

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1168

By: McBride

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 40 O.S. 2011, Section 1, which relates to the Department of labor; modifying duties of the Commissioner of Labor; amending 59 O.S. 2011, Sections 1000.21, as amended by Section 2, Chapter 223, O.S.L. 2014, 1000.22, 1000.23, as amended by Section 3, Chapter 223, O.S.L. 2014, 1000.24, 1000.25, as last amended by Section 4, Chapter 223, O.S.L. 2014 and 1000.28, as amended by Section 273, Chapter 304, O.S.L. 2012 (59 O.S. Supp. 2016, Sections 1000.21, 1000.23, 1000.25 and 1000.28), which relate to the Oklahoma Uniform Building Code Commission Act; authorizing Department of Labor to administer the Oklahoma Uniform Building Code Commission Act; modifying powers and duties of the Oklahoma Uniform Building Code Commission; authorizing Department to recommend system of fees; providing for payment of certain fees collected; repealing 59 O.S. 2011, Sections 1000.26 and 1000.27, which relate to the Chief Executive Officer and legal advisor to the Oklahoma Uniform Building Code Commission; and providing an effective date.

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

SECTION 1. AMENDATORY 40 O.S. 2011, Section 1, is amended to read as follows:

1 Section 1. A. The Commissioner of Labor shall be the Chief
2 Executive Officer of the Department of Labor, and shall supervise
3 the work of that Department.

4 B. It shall be the duty of the Commissioner of Labor to:

5 1. ~~foster~~ Foster, promote, and develop the welfare of the wage
6 earners of this state;

7 2. ~~improve~~ Improve working conditions of the wage earners;

8 3. ~~advance~~ Advance opportunities of wage earners for profitable
9 employment; and

10 4. Implement and administer the Oklahoma Uniform Building Code
11 Commission Act; and

12 5. ~~carry~~ Carry into effect all laws in relation to labor
13 enacted by the Legislature for which responsibility is assigned to
14 the Commissioner of Labor.

15 C. The Commissioner of Labor may administer oaths, issue
16 subpoenas for the attendance of witnesses and take testimony in all
17 matters relating to the proper enforcement of all laws over which
18 the Commissioner has supervision pursuant to the provisions of the
19 laws of this state.

20 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1000.21, as
21 amended by Section 2, Chapter 223, O.S.L. 2014 (59 O.S. Supp. 2016,
22 Section 1000.21), is amended to read as follows:

23 Section 1000.21 A. 1. There is hereby created the Oklahoma
24 Uniform Building Code Commission within the ~~Construction Industries~~

1 ~~Board which~~ Department of Labor. The Department of Labor is
2 authorized to administer the Oklahoma Uniform Building Code
3 Commission Act and exercise all incidental powers necessary and
4 proper to implement and enforce the provisions of the Oklahoma
5 Uniform Building Code Commission Act and the rules promulgated
6 thereto. The Oklahoma Uniform Building Code Commission shall
7 consist of eleven (11) members, nine of whom shall be appointed by
8 the Governor with the advice and consent of the Senate as follows:

- 9 a. one member who is a general contractor from a
10 statewide organization that represents residential
11 construction,
- 12 b. one member who is a general contractor from a
13 statewide organization that represents commercial
14 construction,
- 15 c. one member who is a contractor from a statewide
16 organization that represents electrical contractors,
- 17 d. one member who is a contractor from a statewide
18 organization that represents plumbing contractors,
- 19 e. one member who is a contractor from a statewide
20 organization that represents heating and cooling
21 contractors,
- 22 f. one member who is a local-level regulator/inspector
23 who is a member of a statewide organization that is
24 exempt from taxation under federal law and designated

1 pursuant to the provisions of the Internal Revenue
2 Code, 26 U.S.C., Section 170(a), who has represented
3 municipalities and had statutory functions for
4 municipalities for at least fifteen (15) years prior
5 to November 1, 2005,

6 g. one member who is a Certified Building Official
7 employed by a political subdivision,

8 h. one member who is a licensed architect from a
9 statewide organization that represents architects, and

10 i. one member who is from the insurance industry with
11 knowledge of building codes and experience in property
12 loss mitigation.

13 2. The members shall be appointed for staggered terms of four
14 (4) years, beginning July 1, 2009. A full term of office for
15 purposes of determining term limits provided in subsection C of this
16 section shall be the completion of a full four-year term of
17 appointment.

18 B. The remaining two members of the Commission shall be the
19 State Fire Marshal, or a designee, and an appointee of the
20 Construction Industries Board.

21 C. Appointed members shall continue in office until a successor
22 is appointed by the Governor, notwithstanding the term limitations.
23 No appointed member shall serve more than two consecutive full four-
24 year terms; provided, such a member shall be eligible to serve until

1 a successor is appointed, and such member may be reappointed after a
2 two-year absence from the Commission. The Governor shall fill all
3 vacancies and unexpired terms in the same manner as the original
4 appointment of the member whose position is to be filled. No
5 initial appointment to a term of less than four (4) years or any
6 partial-term appointment to fill a vacancy or unexpired term of
7 another member shall be counted for purposes of determining term
8 limits. An appointed member may be removed by the Governor for
9 cause.

10 D. Whenever a member of the Commission is absent from more than
11 one-half (1/2) of all meetings of the governing body, regular and
12 special, held within any period of twelve (12) consecutive months,
13 the member shall thereupon cease to hold office by operation of law.

14 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1000.22, is
15 amended to read as follows:

16 Section 1000.22 ~~1- A.~~ A. The Oklahoma Uniform Building Code
17 Commission shall ~~organize immediately after July 1, 2009, and~~
18 ~~annually thereafter, by electing~~ annually elect from among its
19 members a chair and a vice-chair. The Commission shall hold
20 regularly scheduled meetings at least once each quarter ~~at a time~~
21 ~~and place determined by the Commission~~ and may hold such special
22 meetings, emergency meetings or continued or reconvened meetings as
23 found by the Commission to be necessary. A majority of the members
24

1 of the Commission shall constitute a quorum for the transaction of
2 business.

3 ~~2.~~ B. The chair shall preside at meetings of the Commission,
4 set the agenda, sign orders and other required documents, coordinate
5 Commission activities and perform such other duties as may be
6 prescribed by the Oklahoma Uniform Building Code Commission Act.

7 ~~3.~~ C. The vice-chair shall perform the duties of the chair
8 during the absence or disability of the chair and shall perform such
9 other duties as may be prescribed by the Oklahoma Uniform Building
10 Code Commission Act.

11 ~~4. The Oklahoma Uniform Building Code Commission Chief~~
12 ~~Executive Officer, at the discretion of the Commission, shall:~~

- 13 ~~a. keep a record of all proceedings of the Commission and~~
- 14 ~~certify to actions of the Commission,~~
- 15 ~~b. oversee the receipt and deposit of all monies received~~
- 16 ~~by the Commission in the appropriate revolving funds,~~
- 17 ~~c. submit, at the first regular meeting of the Commission~~
- 18 ~~after the end of each fiscal year, a fully itemized~~
- 19 ~~report of the receipts and disbursements for the prior~~
- 20 ~~fiscal year, showing the amount of funds on hand, and~~
- 21 ~~d. perform such other duties as are prescribed in this~~
- 22 ~~act or as may be prescribed by the Commission.~~

1 ~~5. The Commission shall comply with the provisions of the~~
2 ~~Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the~~
3 ~~Administrative Procedures Act.~~

4 ~~6. D.~~ All members of the Commission ~~and such employees as~~
5 ~~determined by the Commission~~ shall be bonded as required by Sections
6 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

7 ~~7. E.~~ The liability of any member ~~or employee of the Commission~~
8 acting within the scope of Commission duties or employment shall be
9 governed by The Governmental Tort Claims Act.

10 ~~8. F.~~ Members of the Oklahoma Uniform Building Code Commission
11 and members of all technical committees shall serve without
12 compensation, but shall be reimbursed for all actual and necessary
13 expenses incurred in the performance of their duties in accordance
14 with the State Travel Reimbursement Act.

15 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1000.23, as
16 amended by Section 3, Chapter 223, O.S.L. 2014 (59 O.S. Supp. 2016,
17 Section 1000.23), is amended to read as follows:

18 Section 1000.23 A. The Oklahoma Uniform Building Code
19 Commission shall have the power and the duty to ~~review and adopt~~
20 prescribe standards and practices pursuant to this act by reviewing
21 and adopting all building codes for residential and commercial
22 construction to be used by all entities within this state. Codes
23 and standards adopted by the Commission shall be the minimum
24 standards for residential and commercial construction in this state.

1 B. All public projects shall abide by such minimum standards
2 and requirements; provided, nothing in the Oklahoma Uniform Building
3 Code Commission Act shall prevent or take away from state agencies
4 the authority to enact and enforce requirements containing higher
5 standards and requirements than such minimum standards and
6 requirements.

7 C. Municipalities and other political subdivisions shall abide
8 by such minimum standards and requirements; provided, nothing in the
9 Oklahoma Uniform Building Code Commission Act shall prevent or take
10 away from such municipalities and other political subdivisions the
11 authority to enact and enforce requirements containing higher
12 standards and requirements than such minimum standards and
13 requirements.

14 D. The ~~Oklahoma Uniform Building Code~~ Commission shall have the
15 power and duty to establish a training ~~and certification~~ process for
16 all residential and commercial building code inspectors that
17 prescribes standards, practices and procedures for prelicensing
18 inspector training and other inspector training that enhances the
19 education of building and construction inspectors; provided the
20 training does not infringe upon the education requirements and
21 process under the Oklahoma Inspectors Act. Prelicensing programs
22 prescribing the standards, practices and procedures for prelicensing
23 building inspectors for use by other state agencies and other
24 education providers, both public and private, may be developed

1 through the use of a technical committee developing any program or
2 curriculum and recommending to the Board proposed administrative
3 rules setting forth any standards and procedures to be adopted
4 pursuant to paragraph 1 of subsection A of Section 1000.24 of this
5 title. The Commission shall establish ~~regional~~ prelicensing
6 training on a regional basis for the purpose of training the county
7 and municipal inspectors in the ~~Uniform Building Code~~ statewide
8 building codes adopted pursuant to this act. The regional training
9 shall be offered at no cost to the ~~participant~~ building and
10 construction inspector trainee and shall be funded from the funds
11 received pursuant to Section 1000.25 of this title. Each inspector
12 operating in this state on behalf of any state agency or any
13 municipal or county office may ~~complete~~ participate in regional
14 training and be issued a ~~certification for inspections by the~~
15 ~~Uniform Building Code Commission on and after January 1, 2015~~
16 certificate of completion for any training program established
17 pursuant to this act; however, any certificate of completion is
18 subject to the continuing education approval process of the
19 licensing entity. The training ~~and certification applications~~
20 standards and procedures, qualifications and application procedures
21 for the instructor, provider, if a nonstate governmental entity, and
22 the inspector trainee applications shall be promulgated by
23 administrative rules of the ~~Commission~~ Department of Labor. ~~The~~
24 ~~Commission may establish forms~~ Forms and procedures may be

1 established to implement and administer the provisions of this
2 section.

3 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1000.24, is
4 amended to read as follows:

5 Section 1000.24 A. 1. ~~Beginning July 1, 2009, pursuant~~
6 Pursuant to and in compliance with Article I of the Administrative
7 Procedures Act, the ~~Oklahoma Uniform Building Code Commission~~
8 Department of Labor shall have the power to adopt, amend, repeal and
9 promulgate rules as may be necessary to perform the duties required
10 under the Oklahoma Uniform Building Code Commission Act; provided
11 that all rules pertaining to adoption of statewide building codes
12 proposed after technical review and for the purpose of revising and
13 adopting the statewide building codes pursuant to this act shall not
14 be changed or altered by the Department of Labor so that the
15 Commission retains and has the full, unaltered authority to review,
16 revise and adopt the statewide building codes with any
17 administrative services needed in the administrative rules process
18 to be provided by administrative staff of the Department of Labor.
19 ~~Rules authorized under this section shall not become effective prior~~
20 ~~to October 1, 2009.~~

21 2. ~~Beginning October 1, 2009, the Commission shall have the~~
22 ~~power to enforce the provisions of the Oklahoma Uniform Building~~
23 ~~Code Commission Act.~~

1 ~~3.~~ Any codes adopted by state agencies, municipalities or other
2 political subdivisions of the state prior to uniform codes being
3 adopted by the Oklahoma Uniform Building Code Commission, pursuant
4 to the provisions of, or rules promulgated pursuant to, the Oklahoma
5 Uniform Building Code Commission Act, shall be considered valid and
6 in effect until uniform codes are adopted by the Oklahoma Uniform
7 Building Code Commission.

8 B. The Oklahoma Uniform Building Code Commission shall have the
9 following powers:

10 1. ~~Exercise all incidental powers and duties which are~~
11 ~~necessary to effectuate the provisions of the Oklahoma Uniform~~
12 ~~Building Code Commission Act;~~

13 ~~2.~~ Adopt and have an official seal;

14 ~~3.~~ ~~Maintain an administrative staff, including, but not limited~~
15 ~~to, an Oklahoma Uniform Building Code Commission Chief Executive~~
16 ~~Officer;~~

17 ~~4.~~ ~~Direct such other expenditures as may be necessary in the~~
18 ~~performance of its duties, including, but not limited to,~~
19 ~~expenditures for office space, equipment, furnishings and contracts~~
20 ~~for services. All expenditures shall be made pursuant to the~~
21 ~~Oklahoma Central Purchasing Act;~~

22 ~~5.~~ 2. Appoint technical committees to review and recommend for
23 adoption all building codes. The technical committees shall review
24 and recommend building codes with any amendments for adoption by the

1 Commission and receive requests for advisory opinions for
2 interpretation of any statewide building code adopted pursuant to
3 this act, evaluate the requests for appropriateness of need for an
4 advisory opinion, assign any requests to the appropriate technical
5 committee requesting participation from entities responsible for the
6 enforcement of any code involved in the request providing deference
7 to an entity's previous interpretation and, upon recommendation of a
8 technical committee, issue advisory opinions interpreting the
9 adopted statewide code; and

10 ~~6.~~ 3. Create a website listing all building codes adopted by
11 the Commission and any advisory opinions issued. The website shall
12 provide a method for listing all codes adopted by a state agency,
13 city or any other political subdivision of the state containing
14 higher standards and requirements than the codes adopted pursuant to
15 the Oklahoma Uniform Building Code Commission Act as required in
16 Section 14-107 of Title 11 of the Oklahoma Statutes.

17 C. ~~After October 1, 2009, the Commission~~ The Department of
18 Labor shall account for all receipts and expenditures of the monies
19 of the Commission, including annually preparing and publishing a
20 statement of receipts and expenditures of the Commission for each
21 fiscal year. The Commission's annual statement of receipts and
22 expenditures shall be audited by the State Auditor and Inspector or
23 an independent accounting firm, and the audit report shall be
24 certified to the Governor of this state to be true and correct.

1 ~~under oath, by the chair and vice chair of the Commission~~
2 Commissioner of Labor.

3 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1000.25, as
4 last amended by Section 4, Chapter 223, O.S.L. 2014 (59 O.S. Supp.
5 2016, Section 1000.25), is amended to read as follows:

6 Section 1000.25 A. The Oklahoma Uniform Building Code
7 Commission shall ~~establish~~ recommend to the Department of Labor a
8 system of fees to be charged for the issuance and renewal of any
9 construction permits issued by any agency, municipality, or other
10 political subdivision of this state.

11 B. This provision is subject to the following limitations:

12 1. No schedule of fees may be established or amended by the
13 ~~Commission~~ Department except during such times as the Legislature is
14 in session; provided, the ~~Commission~~ Department may establish or
15 amend a schedule of fees at a time when the Legislature is not in
16 session if the fees or schedule of fees has been specifically
17 authorized by the Legislature pursuant to paragraphs 2 and 3 of this
18 subsection. The ~~Commission must~~ Department shall follow the
19 procedures required by Article I of the Administrative Procedures
20 Act for adoption of rules in establishing or amending any such
21 schedule of fees;

22 2. The ~~Commission~~ Department shall charge fees for building
23 permits and renewal of such permits issued by any state agency,
24 municipality, or other political subdivision of this state which

1 authorized work governed by codes within the purview of the
2 ~~Commission~~ Department only within the following ranges:

3 For issuance of permit not to exceed ~~\$5.00~~ \$4.00

4 For renewal of permit not to exceed \$5.00

5 Fees shall be remitted to the Oklahoma Uniform Building Code

6 Commission Revolving Fund created pursuant to Section 1000.28 of

7 this title within thirty (30) days after the end of the preceding

8 calendar month. The Oklahoma Uniform Building Code Commission shall

9 report to the Governor, President Pro Tempore of the Senate and the

10 Speaker of the House semiannually its collections for the six (6)

11 months preceding the report;

12 3. Fees shall be collected by any state agency, municipality or
13 other political subdivision issuing construction permits within this
14 state. The fees shall be deposited in an account created by the
15 collecting entity for that purpose;

16 4. The state agency, municipality or other political
17 subdivision shall remit the monies in the account on a monthly basis
18 directly to the State Treasury for deposit in the Oklahoma Uniform
19 Building Code Commission Revolving Fund created pursuant to Section
20 1000.28 of this title. Along with the deposits required by this
21 paragraph, each state agency, municipality or other political
22 subdivision shall also submit a report stating the total amount of
23 funds collected and the total number of fees imposed during the
24 preceding month. The report shall be made on computerized or manual

1 disposition reports as provided by ~~rule of the Commission~~ rules
2 promulgated pursuant to paragraph 1 of subsection A of Section
3 1000.24 of this title;

4 5. Any state agency, municipality or other political
5 subdivision collecting and remitting fees pursuant to this section
6 may levy a fee up to fifty cents (\$0.50) for every construction
7 permit or renewal permit issued. These monies shall be deposited
8 into an account for the sole use of the state agency, municipality
9 or other political subdivision. The state agency, municipality or
10 other political subdivision shall state the total amount of funds
11 collected and the total number of fees imposed to the State Treasury
12 in the report required by paragraph 4 of this subsection;

13 6. It shall be the responsibility of the state agency,
14 municipality or other political subdivision to account for and
15 ensure the correctness and accuracy of payments made to the State
16 Treasury pursuant to this title;

17 7. Funds collected by a state agency, municipality or other
18 political subdivision and remitted to the State Treasury pursuant to
19 the Oklahoma Uniform Building Code Commission Act shall be deposited
20 in the Oklahoma Uniform Building Code Commission Revolving Fund and
21 shall be used solely for the purposes of the Oklahoma Uniform
22 Building Code Commission Act; provided that of the gross permit fees
23 charged, collected and received, ten percent (10%) shall be paid
24 into the General Revenue Fund of the state; and

1 8. Nothing in this act shall prevent the Oklahoma Uniform
2 Building Code Commission from offering incentives for prompt
3 payment.

4 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1000.28, as
5 amended by Section 273, Chapter 304, O.S.L. 2012 (59 O.S. Supp.
6 2016, Section 1000.28), is amended to read as follows:

7 Section 1000.28 There is hereby created in the State Treasury a
8 revolving fund for the Oklahoma Uniform Building Code Commission to
9 be designated the Oklahoma Uniform Building Code Commission
10 Revolving Fund. The fund shall be a continuous fund, not subject to
11 fiscal year limitations, and shall consist of all fees or payments
12 ~~of any type~~ received by the ~~Commission~~ Department of Labor for the
13 purposes outlined in the provisions of the Oklahoma Uniform Building
14 Code Commission Act. All monies accruing to the credit of the fund
15 are hereby appropriated and may be budgeted and expended by the
16 ~~Commission~~ Department for the purpose of implementing and
17 administering the Oklahoma Uniform Building Code Commission Act.
18 Expenditures from the fund shall be made upon warrants issued by the
19 State Treasurer against claims filed as prescribed by law with the
20 Director of the Office of Management and Enterprise Services for
21 approval and payment.

22 SECTION 8. REPEALER 59 O.S. 2011, Sections 1000.26 and
23 1000.27, are hereby repealed.

SECTION 9. This act shall become effective November 1, 2017.

56-1-7241 JM 03/02/17