

THE HOUSE OF REPRESENTATIVES
Tuesday, April 14, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 1170

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1170 - By:
LEFTWICH of the Senate and CHRISTIAN of the House.

An Act relating to public safety; amending 47 O.S. 2001, Section 2-105, as last amended by Section 6, Chapter 62, O.S.L. 2007 (47 O.S. Supp. 2008, Section 2-105), which relates to qualifications of Highway Patrol Division personnel; deleting certain education and experience requirements; amending Section 5, Chapter 176, O.S.L. 2005 (74 O.S. Supp. 2008, Section 840-2.30), which relates to the Oklahoma Personnel Act; providing holiday leave exemption for certain Department of Public Safety employees; directing the Department of Public Safety to schedule and grant holiday leave for certain employees; providing procedures for the scheduling, granting and deducting of holiday leave; providing an effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 47 O.S. 2001, Section 2-105, as last amended by
2 Section 6, Chapter 62, O.S.L. 2007 (47 O.S. Supp. 2008, Section 2-105), is amended to
3 read as follows:

4 Section 2-105. A. The Commissioner of Public Safety, subject to the Oklahoma
5 Personnel Act, shall appoint:

6 1. A Chief of the Oklahoma Highway Patrol Division with the rank of Colonel,
7 Deputy Chiefs of the Oklahoma Highway Patrol Division with the rank of Lieutenant

1 Colonel, and subordinate officers and employees of the Oklahoma Highway Patrol
2 Division, including Majors, Captains, Lieutenants, and Highway Patrolmen with the
3 rank of Trooper, who shall comprise the Oklahoma Highway Patrol Division of the
4 Department of Public Safety; provided, any officer appointed to a commissioned position
5 prescribed in this paragraph which is unclassified pursuant to Section 840-5.5 of Title 74
6 of the Oklahoma Statutes shall have a right of return to the highest previously held
7 classified commissioned position within the Highway Patrol Division of the Department
8 of Public Safety without any loss of rights, privileges or benefits immediately upon
9 completion of the duties in the unclassified commissioned position;

10 2. A Captain, Lieutenants, and Patrolmen who shall comprise the Lake Patrol
11 Section of the Oklahoma Highway Patrol Division of the Department of Public Safety;

12 3. A Captain, Lieutenants, and Patrolmen, who shall comprise the Capitol Patrol
13 Section of the Oklahoma Highway Patrol Division of the Department of Public Safety;
14 and

15 4. A Director of the Communications Division with the rank of Captain,
16 Communications Coordinators with the rank of First Lieutenant, Communications
17 Superintendents with the rank of Second Lieutenant, Communications Supervisors with
18 the rank of Sergeant, Communications Dispatchers, Radio Technicians and Tower
19 Maintenance Officers who shall comprise the Communications Division of the
20 Department of Public Safety.

21 B. 1. The Commissioner, when appointing commissioned officers and employees to
22 the positions set out in subsection A of this section, shall determine, in consultation with

1 the Administrator of the Office of Personnel Management, minimum qualifications and
2 shall select such officers and employees only after examinations to determine their
3 physical and mental qualifications for such positions. The content of the examinations
4 shall be prescribed by the Commissioner, and all such appointees shall satisfactorily
5 complete a course of training in operations and procedures as prescribed by the
6 Commissioner.

7 2. No person shall be appointed to any position set out in subsection A of this
8 section unless the person is a citizen of the United States of America, of good moral
9 character, and:

10 a. for commissioned officer positions, shall be at least twenty-one (21)
11 years of age but less than forty-three (43) years of age, and shall
12 possess:

13 ~~(1) an associate's degree or~~ a minimum of sixty-two (62) successfully
14 completed semester hours from a college or university which is
15 recognized by and accepted by the American Association of
16 Collegiate Registrars and Admissions Officers and whose hours
17 are transferable between such recognized institutions, ~~and~~

18 ~~(2) for any person appointed to the Oklahoma Highway Patrol~~
19 ~~Division on or after July 1, 2010:~~

20 ~~(a) a bachelor's degree from a college or university which is~~
21 ~~recognized by and accepted by the American Association~~
22 ~~of Collegiate Registrars and Admissions Officers and~~

1 whose hours are transferable between such recognized
2 institutions, or

3 (b) ~~an associate's degree or a minimum of sixty-two (62)~~
4 ~~successfully completed semester hours from a college or~~
5 ~~university which is recognized by and accepted by the~~
6 ~~American Association of Collegiate Registrars and~~
7 ~~Admissions Officers and whose hours are transferable~~
8 ~~between such recognized institutions, and:~~

9 i. ~~at least two (2) years' experience as a law~~
10 ~~enforcement officer certified by the Council on Law~~
11 ~~Enforcement Education and Training (C.L.E.E.T.)~~
12 ~~or by the equivalent state agency in another state~~
13 ~~or by any law enforcement agency of the federal~~
14 ~~government, or~~

15 ii. ~~at least two (2) years of honorable military service~~
16 ~~in an active or reserve component of the United~~
17 ~~States Armed Forces.~~

18 ~~Provided, such years of experience or service shall have been~~
19 ~~consecutive and shall have been completed no more than two (2) years~~
20 ~~prior to application for appointment, or~~

21 b. for any such position in the Communications Division, a person shall
22 be at least twenty (20) years of age and shall possess a high school

1 diploma or General Educational Development equivalency certificate;
2 shall possess either six (6) months of previous experience as a
3 dispatcher or fifteen (15) successfully completed semester hours from a
4 college or university which is recognized by and accepted by the
5 American Association of Collegiate Registrars and Admissions Officers
6 and whose hours are transferable between such recognized
7 institutions.

8 3. No commissioned officer of the Department shall, while in such position, be a
9 candidate for any political office or take part in or contribute any money or other thing of
10 value, directly or indirectly, to any political campaign or to any candidate for public
11 office. Anyone convicted of violating the provisions of this paragraph shall be guilty of a
12 misdemeanor and shall be punished as provided by law.

13 4. The Commissioner or any employee of the Department shall not be a candidate
14 for any political office, or in any way be active or participate in any political contest of
15 any Primary, General, or Special Election, except to cast a ballot. No commissioned
16 officer of the Department, while in the performance of the officer's assigned duty of
17 providing security and protection, shall be considered as participating in a political
18 campaign. The provisions of this paragraph shall not be construed to preclude a
19 commissioned officer of the Oklahoma Highway Patrol Division of the Department of
20 Public Safety from being a candidate for a position on a local board of education.

1 5. Drunkenness or being under the influence of intoxicating substances shall be
2 sufficient grounds for the removal of any commissioned officer of the Department, in and
3 by the manner provided for in this section.

4 C. 1. Upon initial appointment to the position of Cadet Highway Patrolman or
5 Probationary Communications Dispatcher, the appointed employee shall be required to
6 serve an initial probationary period of twelve (12) months. The Commissioner may
7 extend the probationary period for up to three (3) additional months provided that the
8 employee and the Office of Personnel Management are notified in writing as to such
9 action and the reasons therefor. During such probationary period, the employee may be
10 terminated at any time and for any reason at the discretion of the Commissioner.

11 Retention in the service after expiration of the initial probationary period shall entitle
12 such employee to be classified as a permanent employee and the employee shall be so
13 classified. No permanent employee may be discharged or removed except as provided for
14 in this section.

15 2. A commissioned officer of the Oklahoma Highway Patrol Division may be
16 promoted during the initial probationary period if such officer satisfactorily completes all
17 training requirements prescribed by the Commissioner.

18 D. 1. No permanent employee, as provided for in this section, who is a
19 commissioned officer of the Department, may be suspended without pay or dismissed
20 unless the employee has been notified in writing by the Commissioner of such intended
21 action and the reasons therefor. No such notice shall be given by the Commissioner
22 unless sworn charges or statements have been obtained to justify the action.

1 2. Whenever such charges are preferred, the Commissioner may suspend the
2 accused pending the hearing and final determination of such charges. If the charges are
3 not sustained in whole or in part, the accused shall be entitled to pay during the period of
4 such suspension. If the charges are sustained in whole or in part, the accused shall not
5 receive any pay for the period of such suspension.

6 3. Commissioned officers of the Department of Public Safety are not entitled to
7 appeal intra-agency transfer to the Oklahoma Merit Protection Commission pursuant to
8 the Oklahoma Personnel Act unless transfer is in violation of Section 840-2.5 or 840-2.9
9 of Title 74 of the Oklahoma Statutes.

10 4. The Department of Public Safety shall follow the uniform grievance procedure
11 established and adopted by the Office of Personnel Management for permanent classified
12 employees, except for those employees who are commissioned officers of the Department.
13 The Department of Public Safety shall establish and adopt a proprietary grievance
14 procedure for commissioned officers of the Department which is otherwise in compliance
15 with the provisions of Section 840-6.2 of Title 74 of the Oklahoma Statutes.

16 E. 1. The Commissioner is hereby authorized to purchase and issue uniforms and
17 necessary equipment for all commissioned officers of the Highway Patrol Division of the
18 Department. All uniforms and equipment shall be used only in the performance of the
19 official duties of such officers and shall remain the property of the Department, except as
20 provided in Section 2-150 of this title.

21 2. Each commissioned officer of the Highway Patrol Division of the Department of
22 Public Safety shall be entitled to reimbursement of expenses pursuant to the State

1 Travel Reimbursement Act while away from the assigned area of the officer as
2 designated by the Chief of the Oklahoma Highway Patrol Division, when such expense is
3 incurred in the service of the state.

4 F. 1. The positions with the rank of Colonel and Lieutenant Colonel of the
5 Oklahoma Highway Patrol Division shall be filled from the body of commissioned officers
6 of the Oklahoma Highway Patrol Division and appointment to said position shall be
7 based on qualifications, previous record as a commissioned officer of the Oklahoma
8 Highway Patrol Division, length of service, years of experience within the Oklahoma
9 Highway Patrol Division or other service as prescribed in this subsection, and efficiency
10 of service performed.

11 2. In addition to the requirements of paragraph 1 of this subsection, the position of
12 Chief of the Oklahoma Highway Patrol Division shall be based on one of the following:

- 13 a. one (1) year of experience in any combination:
- 14 (1) as Commissioner of Public Safety,
15 (2) as Assistant Commissioner of Public Safety, or
16 (3) as Assistant Chief,
- 17 b. two (2) years of experience in any combination:
- 18 (1) as Deputy Chief or higher rank, or
19 (2) if the experience was prior to the effective date of this act, as
20 Major or higher rank,
- 21 c. four (4) years of experience in any combination:
- 22 (1) as Major or higher rank, or

1 (2) if the experience was prior to the effective date of this act, as
2 Captain or higher rank, or

3 d. six (6) years of experience in any combination:

4 (1) as Captain or higher rank, or

5 (2) if the experience was prior to the effective date of this act, as
6 First Lieutenant or higher rank.

7 3. In addition to the requirements of paragraph 1 of this subsection, the position of
8 Deputy Chief of the Oklahoma Highway Patrol Division shall be based on one of the
9 following:

10 a. one (1) year of experience in any combination:

11 (1) as Commissioner of Public Safety,

12 (2) as Assistant Commissioner of Public Safety, or

13 (3) as Colonel,

14 b. two (2) years of experience in any combination:

15 (1) as Major or higher rank, or

16 (2) if the experience was prior to the effective date of this act, as
17 Captain or higher rank, or

18 c. four (4) years of experience in any combination:

19 (1) as Captain or higher rank, or

20 (2) if the experience was prior to the effective date of this act, as
21 Highway Patrol First Lieutenant or higher rank.

1 G. The Commissioner of Public Safety is hereby authorized to send employees of
2 the Department of Public Safety to schools such as Northwestern University Center for
3 Public Safety, Southern Police Institute, the FBI National Academy, the Institute of
4 Police Technology and Management, or to any other schools of similar training which
5 would be conducive to improving the efficiency of the Oklahoma Highway Patrol Division
6 and the Department of Public Safety. While an employee is attending a school, the
7 Commissioner is authorized to permit the employee to use a state-owned vehicle and to
8 use a fuel-purchasing card for any expenses related to the operation of the vehicle. In
9 addition, while an employee is attending the FBI National Academy, a one-time expense
10 allowance of Two Thousand Dollars (\$2,000.00) for uniforms, fees, travel, room and
11 board, and other related expenses shall be paid to the employee by the Department;
12 provided, the employee shall not be further compensated through the State Travel
13 Reimbursement Act, and, if any other agency reimburses the employee for any expenses,
14 the reimbursement shall be given to the Department. All purchases made by the
15 employee with the expense allowance shall be considered property of the employee.

16 H. 1. Any former commissioned officer of the Department whose separation from
17 the Department was at such officer's own request and not a result of such officer's own
18 actions contrary to the policy of the Department or was not as a result of the retirement
19 of that officer from the Department may make application for reinstatement as a
20 commissioned officer of the division or section of the Department in which such officer
21 was previously employed, provided such reinstated officer will be able to complete twenty
22 (20) years of credited service by the time the reinstated officer reaches sixty-two (62)

1 years of age. The Commissioner may waive the requirements of possessing the number
2 of semester hours or degree as required in subsection B of this section for any former
3 commissioned officer making application for reinstatement as a commissioned officer of
4 the Department. The Commissioner may require the applicant for reinstatement to
5 attend selected courses of instruction, as prescribed by the Commissioner.

6 2. In the event of future hostilities wherein the Congress of the United States
7 declares this nation in a state of war with a foreign nation, including military service
8 brought about by the Vietnam War, any period of military service served by a
9 commissioned officer of the Department shall be considered as continued service with
10 such Department, provided such commissioned officer returns to duty with the
11 Department within sixty (60) days after release from military service.

12 SECTION 2. AMENDATORY Section 5, Chapter 176, O.S.L. 2005 (74 O.S.
13 Supp. 2008, Section 840-2.30), is amended to read as follows:

14 Section 840-2.30 A. It is the policy of the State of Oklahoma to be accountable to
15 state taxpayers for the expenditure of public funds. To this end, all state employees shall
16 be paid according to a pay system established pursuant to the principles of public
17 accountability that prohibits payment to any state employee for time not worked unless
18 the time not worked is covered by available paid leave. Violation of this provision may
19 result in disciplinary action and criminal prosecution under Oklahoma law.

20 B. 1. The Department of Public Safety shall be exempt from the provisions of
21 subsection A of this section as it relates to holiday leave for employees of the Department

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 of Public Safety appointed by the Commissioner of Public Safety pursuant to subsection
2 A of Section 2-105 of Title 47 of the Oklahoma Statutes.

3 2. Notwithstanding the dates to be observed as holidays in 2009, as specified and
4 approved by the Governor pursuant to Section 82.1 of Title 25 of the Oklahoma Statutes,
5 on the effective date of this act the Department of Public Safety shall schedule and grant
6 holiday leave for employees prescribed in paragraph 1 of this subsection as is necessary
7 to appropriately perform the functions of the Oklahoma Highway Patrol Division of the
8 Department, regardless of whether the holiday leave is granted on, before, or after the
9 actual date of the holiday specified and approved by the Governor.

10 3. For the calendar year beginning January 1, 2010, and for each calendar year
11 thereafter, all leave hours for the number of holidays to be observed in the calendar year,
12 as specified and approved by the Governor pursuant to Section 82.1 of Title 25 of the
13 Oklahoma Statutes, shall accrue in total on January 1 of the calendar year for each
14 employee prescribed in paragraph 1 of this subsection. Notwithstanding the dates to be
15 observed as holidays in the calendar year, the Department of Public Safety shall
16 schedule and grant holiday leave for the calendar year for employees prescribed in
17 paragraph 1 of this subsection as is deemed necessary to appropriately perform the
18 functions of the Oklahoma Highway Patrol Division of the Department, regardless of
19 whether the holiday leave is granted on, before, or after the actual date of the holiday
20 specified and approved by the Governor.

1 4. The Department shall schedule and grant for each employee specified in
2 paragraph 1 of this subsection and the employee shall use holiday leave, as specified in
3 this subsection, in eight-hour increments or multiples of eight-hour increments; provided:

4 a. the Department shall not schedule and grant for any employee and the
5 employee shall not use more holiday leave in any calendar year than is
6 specified and approved by the Governor for that calendar year,

7 pursuant to Section 82.1 of Title 25 of the Oklahoma Statutes, and

8 b. the Department shall schedule and grant for each employee and the
9 employee shall use all holiday leave during the calendar year in which
10 it is specified and approved by the Governor. Holiday leave shall not
11 carry over from one (1) calendar year to the next calendar year.

12 5. If an employee prescribed in paragraph 1 of this subsection leaves the service of
13 the state, and the Department has scheduled and granted the employee and the
14 employee has used holiday leave which is in excess of the number of holidays left in the
15 calendar year during which the employee leaves the service of the state, the Department
16 shall deduct the number of excess hours of holiday leave used by the employee from the
17 accrued annual leave of the employee.

18 SECTION 3. This act shall become effective July 1, 2009.

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

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
2 dated 04-13-09 - DO PASS, As Amended.