STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 710 By: Taylor of the Senate

and

Rice of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to juvenile justice; amending Section 6, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 2000, Section 7302-1.1), which relates to the Board of Juvenile Affairs; creating position of Judicial Advisor; providing for appointment, qualifications, travel expenses and duties; requiring certain meeting notification; limiting authority of Advisor; deleting obsolete language; amending 51 O.S. 1991, Section 6, as last amended by Section 39 of Enrolled House Bill No. 1214 of the 1st Session of the 48th Oklahoma Legislature (51 O.S. Supp. 2000, Section 6), which relates to dual office holding; providing for additional exemptions; modifying exemptions; repealing 51 O.S. 1991, Section 6, as last amended by Section 1 of Enrolled Senate Bill No. 620 of the 1st Session of the 48th Oklahoma Legislature, which is a duplicate section; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 6, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995 and as last amended by Section 8, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 2000, Section 7302-1.1), is amended to read as follows:

Section 7302-1.1 A. There is hereby created, effective February 1, 1995, the Board of Juvenile Affairs which shall consist of seven (7) members who shall be appointed by the Governor with the advice and consent of the Senate.

B. One member shall be appointed from each of the six congressional districts as defined and in existence on February 1, 1995, and the seventh member shall be appointed from the state at large. The terms of office of two members shall expire on March 15, 1997, and each six (6) years thereafter; the terms of three members shall expire on March 15, 1999, and each six (6) years thereafter; the terms of two members shall expire on March 15, 2000, and each six (6) years thereafter.

C. 1. The Governor shall appoint the first Board on February 1, 1995.

2. Thereafter an appointment shall be made by the Governor within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following such vacancy, the Board may appoint a provisional member to serve in the interim until the Governor makes an appointment.

3. A member may be reappointed to succeed himself for one additional term.

D. To be eligible for appointment to the Board a person shall:

1. Be a citizen of the United States;

2. Be a resident of this state;

3. Be a qualified elector of this state; and

4. 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.

E. The Board shall be composed of:

1. One member who shall have training or experience in social work;

2. One member who shall have training or experience in juvenile or criminal justice or related behavior sciences;

3. One member who shall be an attorney licensed by this state who shall be selected from lists submitted by the Indigent Defense System and each of the two offices of county indigent defender;

4. One member who shall be selected from a list submitted by the Oklahoma Commission on Children and Youth;

5. One member who shall be an attorney licensed by this state who shall be selected from a list submitted by the District Attorneys Council from the state at large;

6. One member who shall be an educator within a public school system of this state; and

7. One member who shall be from the public.

F. Any member of the Board may be removed from office in the manner provided by law for the removal of officers not subject to impeachment.

G. There is hereby created the position of Judicial Advisor for the Board of Juvenile Affairs. The Judicial Advisor shall be appointed by the Court of Criminal Appeals and shall be a state court judge having juvenile docket responsibilities. The Judicial Advisor shall be appointed for an indefinite term and shall serve at the pleasure of the Court of Criminal Appeals.

H. The position of Judicial Advisor shall be an advisory, uncompensated position and the person holding such position shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act, but shall receive no other compensation. Travel expenses shall be paid from funds available to the Office of Juvenile Affairs.

I. The Judicial Advisor shall attend all meetings of the Board and shall receive the same notification of such meetings as members of the Board. The Judicial Advisor shall consult with, and at the request of the Board, make available the Advisor's perspective of the issues being addressed by the Board. The Judicial Advisor shall not have a vote on any issue. The Judicial Advisor shall not be a

member of the Board and shall not be authorized to attend executive sessions of the Board or have access to any files or records of the Board or the Office of Juvenile Affairs that are not available to the public under the Open Records Act.

J. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall elect, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each member of the Board. A majority of members serving on the Board shall constitute a quorum of the Board.

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act, but shall receive no other compensation. Travel expenses shall be paid from funds available to the Office of Juvenile Affairs.

~~H.~~ K. The Board shall:

1. Adopt and promulgate rules for its government and may adopt an official seal for the Office of Juvenile Affairs;

2. Appoint and fix the compensation of the Executive Director of the Office of Juvenile Affairs;

3. Be the rulemaking body for the Office of Juvenile Affairs;

4. Review and approve the budget request of the Office of Juvenile Affairs to the Governor;

5. Assist the Office of Juvenile Affairs in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Office;

6. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Office of Juvenile Affairs at least quarterly. The Board shall have the

authority to adopt nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments received or upon the Board's own initiative; and

7. Establish contracting procedures for the Office of Juvenile Affairs and guidelines for rates of payment for services provided by contract; provided, the Board shall not increase any rates of payment at any time the Legislature is not in session.

~~I.~~ L. 1. As the rulemaking body of the Office of Juvenile Affairs, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Office pursuant to the Oklahoma Juvenile Code.

2. Effective July 1, 1995, any administrative policies adopted by the Commission for Human Services related to personnel and other administrative issues and any rules promulgated relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision shall be and remain in effect until amended or new rules are promulgated by the Board of Juvenile Affairs.

3. Any rules adopted by the Commission for Human Services related to personnel and other administrative issues and the custody, care and supervision of children adjudicated to be delinquent or in need of supervision and subject to review by the Legislature during the 1st Session of the 45th Oklahoma Legislature may be finally adopted and promulgated by the Board of Juvenile Affairs pursuant to the Administrative Procedures Act.

4. ~~Starting April 1, 1995, the Board of Juvenile Affairs shall conduct an internal review of current permanent and emergency rules relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision to determine whether such rules need to be amended, or repealed, reinstated, or recodified. By January 1, 1997, the Board shall have adopted~~

~~permanent rules to implement the programs and functions within its jurisdiction and shall submit such rules for legislative review pursuant to Article I of the Administrative Procedures Act.~~

~~5.~~ The Board of Juvenile Affairs shall develop performance standards for programs implemented, either directly or pursuant to contract, by the Department of Juvenile Justice.

SECTION 2. AMENDATORY 51 O.S. 1991, Section 6, as last amended by Section 39 of Enrolled House Bill No. 1214 of the 1st Session of the 48th Oklahoma Legislature (51 O.S. Supp. 2000, Section 6), is amended to read as follows:

Section 6. A. Except as may be otherwise provided, no person holding an office under the laws of the state and no deputy of any officer so holding any office shall, during the person's term of office, hold any other office or be the deputy of any officer holding any office, under the laws of the state. The provisions of this section shall not apply to:

1. Notaries public;

2. Members of the State Textbook Committee;

3. County free fair board members;

4. Municipal and county law enforcement officers serving in positions as law enforcement officers of both such governmental entities upon such terms and conditions as are mutually approved by resolutions adopted by the board of county commissioners and governing body of the municipality employing such officers;

5. Any person holding a county or municipal office or position, or membership on any public trust authority, who is a member of a board or commission that relates to federal, state, county or municipal government and is created by the United States Government, the State of Oklahoma or a political subdivision of the state, except where the duties of the offices or positions conflict;

6. Any elected municipal officers and school board members who are appointed to a state board, commission, or similar entity if

there is no compensation for such services other than reimbursement for necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes;

7. Any trustee of a public trust, who is appointed as a trustee of a different public trust or any trustee of the Tulsa County Public Facilities Authority who may also be employed by the Department of Transportation;

8. Law enforcement officers employed by municipal or county law enforcement departments or agencies, other than those law enforcement officers elected or appointed as sheriff, chief of police or some similar position in which they are the head of a county or municipal law enforcement agency, who are elected to local boards of education; provided, the provisions of this paragraph shall not prohibit any law enforcement officer employed by a municipality having a population of ten thousand (10,000) or fewer people from serving as a member of a local board of education;

9. Any member of the Oklahoma Highway Patrol Division of the Department of Public Safety who is elected to a local board of education;

10. Any District Supervisor, Assistant District Supervisor, Team Supervisor, Parole Officer 1 or Parole Officer 2 of the Department of Corrections who is elected or appointed to a city council;

11. Any trustee or director of a rural electric cooperative, or port authority who is appointed or elected to a state, county or municipal board, commission or similar entity;

12. County employees who are elected as members of town or city councils;

13. Municipal, county, state or tribal law enforcement or peace officers operating under cross-deputization agreements with an Indian tribe or branch of the federal government;

14. Municipal or county law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon such terms and conditions as are mutually approved by resolution adopted by the governing body of the municipality or county and the governing board of the institution of higher education;

15. State law enforcement or peace officers serving in positions as campus police officers or campus public safety officers pursuant to the provisions of the Oklahoma Campus Security Act, upon such terms and conditions as are mutually approved by written agreement between the Commissioner of Public Safety and the governing board of the institution of higher education;

16. Municipal and county law enforcement officers serving in positions as part-time rangers under the Oklahoma Tourism and Recreation Department;

17. The Administrator of a Scenic Rivers Commission serving in the position of a park ranger under the Oklahoma Tourism and Recreation Department;

18. Members of the University Hospitals Authority;

19. Any person holding a state office or position who is a ~~noncompensated~~ reserve force deputy sheriff or a ~~noncompensated~~ reserve municipal police officer;

20. Any person holding a state office or position who serves as a special assistant district attorney without compensation;

21. Any elected or appointed member of a local school board who is a member of a municipal planning commission;

22. Any elected or appointed member of a local school board who is a member or an officer of a volunteer fire department;

23. Directors or officers of a rural water district and chiefs of municipal fire departments or rural fire districts who are appointed or elected to an unsalaried office in a state, county,

municipal, school, or technology center school board, commission, or similar entity, except where the duties of the office would create a conflict of interest; ~~and~~

24. Any person who is a dispatcher or confinement officer at a municipal jail who is a noncompensated reserve municipal police officer;

25. Any state judge who holds the position of Judicial Advisor for the Board of Juvenile Affairs; and

26. Members of the Board of Trustees of the Oklahoma School of Science and Mathematics.

The provisions of this section shall not prohibit any person holding an office under the laws of the state or any deputy of any officer so holding any office from serving upon the board of Oklahoma Futures or upon the board of directors of the Oklahoma Center for the Advancement of Science and Technology. The provisions of this section shall not prohibit a member of the board of directors of the Oklahoma Center for the Advancement of Science and Technology from serving upon the board of Oklahoma Futures.

B. Any salaries, emoluments or benefits that would otherwise be paid by the agency or political subdivision to a loaned employee or officer shall instead be paid to the regular employer of such employee. The loaned employee shall in turn be paid regular salary and benefits the same as if continuing regular employment with the permanent employer.

SECTION 3. REPEALER 51 O.S. 1991, Section 6, as last amended by Section 1 of Enrolled Senate Bill No. 620 of the 1st Session of the 48th Oklahoma Legislature, is hereby repealed.

SECTION 4. 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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