

ENROLLED HOUSE
BILL NO. 1654

By: Morgan (Danny) of the House

and

Riley of the Senate

An Act relating to cities and towns; amending 11 O.S. 2001, Section 10-112, which relates to form of city government; updating language; modifying time limitation on eligibility for appointment as city manager; amending 11 O.S. 2001, Section 27-104, as amended by Section 2, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2004, Section 27-104), which relates to courts; deleting authorization for a governing body to appoint the mayor as a judge; clarifying judicial requirements for conducting certain trials; requiring court clerks to charge certain fee; requiring certain amount of fee be remitted to certain funds; amending 59 O.S. 2001, Section 1316, as amended by Section 1, Chapter 550, O.S.L. 2004 (59 O.S. Supp. 2004, Section 1316), which relates to bail bondsman; removing requirement for collection of certain fee; repealing 11 O.S. 2001, Section 27-129, as amended by Section 5, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2004, Section 27-129), which relates to municipal courts; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 10-112, is amended to read as follows:

Section 10-112. The council shall appoint a city manager for an indefinite term by a vote of a majority of all its members. It shall choose ~~him~~ the city manager solely on the basis of ~~his~~ executive and administrative qualifications with special reference to ~~his~~ the actual experience in, or ~~his~~ the knowledge of, accepted practice in respect to the duties of ~~his~~ the office. At the time of ~~his~~ appointment, the city manager need not be a resident of the city or state; but during the tenure of ~~his~~ holding office ~~he~~ the city manager shall reside within the city. ~~The city manager~~ City managers may appoint ~~himself~~ themselves, or the council or other authority may appoint or elect ~~him~~ the city manager, to other offices and positions in the city government, subject to regulations prescribed by ordinance; but ~~he~~ the city manager may not receive compensation for service in such other offices or positions. Neither the mayor nor any members of the city council may be appointed city manager during the term for which ~~he~~ they shall have been elected nor within two (2) years after ~~the expiration of his term~~ they cease to hold such office.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 27-104, as amended by Section 2, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2004, Section 27-104), is amended to read as follows:

Section 27-104. A. The number of judges for each municipal court shall be determined by the governing body of the municipality where the court is established. The judge of each municipal court shall be appointed by the mayor of the municipality where the court is established, with the consent of the municipal governing body. The judge of any municipal court shall be licensed to practice law in Oklahoma, except as provided for in subsections B and C of this section. He shall serve for a term of two (2) years, said term expiring on a date fixed by ordinance, and until his successor is appointed and qualified, unless removed by the vote of a majority of all members of the governing body for such cause as is provided for by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term. Except in cities with a population of more than two hundred thousand (200,000), nothing in the provisions of this section shall be construed to prevent the judge from engaging in the practice of law in any other court during his tenure of office. The judge shall be paid a salary to be fixed by the municipal governing body. He shall be paid in the same manner as other municipal officials.

B. In any municipality with a population of less than seven thousand five hundred (7,500), the mayor, with the consent of the governing body of the municipality, may appoint as judge:

1. An attorney licensed to practice law in Oklahoma, who resides in the county in which the municipality is located or in an adjacent county; or

2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the municipality; or

3. Any suitable person who resides in the county in which the municipality is located or in an adjacent county.

~~The mayor may be designated as judge of the municipal court upon approval of the governing body of the municipality.~~

C. In any municipality with a population of seven thousand five hundred (7,500) or more, if no attorney licensed to practice law in Oklahoma resides in the county or in an adjacent county in which the municipality is located, who is at the time of appointment willing to accept the appointment as judge, the mayor, with the consent of the governing body of the municipality, may appoint any suitable and proper person as judge.

D. If the judge of the municipal court is not a licensed attorney and has not complied with the judicial education requirements pursuant to subsection F of this section and the ~~judicial~~ education requirements pursuant to Section 18-101 of Title 47 of the Oklahoma Statutes, the trial shall be to the court, and the court may not impose a fine of more than Fifty Dollars (\$50.00), and may not order the defendant imprisoned except for the nonpayment of fines or costs or both.

E. If the judge of the municipal court is not a licensed attorney but has complied with the ~~judicial~~ education requirements of subsection F of this section and the ~~judicial~~ education requirements pursuant to Section 18-101 of Title 47 of the Oklahoma Statutes, the maximum fine that may be imposed shall be Five Hundred Dollars (\$500.00).

F. In order to impose the fine authorized by subsection E of this section, a nonlawyer judge must, within a period not to exceed the preceding reporting period in this state for mandatory continuing legal education, complete courses held for municipal judges which have been approved by the Oklahoma Bar Association Mandatory Legal Education Commission for at least six (6) hours of continuing ~~judicial~~ education credit. Verification may be made by a statement of attendance signed by the course registration personnel.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 153.3 of Title 28, unless there is created a duplication in numbering, reads as follows:

The district court clerk or municipal court clerk shall charge a fee of Thirty-five Dollars (\$35.00) for the initial filing of any bond or any security deposited with the district court clerk or municipal court clerk for the subsequent court appearance of the defendant, which fee shall be assessed as an additional court cost to the defendant. The district court clerk shall remit on a monthly basis Twenty-five Dollars (\$25.00) of every thirty-five-dollar fee imposed on a defendant sentenced to jail to the Sheriff's Jail Fund as established by the county commissioners or to a special revenue fund of the entity operating a jail. The municipal court clerk shall make such remittance to a special revenue fund of the entity operating the jail for the municipality or to a fund designated by the municipal governing body for operating a jail housing municipal prisoners.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 1316, as amended by Section 1, Chapter 550, O.S.L. 2004 (59 O.S. Supp. 2004, Section 1316), is amended to read as follows:

Section 1316. A. 1. A bail bondsman shall neither sign nor countersign in blank any bond, nor shall the bondsman give a power of attorney to, or otherwise authorize, anyone to countersign his or her name to bonds unless the person so authorized is a licensed surety bondsman or managing general agent directly employed by a licensed professional bondsman giving such power of attorney. The professional bondsman shall submit to the Commissioner the agreement between the professional bondsman and the employed bondsman. The professional bondsman shall notify the Commissioner whenever any agreement is canceled.

2. Bail bondsmen shall not allow other licensed bondsmen to present bonds that have previously been signed and completed by other licensed bondsmen unless a written authorization is on file with the court clerk where the bond is filed. The individual that presents the bond shall sign the form in the presence of the official that receives the bond.

B. Premium charged must be indicated on the appearance bond prior to the filing of the bond.

C. A bail bondsman shall provide the indemnitors with a proper receipt which shall include fees, premium or other payments and copies of any agreements executed relating to the appearance bond.

D. All surety bondsmen or managing general agents shall attach a completed power of attorney to the appearance bond that is filed with the court clerk on each bond written.

E. Any bond written in this state shall contain the name and last-known mailing address of the bondsman and, if applicable, of the insurer.

~~F. The court clerk shall charge a fee of Thirty-five Dollars (\$35.00) for the initial filing of any bond, which fee shall be assessed as a court cost to the defendant. The court clerk shall remit on a monthly basis Twenty-five Dollars (\$25.00) of every thirty-five dollar fee to the Sheriff's Jail Fund or to a special revenue fund of the entity operating the jail.~~

SECTION 5. REPEALER 11 O.S. 2001, Section 27-129, as amended by Section 5, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2004, Section 27-129), is hereby repealed.

SECTION 6. This act shall become effective November 1, 2005.

Passed the House of Representatives the 25th day of May, 2005.

Presiding Officer of the House of
Representatives

Passed the Senate the 27th day of May, 2005.

Presiding Officer of the Senate