

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2352

By: Corn

AS INTRODUCED

An Act relating to the Governor's cabinet system; amending 22 O.S. 1991, Section 1015, as last amended by Section 8, Chapter 357, O.S.L. 1997 (22 O.S. Supp. 1999, Section 1015), which relates to executions; eliminating the cabinet secretary of public safety as witness to the execution; amending Section 10, Chapter 145, O.S.L. 1993, as last amended by Section 3, Chapter 413, O.S.L. 1999 (27A O.S. Supp. 1999, Section 1-2-101), which relates to the Department of Environmental Quality; transferring the powers and duties of the Secretary of Environment to the Governor; amending 62 O.S. 1991, Section 41.34, which relates to the Governor's budget document; eliminating the cabinet from participation in such budget; Section 1, S.J.R. No. 16, p. 2402, O.S.L. 1998 (63 O.S. Supp. 1999, Section 1-250), which relates to the Oklahoma Council on Violence Prevention; eliminating cabinet secretaries as members to the Council; amending 72 O.S. 1991, Section 63.1, which relates to the War Veterans Commission; eliminating the Commission as a cabinet level department; abolishing the cabinet system; prohibiting further cabinet secretaries from being appointed; ceasing all powers and duties of the cabinet; amending Section 5, Chapter 225, O.S.L. 1999 (70 O.S. Supp. 1999, Section 1210.725), which relates to the Virtual Internet School Pilot Program Coordinating Committee; eliminating cabinet secretaries from the Committee; repealing Section 1, Chapter 398, O.S.L. 1997 (52 O.S. Supp. 1999, Section 261.1), 74 O.S. 1991, Sections 10.2, 10.3, Section 19, Chapter 398, O.S.L. 1992, as amended by Section 18, Chapter 413, O.S.L. 1999, Section 2, Chapter 384, O.S.L. 1997, Section 1, Chapter 237, O.S.L. 1993, as amended by Section 1, Chapter 193, O.S.L. 1994, and Section 5, Chapter 182, O.S.L. 1994 (74 O.S. Supp. 1999, Sections 10.4, 10.5, 150.32 and 485), which relate to the Governor's cabinet system; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1015, as last amended by Section 8, Chapter 357, O.S.L. 1997 (22 O.S. Supp. 1999, Section 1015), is amended to read as follows:

Section 1015. A. A judgment of death must be executed within the walls of the Oklahoma State Penitentiary at McAlester, Oklahoma, said prison to be designated by the court by which judgment is to be rendered.

B. The judgment of execution shall take place under the authority of the Director of the Oklahoma Department of Corrections and the warden must be present along with other necessary prison and corrections officials to carry out the execution. The warden must invite the presence of a physician and the district attorney of the county in which the crime occurred, the judge who presided at the trial issuing the sentence of death, the chief of police of the municipality in which the crime occurred, if applicable, and the sheriff of the county wherein the conviction was had, to witness the execution; in addition, ~~the cabinet secretary of public safety must be invited and~~ the warden shall, at the request of the defendant, permit the presence of such ministers of the defendant's choice, not exceeding two, and any persons, relatives or friends, not to exceed five, as the defendant may name; provided, reporters from recognized members of the news media will be admitted upon proper identification, application and approval of the warden.

C. In the event the defendant has been sentenced to death in one or more criminal proceedings in this state, or has been sentenced to death in this state and by one or more courts of competent jurisdiction in another state or pursuant to federal authority, or any combination thereof, and this state has priority to execute the defendant, the warden must invite the prosecuting attorney, the judge, and the chief law enforcement official from each jurisdiction where any death sentence has issued. The above mentioned officials shall be allowed to witness the execution or

view the execution by closed circuit television as determined by the Director of the Department of Corrections.

D. A place shall be provided within the walls of the Oklahoma State Penitentiary at McAlester so that individuals who are eighteen (18) years of age or older and who are members of the immediate family of any deceased victim of the defendant may witness the execution. The immediate family members shall be allowed to witness the execution from an area that is separate from the area to which other nonfamily member witnesses are admitted, provided, however, if there are multiple deceased victims, the Department shall not be required to provide separate areas for each family of each deceased victim. If facilities are not capable or sufficient to provide all immediate family members with a direct view of the execution, the Department of Corrections may broadcast the execution by means of a closed circuit television system to an area in which other immediate family members may be located.

Immediate family members may request individuals not directly related to the deceased victim but who serve a close supporting role or professional role to the deceased victim or an immediate family member, including, but not limited to, a minister or licensed counselor. The warden in consultation with the Director shall approve or disapprove such requests. Provided further, the Department may set a limit on the number of witnesses or viewers within occupancy limits.

As used in this section, "members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent, a grandparent, a grandchild, a sibling of a deceased victim, or the spouse of any immediate family member specified in this subsection.

E. Any surviving victim of the defendant who is eighteen (18) years of age or older may view the execution by closed circuit television with the approval of both the Director of the Department of Corrections and the warden. The Director and warden shall

prioritize persons to view the execution, including immediate family members, surviving victims, and supporting persons, and may set a limit on the number of viewers within occupancy limits. Any surviving victim approved to view the execution of their perpetrator may have an accompanying support person as provided for members of the immediate family of a deceased victim. As used in this subsection, "surviving victim" means any person who suffered serious harm or injury due to the criminal acts of the defendant of which the defendant has been convicted in a court of competent jurisdiction.

SECTION 2. AMENDATORY Section 10, Chapter 145, O.S.L. 1993, as last amended by Section 3, Chapter 413, O.S.L. 1999 (27A O.S. Supp. 1999, Section 1-2-101), is amended to read as follows:

Section 1-2-101. A. ~~The Secretary of Environment or successor cabinet position~~ Governor having authority over the Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility:

1. Powers and duties for environmental areas designated ~~to such position~~ by the Governor;

2. The recipient of federal funds disbursed pursuant to the Federal Water Pollution Control Act, provided the Oklahoma Water Resources Board is authorized to be the recipient of federal funds to administer the State Revolving Fund Program. The federal funds received by the ~~Secretary of Environment~~ Governor shall be disbursed to each state environmental agency and state agency with limited environmental responsibilities based upon its statutory duties and responsibilities relating to environmental areas. Such funds shall be distributed to the appropriate state environmental agency or state agency with limited environmental responsibilities within thirty (30) days of its receipt by the ~~Secretary~~ Governor or as otherwise provided by grant or contract terms without any assessment

of administrative fees or costs. Disbursement of other federal environmental funds shall not be subject to this section;

3. Coordinate pollution control and complaint management activities of the state carried on by all state agencies to avoid duplication of effort including but not limited to the development of a common data base for water quality information with a uniform format for use by all state agencies and the public; and

4. Act on behalf of the public as trustee for natural resources under the federal Oil Pollution Act of 1990, the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the federal Water Pollution Control Act and any other federal laws providing that a trustee for the natural resources is to be designated. The ~~Secretary~~ Governor is authorized to make claims against federal funds, receive federal payments, establish and manage a revolving fund in relation to duties as the natural resources trustee consistent with the federal enabling acts and to coordinate, monitor and gather information from and enter into agreements with the appropriate state environmental agencies or state agencies with limited environmental responsibilities in carrying out the duties and functions of the trustee for the natural resources of this state.

B. 1. The Secretary of the Environment ~~or successor cabinet position~~ having authority over the Department of Environmental Quality shall develop and implement, by January 1, 2000, public participation procedures for the development and/or modification of:

- a. the federally required list of impaired waters (303(d) report),
- b. the federally required water quality assessment (305(b) report),
- c. the federally required nonpoint source state assessment (319 report), and
- d. the continuing planning process document.

2. The procedures shall provide for the documents to be submitted for formal public review with a published notice consistent with the Administrative Procedures Act, providing for a thirty-day comment period and the preparation of a responsiveness summary by the applicable state environmental agency.

3. Information from current research shall be considered when made available to the agency.

SECTION 3. AMENDATORY 62 O.S. 1991, Section 41.34, is amended to read as follows:

Section 41.34 Immediately after the beginning of each regular session of the Legislature, the Governor shall submit to the presiding officer of each house, printed copies of the budget based upon the investigations and conclusions of the Division of the Budget. ~~Such~~ The budget document shall contain a complete and itemized plan of all proposed expenditures for each agency or undertaking classified according to ~~the~~ various ~~cabinet~~ areas designated by the Governor or otherwise created by law. ~~Such~~ The expenditures shall be further classified by function, character and object, and in the event ~~such~~ the proposed expenditures exceed the estimate made by the State Board of Equalization, the Governor shall accompany the budget document with a proposal of new revenue raising measures sufficient to effect a balanced budget for each year in the ensuing fiscal year.

SECTION 4. AMENDATORY Section 1, S.J.R. No. 16, p. 2402, O.S.L. 1998 (63 O.S. Supp. 1999, Section 1-250), is amended to read as follows:

Section 1-250. A. There is hereby re-created until January 1, 2003, the Oklahoma Council on Violence Prevention.

B. The Council shall continue in its mission to set priorities for all state agencies in combatting violence according to recommendations set forth in the report of the Oklahoma Committee on Violence and Public Health. The Council may revisit and revise the

report's findings and recommendations in order to remain abreast of current trends and developments in the area of violence prevention.

C. The Council shall continue to be composed of:

1. ~~Cabinet secretaries~~ The Governor and state department and agency heads or their designees responsible for health, human services, mental health and substance abuse, juvenile services, education, corrections, and public safety;

2. The Chancellor of Higher Education;

3. A representative from each of the following:

a. the Oklahoma State Medical Association,

b. the Oklahoma Osteopathic Association,

c. the Oklahoma Public Health Association,

d. the Oklahoma Chapter of the National Association of Social Workers,

e. the Oklahoma Social Work Educators,

f. the Oklahoma Nurses Association,

g. the Oklahoma Chamber of Commerce, and

h. the Oklahoma Municipal League; and

4. Representation from other appropriate public and private sector groups.

D. The Council shall continue to provide for adequate representation of women and minority groups including, but not limited to, African-Americans, Asian-Americans, Hispanics and Native Americans.

E. The Council shall function with the administrative support of the Criminal Justice Resource Center. The Council shall continue its functions in consultation with the State Commissioner of Health and the Commissioner of Public Safety. These entities shall further continue to provide necessary support services to the Council and the steering committee with existing personnel.

F. The Council shall issue a report of its findings and recommendations regarding the reduction of violence in the state to

the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives not later than the beginning of the 1st Session of the 49th Oklahoma Legislature (2003); provided, however, the Council shall annually report to these entities regarding its status, progress and plans.

G. Members of the Council shall continue to serve without compensation, but may continue to be reimbursed by their respective appointing authorities in accordance with the State Travel Reimbursement Act.

SECTION 5. AMENDATORY 72 O.S. 1991, Section 63.1, is amended to read as follows:

Section 63.1 There is hereby created the War Veterans Commission of Oklahoma, and the Oklahoma Department of Veterans Affairs, ~~which shall be a cabinet-level department pursuant to the provisions of Section 10.3 of Title 74 of the Oklahoma Statutes.~~ The Department shall consist of a departmental headquarters and such Veterans Centers as are operated by the Department. The Department shall be administered under such rules, ~~regulations~~ and policies as may be prescribed by the War Veterans Commission. All reference in any law of this state referring to or naming the Soldiers Relief Commission shall be construed to refer to and name the War Veterans Commission of Oklahoma.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10.3a of Title 74, unless there is created a duplication in numbering, reads as follows:

The cabinet system is hereby abolished. No successor cabinet secretaries shall be appointed by the Governor. The cabinet secretaries shall cease all designated functions on July 1, 2000.

SECTION 7. AMENDATORY Section 5, Chapter 225, O.S.L. 1999 (70 O.S. Supp. 1999, Section 1210.725), is amended to read as follows:

Section 1210.725 A. There is hereby created the Virtual Internet School Pilot Program Coordinating Committee. The Committee shall consist of nine (9) members who shall be selected by the Superintendent of Public Instruction, the Chancellor of Higher Education, and the Cabinet Secretary for Science and Technology, upon agreement of at least two of the three.

B. Each public school district selected to participate in the Pilot Program shall be represented by one member on the Committee. The members shall be proficient in technology tools or applications and shall be either administrators, teachers, curriculum specialists, or other individuals who are residents of the school district that member represents.

C. The following shall serve as ex officio, nonvoting members of the Committee:

1. The State Superintendent of Public Instruction or a designee;

2. The Executive Director of the Oklahoma Educational Television Authority or a designee;

3. The Director of the State Department of Vocational and Technical Education or a designee;

4. The Chancellor of Higher Education or a designee; and

5. ~~The Secretary of Education or a designee;~~

6. ~~The Secretary of Science and Technology or a designee; and~~

7. ~~The Director of the Department of Rehabilitation Services or a designee.~~

D. Appointment of members of the Committee shall be made by August 2, 1999.

E. The State Superintendent of Public Instruction shall call the first meeting of the Committee on or before August 15, 1999. The Committee shall select the Chair and the Vice Chair of the Committee from among their respective appointments at the first meeting. Subsequent meetings of the Committee shall be held at the

call of the Chair or by a quorum of the members. The Committee shall meet at such times as is necessary.

F. Members of the Committee shall receive no compensation for serving on the Committee, but shall receive travel reimbursement as follows:

1. State agency employees who are members of the Committee shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act; and

2. All other Committee members shall be reimbursed by the State Board of Education for travel expenses incurred in performance of their duties on the Committee, in accordance with the State Travel Reimbursement Act.

SECTION 8. REPEALER Section 1, Chapter 398, O.S.L. 1997 (52 O.S. Supp. 1999, Section 261.1), is hereby repealed.

SECTION 9. REPEALER 74 O.S. 1991, Section 10.2, is hereby repealed.

SECTION 10. REPEALER 74 O.S. 1991, Section 10.3, is hereby repealed.

SECTION 11. REPEALER Section 19, Chapter 398, O.S.L. 1992, as amended by Section 18, Chapter 413, O.S.L. 1999 (74 O.S. Supp. 1999, Section 10.4), is hereby repealed.

SECTION 12. REPEALER Section 2, Chapter 384, O.S.L. 1997 (74 O.S. Supp. 1999, Section 10.5), is hereby repealed.

SECTION 13. REPEALER Section 1, Chapter 237, O.S.L. 1993, as amended by Section 1, Chapter 193, O.S.L. 1994 (74 O.S. Supp. 1999, Section 150.32), is hereby repealed.

SECTION 14. REPEALER Section 5, Chapter 182, O.S.L. 1994 (74 O.S. Supp. 1999, Section 485), is hereby repealed.

SECTION 15. This act shall become effective July 1, 2000.

SECTION 16. 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.

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