducted by the Bureau shall be confidential and shall not be open to the public or to the Commission except as provided in Section 150.4 of this title; provided, however, officers and agents of the Bureau may disclose, at the discretion of the Director, such investigative information to officers and agents of federal, state, county, or municipal law enforcement agencies and to district attorneys, in the furtherance of criminal investigations within their respective jurisdictions. Any unauthorized disclosure of any information contained in the confidential files of the Bureau shall be a misdemeanor. The person or entity authorized to initiate investigations in this section shall receive a report of the results of the requested investigation. The person or entity requesting the investigation may give that information only to the appropriate prosecutorial officer or agency having statutory authority in the matter if that action appears proper from the information contained in the report, and shall not reveal or give such information to any other person or agency. Violation hereof shall be deemed willful neglect of duty and shall be grounds for removal from office.

E. The State Treasurer must initiate a complete background investigation of the positions with the written consent of the persons who are the subject of the investigation pursuant to subsection I of Section 71.1 of Title 62 of the Oklahoma Statutes. The Bureau shall advise the State Treasurer and the Cash Management and Investment Oversight Commission in writing of the results of the investigation.

SECTION 3. AMENDATORY 3A O.S. 1991, Section 203.1, is amended to read as follows:

Section 203.1 A. A member of the Oklahoma Horse Racing Commission shall not accept any compensation, gift, loan, entertainment, favor, or service from any occupation or organization licensee, except such suitable facilities and services within the enclosure of an organization licensee as may be required by the member to facilitate the proper performance of his or her duties.

B. No member of the Commission or ~~any member of the Commission~~ staff employee shall place any wagers on any horse race over which the Commission has jurisdiction.

C. Members of the Commission and members of their immediate families, and Commission employees and members of their immediate families are prohibited from receiving purse supplements, stakes, rewards, stallion awards, broodmare awards, or breeders awards of any kind, or marketing, promotion, or advertising monies of any kind from the Oklahoma Breeding Development Fund Special Account administered by the Commission pursuant to Section 208.3 of this title. "Immediate family" has the meaning provided by Rule 257: 1-1-2 of the Rules of the Ethics Commission, Chapter 62 App. of Title 74 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 3A O.S. 1991, Section 203.4, as last amended by Section 1, Chapter 305, O.S.L. 1997 (3A O.S. Supp. 1997, Section 203.4), is amended to read as follows:

Section 203.4 A. 1. At each pari-mutuel race meeting held pursuant to the provisions of the Oklahoma Horse Racing Act the Oklahoma Horse Racing Commission shall employ three individuals to be stewards. At non-pari-mutuel race meetings and for training races, the organization licensee may employ its own stewards in accordance with the rules of the American Quarter Horse Association or have the Commission employ the stewards as provided in this subsection. The Commission shall designate one of the individuals as chief steward and the other two individuals as assistant stewards. If employed by the Commission, the compensation of the stewards, including but not limited to salaries, benefits and other reimbursable expenses as determined by the Commission, shall be paid by the Commission and the

Commission shall be reimbursed by the organization licensee. Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury.

2. Reimbursement of the Commission by the organization licensee pursuant to paragraph 1 of this subsection shall be suspended for two (2) years, effective July 1, 1997.

B. 1. All other racing personnel shall be employed for race meetings as the Commission deems necessary. All other racing personnel required by the Commission at non-pari-mutuel race meetings or training races may be employed by the organization licensee in accordance with the rules of the American Quarter Horse Association. The compensation of racing personnel employed by the Commission, including but not limited to salaries, benefits and reimbursable expenses, shall be paid by the Commission and, except for license clerks, the Commission shall be reimbursed by the organization licensee. Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury.

2. Reimbursement of the Commission by the organization licensee pursuant to paragraph 1 of this subsection shall be suspended for two (2) years, effective July 1, 1997.

C. The stewards and other racing officials at pari-mutuel race meetings, at non-pari-mutuel race meetings and at training races shall enforce the rules and regulations of the Commission and the provisions of the Oklahoma Horse Racing Act in the manner provided by law and shall render written reports of the activities and conduct of the race meetings to the Commission. In enforcing the rules of the Commission and officiating at races, the stewards shall not be required to comply with provisions of the Oklahoma Open Meeting Act but shall be required to comply with applicable provisions of the Administrative Procedures Act.

SECTION 5. AMENDATORY 25 O.S. 1991, Section 304, as amended by Section 1, Chapter 282, O.S.L. 1993 (25 O.S. Supp. 1997, Section 304), is amended to read as follows:

Section 304. As used in the Oklahoma Open Meeting Act:

1. "Public body" means the governing bodies of all municipalities located within the State of Oklahoma, boards of county commissioners of the counties in the State of Oklahoma, boards of public and higher education in the State of Oklahoma and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups in the State of Oklahoma supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcommittees of any public body. It shall not mean the state judiciary or the State Legislature or administrative staffs of public bodies, including, but not limited to, faculty meetings and athletic staff meetings of institutions of higher education when said staffs are not meeting with the public body, or entry-year assistance committees, as defined in Section 6-152 of Title 70 of the Oklahoma Statutes. Furthermore, it shall not mean the multidisciplinary team provided for in subsection B of Section 1-502.2 of Title 63 of the Oklahoma Statutes or any school board meeting for the sole purpose of considering recommendations of said multidisciplinary team and deciding the placement of any child who is the subject of such recommendations. Furthermore, it shall not mean meetings conducted by stewards designated by the Oklahoma Horse Racing Commission pursuant to Section 203.4 of Title 3A of the Oklahoma Statutes when the stewards are officiating at races or otherwise enforcing rules of the Commission.

2. "Meeting" means the conducting of business of a public body by a majority of its members being personally together or, as authorized by Section ~~3~~ 307.1 of this ~~act~~ title, together pursuant to a teleconference.

3. "Regularly scheduled meeting" means a meeting at which the regular business of the public body is conducted.

4. "Special meeting" means any meeting of a public body other than a regularly scheduled meeting or emergency meeting.

5. "Emergency meeting" means any meeting called for the purpose of dealing with an emergency. For purposes of this act,

an emergency is defined as a situation involving injury to persons or injury and damage to public or personal property or immediate financial loss when the time requirements for public notice of a special meeting would make such procedure impractical and increase the likelihood of injury or damage or immediate financial loss.

6. "Continued or reconvened meeting" means a meeting which is assembled for the purpose of finishing business appearing on an agenda of a previous meeting. For the purposes of this act, only matters on the agenda of the previous meeting at which the announcement of the continuance is made may be discussed at a continued or reconvened meeting.

7. "Teleconference" means a conference among members of a public body remote from one another who are linked by interactive telecommunication devices permitting both visual and auditory communication between and among members of the public body and members of the public.

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

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