

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2470

By: Rousselot of the House

and

Brown of the Senate

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8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to cities and towns; providing for
11 certain employment of a part-time city manager;
12 amending 11 O.S. 2001, Section 10-112, as amended by
13 Section 1, Chapter 386, O.S.L. 2005 (11 O.S. Supp.
14 2007, Section 10-112), which relates to the
15 appointment of city manager; modifying term of
16 appointment; providing for financial assistance
17 program for certain municipalities; amending 11 O.S.
18 2001, Section 14-111.1, which relates to municipal
19 ordinances; modifying fee; providing restrictions on
20 location of sex offender treatment center; defining
21 terms; amending 20 O.S. 2001, Section 1313.2, as last
22 amended by Section 1, Chapter 441, O.S.L. 2005 (20
23 O.S. Supp. 2007, Section 1313.2), which relates to
24 fees in addition to fines; modifying when late fees
are assessed; providing for codification; and
declaring an emergency.

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 8-116 of Title 11, unless there
is created a duplication in numbering, reads as follows:

1 A. Any municipality with a population of less than five
2 thousand (5,000) according to the latest Federal Decennial Census
3 may employ a part-time city manager. The duties of the part-time
4 city manager shall be determined by the governing body of the
5 municipality, or pursuant to Section 10-113 of Title 11 of the
6 Oklahoma Statutes for municipalities governed by the council-manager
7 form of government.

8 B. Financial assistance for qualifying municipalities may be
9 obtained, upon availability of funding, through a financial
10 assistance program to be developed by the Oklahoma Department of
11 Commerce authorized pursuant to Section 5017 of Title 74 of the
12 Oklahoma Statutes.

13 SECTION 2. AMENDATORY 11 O.S. 2001, Section 10-112, as
14 amended by Section 1, Chapter 386, O.S.L. 2005 (11 O.S. Supp. 2007,
15 Section 10-112), is amended to read as follows:

16 Section 10-112. The council shall appoint a city manager ~~for an~~
17 ~~indefinite term~~ or a part-time city manager, pursuant to this act,
18 by a vote of a majority of all its members subject to the terms of
19 employment established by the council. It shall choose the city
20 manager or part-time city manager solely on the basis of executive
21 and administrative qualifications with special reference to the
22 actual experience in, or the knowledge of, accepted practice in
23 respect to the duties of the office. At the time of appointment,
24 the city manager need not be a resident of the city or state; but

1 during the tenure of holding office the city manager shall reside
2 within the city. City managers or part-time city managers may
3 appoint themselves, or the council or other authority may appoint or
4 elect the city manager or part-time city manager, to other offices
5 and positions in the city government, subject to regulations
6 prescribed by ordinance; but the city manager or part-time city
7 manager may not receive compensation for service in such other
8 offices or positions. Neither the mayor nor any members of the city
9 council may be appointed city manager or part-time city manager
10 during the term for which they shall have been elected nor within
11 two (2) years after they cease to hold such office.

12 SECTION 3. AMENDATORY 11 O.S. 2001, Section 14-111.1, is
13 amended to read as follows:

14 Section 14-111.1 A. Notwithstanding any other provision of
15 law, a municipal court which collects a penalty assessment or other
16 state fee from a defendant pursuant to state law may retain ~~eight~~
17 ~~cents (\$0.08)~~ ten percent (10%) of such monies and may also retain
18 all interest accrued thereon prior to the due date for deposits as
19 provided in state law. The fee shall be deposited as determined by
20 the municipal governing body.

21 B. A municipal court in a municipality having a basic law
22 enforcement academy approved by the Council on Law Enforcement
23 Education and Training pursuant to the criteria developed by the
24 Council for training law enforcement officers may retain as an

1 administrative fee two percent (2%) of any penalty assessment or
2 other state fee imposed by state statute. The two percent (2%)
3 administrative fee shall be deducted from the portion of the penalty
4 assessment or other state fee retained by such municipality.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 5017.8 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 Contingent on funding, the Oklahoma Department of Commerce may
9 partner with a statewide organization to develop and coordinate a
10 financial assistance program for qualifying municipalities having a
11 population of less than five thousand (5,000) according to the
12 latest Federal Decennial Census to employ a part-time city manager
13 pursuant to Section 1 of this act. The statewide organization shall
14 demonstrate to the Oklahoma Department of Commerce that it is exempt
15 from taxation under federal law and designated pursuant to the
16 Internal Revenue Code, 26 U.S.C., Section 170(a) and that it has
17 represented municipalities, had statutory functions and conducted
18 training programs for municipalities for at least fifteen (15) years
19 prior to November 1, 2005. It shall further demonstrate that its
20 continuous official purpose is to promote the general welfare of
21 cities and towns, to foster or conduct schools, short courses and
22 other training sessions, to provide technical assistance and
23 consultative services and other aids for the improvement and
24 increased efficiency of city and town government, and to serve as

1 the representative of cities and towns in carrying out the duties
2 and prerogatives conferred on it by state law.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 22-109.2 of Title 11, unless
5 there is created a duplication in numbering, reads as follows:

6 A. As used in this section:

7 1. "Sex offender treatment center" means any facility
8 established for the primary purpose of offering psychiatric,
9 psychological, social or rehabilitative counseling services or
10 outpatient treatment programs to any sex offender or group of sex
11 offenders; and

12 2. "Sex offender" means any person who has been convicted of a
13 sex offense and is required to register as a sex offender pursuant
14 to the Sex Offenders Registration Act.

15 B. The location of a sex offender treatment center shall be
16 subject to the nondiscriminatory zoning ordinances of the town or
17 city in which located, and the location of a sex offender treatment
18 center is specifically prohibited within one thousand (1,000) feet
19 of:

20 1. Any public or private school site, or educational
21 institution;

22 2. Any park or playground dedicated or designated for public
23 use; and

24

1 3. Any licensed child care center as defined by the Department
2 of Human Services.

3 Provided, that if any such building used for any public or
4 private school site, or educational institution, any park or
5 playground, or any licensed child care center shall be established
6 within one thousand (1,000) feet of any sex offender treatment
7 center after the center has been established, this subsection shall
8 not be a bar to the continuation of the center so long as it has
9 been in continuous force and effect. The distance indicated in this
10 subsection shall be measured from the nearest property line of the
11 school, park, playground or licensed child care center to the
12 nearest property line of the sex offender treatment center.

13 SECTION 6. AMENDATORY 20 O.S. 2001, Section 1313.2, as
14 last amended by Section 1, Chapter 441, O.S.L. 2005 (20 O.S. Supp.
15 2007, Section 1313.2), is amended to read as follows:

16 Section 1313.2 A. As used in this section:

17 1. "Convicted" means any final adjudication of guilt, whether
18 pursuant to a plea of guilty or nolo contendere or otherwise, and
19 any deferred or suspended sentence or judgment;

20 2. "Court" means any state or municipal court having
21 jurisdiction to impose a criminal fine or penalty; and

22 3. "DNA" means Deoxyribonucleic acid.

23 B. Any person convicted of an offense, including traffic
24 offenses but excluding parking and standing violations, punishable

1 by a fine of Ten Dollars (\$10.00) or more or by incarceration or any
2 person forfeiting bond when charged with such an offense, shall be
3 ordered by the court to pay Nine Dollars (\$9.00) as a separate fee,
4 which fee shall be in addition to and not in substitution for any
5 and all fines and penalties otherwise provided for by law for such
6 offense.

7 C. 1. Any person convicted of any misdemeanor or felony
8 offense shall pay a Laboratory Analysis Fee in the amount of One
9 Hundred Fifty Dollars (\$150.00) for each offense if forensic science
10 or laboratory services are rendered or administered by the Oklahoma
11 State Bureau of Investigation, by the Toxicology Laboratory of the
12 Office of the Chief Medical Examiner or by any municipality or
13 county in connection with the case. This fee shall be in addition
14 to and not a substitution for any and all fines and penalties
15 otherwise provided for by law for this offense.

16 2. The court clerk shall cause to be deposited the amount of
17 One Hundred Fifty Dollars (\$150.00) as collected, for every
18 conviction as described in this subsection. The court clerk shall
19 remit the monies in the fund on a monthly basis directly either to:

20 a. the Oklahoma State Bureau of Investigation who shall
21 deposit the monies into the OSBI Revolving Fund
22 provided for in Section 150.19a of Title 74 of the
23 Oklahoma Statutes for services rendered or
24

1 administered by the Oklahoma State Bureau of
2 Investigation,

3 b. the Office of the Chief Medical Examiner who shall
4 deposit the monies into the Office of the Chief
5 Medical Examiner Toxicology Laboratory Revolving Fund
6 provided for in Section 954 of Title 63 of the
7 Oklahoma Statutes for services rendered or
8 administered by the Toxicology Laboratory of the
9 Office of the Chief Medical Examiner, or

10 c. the appropriate municipality or county for services
11 rendered or administered by a municipality or county.

12 3. The monies from the Laboratory Analysis Fee Fund deposited
13 into the OSBI Revolving Fund shall be used for the following:

- 14 a. providing criminalistic laboratory services,
15 b. the purchase and maintenance of equipment for use by
16 the laboratory in performing analysis,
17 c. education, training, and scientific development of
18 Oklahoma State Bureau of Investigation personnel, and
19 d. the destruction of seized property and chemicals as
20 prescribed in Sections 2-505 and 2-508 of Title 63 of
21 the Oklahoma Statutes.

22 D. Upon conviction or bond forfeiture, the court shall collect
23 the fee provided for in subsection B of this section and deposit it
24 in an account created for that purpose. Except as otherwise

1 provided in subsection E of this section, monies shall be forwarded
2 monthly by the court clerk to the Council on Law Enforcement
3 Education and Training. Beginning July 1, 2003, deposits shall be
4 due on the fifteenth day of each month for the preceding calendar
5 month. There shall be a late fee imposed for failure to make ~~timely~~
6 deposits within ninety (90) days following the due date; provided,
7 the Council on Law Enforcement Education and Training, in its
8 discretion, may waive all or part of the late fee. Such late fee
9 shall be an amount not exceeding the greater of Fifty Dollars
10 (\$50.00) or one percent (1%) of the principal amount due per day
11 ~~beginning from the tenth day after payment is due and accumulating~~
12 ~~until the late fee reaches one hundred percent (100%) of the~~
13 ~~principal amount~~ ninety (90) days following the due date. Beginning
14 on July 1, 1987, ninety percent (90%) of the monies received by the
15 Council on Law Enforcement Education and Training from the court
16 clerks pursuant to this section shall be deposited in the CLEET
17 Fund, and ten percent (10%) shall be deposited in the General
18 Revenue Fund. Beginning January 1, 2001, sixty and fifty-three one-
19 hundredths percent (60.53%) of the monies received by the Council on
20 Law Enforcement Education and Training from the court clerks
21 pursuant to this section shall be deposited in the CLEET Fund
22 created pursuant to subsection F of this section, five and eighty-
23 three one-hundredths percent (5.83%) shall be deposited in the
24 General Revenue Fund and thirty-three and sixty-four one-hundredths

1 percent (33.64%) shall be deposited in the CLEET Training Center
2 Revolving Fund created pursuant to Section 3311.6 of Title 70 of the
3 Oklahoma Statutes. Along with the deposits required by this
4 subsection each court shall also submit a report stating the total
5 amount of funds collected and the total number of fees imposed
6 during the preceding quarter. The report may be made on
7 computerized or manual disposition reports.

8 E. Any municipality or county having a basic law enforcement
9 academy approved by the Council on Law Enforcement Education and
10 Training pursuant to the criteria developed by the Council for
11 training law enforcement officers shall retain from monies collected
12 pursuant to this section, Two Dollars (\$2.00) from each fee. These
13 monies shall be deposited into an account for the sole use of the
14 municipality or county in implementing its law enforcement training
15 functions. Not more than seven percent (7%) of the monies shall be
16 used for court and prosecution training. The court clerk of any
17 such municipality or county shall furnish to the Council on Law
18 Enforcement Education and Training the report required by subsection
19 D of this section.

20 F. There is hereby created in the State Treasury a fund for the
21 Council on Law Enforcement Education and Training to be designated
22 the "CLEET Fund". The fund shall be subject to legislative
23 appropriation and shall consist of any monies received from fees and
24 receipts collected pursuant to the Oklahoma Open Records Act,

1 reimbursements for parts used in the repair of weapons of law
2 enforcement officers attending the basic academies, gifts, bequests,
3 contributions, tuition, fees, devises, and the assessments levied
4 pursuant to the fund pursuant to law.

5 G. 1. Any person convicted of a felony offense shall pay a DNA
6 fee of One Hundred Fifty Dollars (\$150.00). This fee shall not be
7 collected if the person has a valid DNA sample in the OSBI DNA
8 Offender Database at the time of sentencing.

9 2. The court clerk shall cause to be deposited the amount of
10 One Hundred Fifty Dollars (\$150.00) as collected, for every felony
11 conviction as described in this subsection. The court clerk shall
12 remit the monies in said fund on a monthly basis directly to the
13 Oklahoma State Bureau of Investigation who shall deposit the monies
14 into the OSBI Revolving Fund provided for in Section 150.19a of
15 Title 74 of the Oklahoma Statutes for services rendered or
16 administered by the Oklahoma State Bureau of Investigation.

17 3. The monies from the DNA sample fee deposited into the OSBI
18 Revolving Fund shall be used for creating, staffing, and maintaining
19 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)
20 Database.

21 H. It shall be the responsibility of the court clerk to account
22 for and ensure the correctness and accuracy of payments made to the
23 state agencies identified in Sections 1313.2 through 1313.4 of this
24 title. Payments made directly to an agency by the court clerk as a

1 result of different types of assessments and fees pursuant to
2 Sections 1313.2 through 1313.4 of this title shall be made monthly
3 to each state agency.

4 SECTION 7. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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