

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2639

By: Liotta and Roach

COMMITTEE SUBSTITUTE

An Act relating to counties and county officers; requiring the board of county commissioners to fix the salaries for county officers and employees; requiring certain factors to be considered in the determination of salaries; providing for classification of county officers; prohibiting certain increases or decreases in salaries of county officers; providing for appropriation and payment of certain salaries; providing for certain deputies or other help; providing for a first or chief deputy or assistant; establishing duties; providing for salaries of certain deputies, assistants and other help; establishing certain salary limitations; providing for county commissioners to maintain control over certain funds; providing for county excise board to discuss certain personnel needs; declaring intent of Legislature; amending 19 O.S. 2001, Section 339, which relates to the powers of the board of county commissioners; adding duties; repealing 19 O.S. 2001, Sections 180.58, 180.59, 180.60, 180.61, 180.62, 180.63, 180.63d, 180.63e, 180.64A, 180.64B, 180.64C, 180.64F, 180.65, 180.67, 180.68, 180.71, 180.72, 180.73, 180.74, 180.75, 180.76, 180.77, 180.78, 180.79, 180.80, 180.81, 180.82 and 180.83, which relate to county officers salaries; providing for codification; and providing an effective date.

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 180.84 of Title 19, unless there is created a duplication in numbering, reads as follows:

The board of county commissioners shall fix the salaries of county officers, deputies and employees. When determining the salaries, the board of county commissioners shall take into consideration the following factors:

1. The available revenues out of which such salaries and wages may be paid;

2. The amount of services required to be performed;

3. The monetary value of such services in relation to that of nongovernmental services of similar nature in the areas wherein such services are performed; and

4. The relative amount of services required of the various county officers, their deputies and employees upon investigation and full consideration of the applicable facts.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 180.85 of Title 19, unless there is created a duplication in numbering, reads as follows:

For purposes of fixing salaries under this act, county officers shall be grouped in the following classifications:

1. Enforcement officers or those charged with enforcing the laws relating to public peace and safety: the county sheriff, the county treasurer, the county clerk, the court clerk, the county assessor, and the members of the board of county commissioners; and

2. Other elective county officers.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 180.86 of Title 19, unless there is created a duplication in numbering, reads as follows:

County officers shall not receive any salary increase or decrease during their term of office unless by operation of law enacted prior to their election or appointment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 180.87 of Title 19, unless there is created a duplication in numbering, reads as follows:

The above salaries shall be paid from annual appropriations made from the general fund of the county for such purpose, and it is hereby made the mandatory duty of the county commissioners and the excise board that such funds be appropriated and paid.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 180.88 of Title 19, unless there is created a duplication in numbering, reads as follows:

A. The officers named in paragraph 1 of Section 2 of this act shall have such number of regular or technical deputies, assistants, investigators, evidence persons, aides, stenographers or reporters, technicians, undersheriffs, jailers, matrons, handwriting and fingerprint experts, probation officers, juvenile officers, bailiffs, or other help, whatever title the principal officer may ascribe to the duties or functions to be performed as authorized by law and clearly related to the proper accomplishment of lawful functions, whether on whole or part-time basis, at such rates of salary or pay, subject to the provisions of this section as hereinafter set forth, as the principal officer may propose and establish the need of and which the county excise board may approve, for the adequate accomplishment of the functions of the office and the performance of the duties imposed thereon by law, with due weight being given to employment on whole or part-time basis. However, no such employments shall exceed the amount of lawful funds appropriated for such purpose.

B. Each principal officer named in paragraph 1 of Section 2 of this act, except judges, shall designate of record in the office of the county clerk a first or chief deputy or assistant who shall be chargeable with all the duties of such principal officer, while subject to the direction of the same. The first or chief deputy or assistant shall carry on the duties of the office during the absence of the principal officer or, in the event of the death, removal or resignation of said principal officer, until a successor shall have qualified. During periods of vacancy of the principal office, resulting from the death, removal or resignation of the principal officer, the chief deputy or assistant shall be bonded in the same manner and in the same sum as required for the principal officer.

C. The first or chief deputy or assistant to any officer, as authorized by subsection B of this section, shall receive a salary not to exceed ninety percent (90%) of the salary of the principal officer. If the principal officer has more than one deputy or assistant, that person or those persons whom the principal officer may designate as "second deputy" or "second assistant" shall receive a salary not to exceed eighty percent (80%) of the salary of the principal officer. The salaries set forth in this subsection within the limitations shall be such amounts as the principal officer may propose and establish the need for and which the county excise board may approve within salary and staffing requirements as may be prescribed by law. The numerical rank of any deputy or assistant to be effective must be by designation of the principal officer by the signature of the principal officer and filed with the county clerk. The numerical rank of any deputy or assistant shall be within the sole discretion of the principal officer.

D. No other deputy, aide, assistant or other person named in subsection A of this section may be paid at a salary rate in excess of eighty percent (80%) of the salary of the principal officer and, subject to this limitation, the salary or rate of pay of such subordinate shall be determined by the principal officer and the county excise board based upon responsibility, risks, skills, training, and experience required for such position and afforded by the subordinate. However, the eighty percent (80%) limitation shall not apply to county officers employing only two deputies or technical help on a part-time contract or wage basis within the amount of lawful appropriations for such purposes, by and with the consent and approval of the county commissioners. The criteria stated in this subsection shall not apply to reserve force deputy sheriffs.

E. The salary paid to such deputies, assistants, or other persons shall not exceed ninety percent (90%) or eighty percent

(80%), respectively, of the total salary paid to such principal officers.

F. The board of county commissioners shall continue to have the authority to recommend the total amount of funds that can be used for the combined salaries in each of the county offices covered by this act. However, the approval of the funding for such offices shall continue to be the responsibility of the county excise board. County officers shall have no authority to make salary commitments beyond the amount of the funding so provided.

G. The county excise board shall meet with each of the principal officers of the county in budget planning conference or conferences, before July 1 of each year, to discuss personnel needs for each office for the succeeding fiscal year. The excise board shall provide the principal officers a tentative estimate of anticipated revenues for the next fiscal year prior to the budget planning conferences.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 180.89 of Title 19, unless there is created a duplication in numbering, reads as follows:

It is hereby declared to be the intent of the Legislature that this act shall be the comprehensive salary code for all counties of the state and no county officer in paragraph 1 of Section 2 of this act, or their assistants, deputies, or other employees by whatever title designated, shall receive any salary or wages except as provided in this act.

SECTION 7. AMENDATORY 19 O.S. 2001, Section 339, is amended to read as follows:

Section 339. A. The county commissioners shall have power:

1. To make all orders respecting the real property of the county, to sell the public grounds of the county and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all

the interests of the county in such grounds when an order made for the sale and a deed is executed in the name of the county by the chair of the board of county commissioners, reciting the order, and signed by the chair and acknowledged by the county clerk for and on behalf of the county;

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit;

3. To construct and repair bridges and to open, lay out and vacate highways: Provided, however, that when any state institution, school or department shall own, lease or otherwise control land on both sides of any established highway, the governing board or body of the same shall have the power to vacate, alter or relocate the highway adjoining the property in the following manner:

If it should appear that it would be to the best use and interest of such institution, school or department to vacate, alter or relocate such highway, the governing board or body shall notify the board of county commissioners, in writing, of their intention to hold a public hearing and determine whether to vacate, alter or relocate such highway, setting forth the location and terminals of the road, and all data concerning the proposed right-of-way if changed or relocated, and shall give fifteen (15) days' notice of such hearing by publication in some newspaper in the county or counties in which the road is located, and such hearing shall be held at the county seat of the county in which the road is located, and if a county line road, may be heard in either county. At such hearing testimony may be taken, and any protests or suggestions shall be received as to the proposed measure, and at the conclusion thereof if the governing board or body shall find that it would be to the best use and interest of such institution, school or department, and the public generally, they may make an appropriate order either vacating, altering or relocating the highway, which

order shall be final if approved by the board of county commissioners. Such institution, school or department may by agreement share the cost of changing any such road. No property owner shall be denied access to a public highway by such order;

4. To recommend or sponsor an employee or prospective employee for job-related training and certification in an area that may require training or certification to comply with state or federal law as such training or certification is provided by the Oklahoma Department of Transportation, the Federal Highway Administration, or any other state agency, technology center school, or university;

5. Until January 1, 1983, to furnish necessary blank books, plats, blanks and stationery for the clerk of the district court, county clerk, register of deeds, county treasurer and county judge, sheriff, county surveyor and county attorney, justices of the peace, and constables, to be paid for out of the county treasury; also a fireproof vault sufficient in which to keep all the books, records, vouchers and papers pertaining to the business of the county;

6. To set off, organize and change the boundaries of townships and to designate and give names therefor: Provided, that the boundaries of no township shall be changed within six (6) months next preceding a general election;

7. To lease tools, apparatus, machinery or equipment of the county to another political subdivision or a state agency. The Association of County Commissioners of Oklahoma, the Oklahoma State University Center for Local Government Technology and the Office of the State Auditor and Inspector, together, shall establish a system of uniform rates for the leasing of such tools, apparatus, machinery and equipment;

8. To jointly, with other counties, buy heavy equipment and to loan or lease such equipment across county lines;

9. To develop minimum personnel policies for the county with the approval of a majority of all county elected officers;

10. To purchase, rent, or lease-purchase uniforms, safety devices and equipment for the officers and employees of the county and, provide incentive awards for safety related job performance. However, no employee shall be recognized more than once per calendar year and the award shall not exceed the value of One Hundred Dollars (\$100.00). The county commissioners may pay for any safety training or safety devices and safety equipment out of the general county funds or any county highway funds available to the county commissioners;

11. To provide for payment of notary commissions, filing fees, and the cost of notary seals and bonds;

12. To do and perform such other duties and acts that the board of county commissioners may be required by law to do and perform;

13. To make purchases at a public auction pursuant to the county purchasing procedures in subsection D of Section 1505 of this title;

14. To deposit interest income from highway funds in the general fund of the county;

15. To submit sealed bids for the purchase of equipment from this state, or any agency or political subdivision of this state;

16. To utilize county owned equipment, labor and supplies at their disposal on property owned by the county, public schools, state and municipalities with a population less than five thousand (5,000). A cooperative agreement shall be executed and approved by the district attorney prior to work being performed, except when a state of emergency has been declared. The cooperative agreement shall contain a work schedule and assign cost responsibilities for the work being performed. Work performed pursuant to Section 36-113 of Title 11 of the Oklahoma Statutes shall comply with the provisions of this section;

17. To enter into intergovernmental cooperative agreements with the federally recognized Indian tribes within this state to address

issues of construction and maintenance of streets, roads, bridges and highways exclusive of the provisions of Section 1221 of Title 74 of the Oklahoma Statutes;

18. To execute hold harmless agreements with the lessor in the manner provided by subsection B of Section 636.5 of Title 69 of the Oklahoma Statutes when leasing or lease-purchasing equipment;

19. To accept donations of right-of-way or right-of-way easements pursuant to Section 381 et seq. of Title 60 of the Oklahoma Statutes;

20. To establish by resolution the use of per diem for specific purposes in accordance with the limitations provided by Sections 500.8 and 500.9 of Title 74 of the Oklahoma Statutes; ~~and~~

21. To apply to the Department of Environmental Quality for a waste tire permit to bale waste tires for use in approved engineering projects; and

22. To fix the salaries of county officers, deputies and employees as required by Section 1 of this act.

B. The county commissioners of a county or, in counties where there is a county budget board, the county budget board may designate money from general county funds for the designated purpose of drug enforcement and drug abuse prevention programs within the county.

C. When any lease or lease purchase is made on behalf of the county by the board pursuant to the provisions of this section, the county shall be allowed to have trade in values for transactions involving the Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes.

D. In order to timely comply with the Oklahoma Vehicle License and Registration Act with regard to county vehicles, the board of county commissioners may, by resolution, create a petty cash account. The board of county commissioners may request a purchase order for petty cash in an amount necessary to pay the expense of

license and registration fees for county motor vehicles. Any balance in the petty cash account after the license and registration fees have been paid shall be returned to the account or fund from which the funds originated. The county purchasing agent shall be the custodian of the petty cash account, and the petty cash account shall be subject to audit.

E. When the board of county commissioners approve an express trust, pursuant to Sections 176 through 180.3 of Title 60 of the Oklahoma Statutes, for the purpose of operating a county jail, the trustees of the public trust may appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to provide security for inmates that are required to be transported outside of the detention facility, and investigate violations of law within the detention facility. Other personnel necessary to operate the jail may be employed and trained or certified as may be required by applicable state or federal law.

SECTION 8. REPEALER 19 O.S. 2001, Sections 180.58, 180.59, 180.60, 180.61, 180.62, 180.63, 180.63d, 180.63e, 180.64A, 180.64B, 180.64C, 180.64F, 180.65, 180.67, 180.68, 180.71, 180.72, 180.73, 180.74, 180.75, 180.76, 180.77, 180.78, 180.79, 180.80, 180.81, 180.82 and 180.83 are hereby repealed.

SECTION 9. This act shall become effective January 1, 2003.

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