

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3683

By: **Burns**

7
8 COMMITTEE SUBSTITUTE

9
10 An Act relating to criminal procedure; amending 22
11 O.S. 2011, Sections 1181, 1181.2, 1182, 1192, 1194,
12 1195 and 1196, which relate to removal of officers;
13 authorizing certain elected officers to be fined;
14 adding causes for removal or fine; modifying
15 accusation contents; modifying type of accusation
16 presented to grand jury; directing district attorney
17 to investigate and institute certain proceedings upon
18 certain notification; authorizing fine upon certain
19 conviction; modifying accusation presented by certain
20 county officials; modifying complaint contents;
21 authorizing certain county officer to voluntarily
22 suspend himself or herself from office under certain
23 circumstances; authorizing judgment to include fine;
24 and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1181, is
amended to read as follows:

Section 1181. Any officer not subject to impeachment elected or
appointed to any state, county, township, city, town, or other

1 office under the laws of the state may, in the manner provided in
2 this article, be removed from office or fined a minimum of Five
3 Hundred Dollars (\$500.00) for any of the following causes:

4 First. Habitual or willful neglect of duty.

5 Second. Gross partiality in office.

6 Third. Oppression in office.

7 Fourth. Corruption in office.

8 Fifth. Extortion or willful overcharge of fees in office.

9 Sixth. Willful maladministration.

10 Seventh. Habitual drunkenness.

11 Eighth. Failure to produce and account for all public funds and
12 property in his or her hands, at any settlement or inspection
13 authorized or required by law.

14 Ninth. Habitual absence from minimum required training events.

15 Tenth. Dereliction of duty.

16 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1181.2, is
17 amended to read as follows:

18 Section 1181.2 The complaint, petition, accusation or
19 proceeding for removal or ouster from office or fine may include
20 allegations or charges of any act or acts of commission, omission or
21 neglect which may be committed, done or omitted during the term of
22 office in which such ~~ouster or removal~~ proceeding may be filed, and
23 may also include allegations or charges as to any act or acts of
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1 commission, omission or neglect committed, done or omitted during a
2 previous or preceding term in such office.

3 SECTION 3. AMENDATORY 22 O.S. 2011, Section 1182, is
4 amended to read as follows:

5 Section 1182. A. An accusation in writing, charging such
6 officer with any of the causes for removal ~~mentioned in the first~~
7 ~~preceding section~~ or fine as provided in Section 1181 of this title
8 may be presented by the grand jury to the district court of the
9 county in or for which the officer is elected or appointed;
10 ~~Provided;~~ provided, that in the case of a state officer, such
11 accusation may be presented by the grand jury of the county in which
12 such officer resides, or in which he or she has his or her place of
13 office for the usual transaction of official business.

14 B. It shall be the duty of the district attorney, upon notice
15 in writing and verified by fifty-one percent (51%) of the registered
16 voters that voted in the previous election for the political
17 subdivision of which the officer who is the subject of the complaint
18 is an official, before some officer authorized to administer oaths,
19 that any officer herein mentioned has been guilty of any of the
20 acts, omissions or offenses as set out in Section 1181 of this
21 title, to investigate such complaint, and if on such investigation
22 the district attorney shall find that there is reasonable cause for
23 such complaint, the district attorney shall institute proceedings in
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1 the district court of the county of the residence of the accused to
2 fine or remove such officer from office.

3 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1192, is
4 amended to read as follows:

5 Section 1192. Upon a conviction, the court ~~must~~ shall pronounce
6 judgment, that the defendant be removed from office or be fined.

7 But to warrant a removal or fine, the judgment must be entered upon
8 the minutes, assigning therein the causes of removal or fine.

9 SECTION 5. AMENDATORY 22 O.S. 2011, Section 1194, is
10 amended to read as follows:

11 Section 1194. The board of county commissioners may, in the
12 case of any county or township officer, present such accusation and
13 bring an action in the name of the county for the removal or fine of
14 such officer, and the district court shall have exclusive
15 jurisdiction thereof; but if any county commissioner is the party
16 charged, then the judge of the district court and county treasurer
17 shall present such accusation and bring the action. The
18 proceedings, in actions brought under the provisions of this
19 section, shall, except as provided in ~~the two next succeeding~~
20 ~~sections~~ Sections 1195 and 1196 of this title, be as is provided in
21 ~~the preceding sections of this article~~ Sections 1181 through 1193 of
22 this title.

23 SECTION 6. AMENDATORY 22 O.S. 2011, Section 1195, is
24 amended to read as follows:

1 Section 1195. ~~(1)~~ A. When the complaint for removal or fine is
2 filed, if, in addition to the matter charged as ground for removal
3 or fine, the complaint shall also pray that the officer charged be
4 suspended from office pending the investigation, the judge of the
5 court may, if sufficient cause appear from the charge or from the
6 testimony, or affidavits then presented, order the suspension of the
7 accused from the functions of his or her office until the
8 determination of the matter. If the order of suspension be made and
9 the court be then in session, the accused shall be entitled to a
10 trial within ten (10) days, if he or she demands it. If the court
11 be not in session, then the accused shall be entitled to a trial on
12 the first day of the next term. The accused shall have the right to
13 change of judge, or to a change of venue, on application to the
14 court, or to the judge if the court be not in session, on making the
15 showing required to change the venue in a criminal case, and if the
16 application be allowed the matter shall be sent for trial to the
17 nearest adjoining county, and in which the objections stated as
18 ground of change do not exist, and trial shall be there had at the
19 earliest possible date. But one such change shall be allowed. The
20 accused shall be entitled to continuance, as in other cases. If the
21 accused be not suspended from his or her office, then the
22 complainant may have a continuance, as in other criminal cases. If
23 a suspension ~~take~~ takes place, the board of county commissioners may
24 temporarily fill the office by appointment, but if the officer

1 suspended ~~be~~ is a county commissioner, then the vacancy shall be
2 filled by temporary appointment made by the Governor.

3 ~~(2)~~ B. A county officer, other than a county commissioner,
4 against whom a complaint for removal or fine has been filed, may
5 voluntarily suspend himself or herself from office by filing an
6 election of suspension at any time after such complaint has been
7 filed with the board of county commissioners, which board shall
8 temporarily fill the office by appointment. If the officer ~~be~~ is a
9 county commissioner, then such filing shall be made with the
10 Governor of the State of Oklahoma, who shall temporarily fill the
11 office by appointment. If upon trial such officer is found guilty,
12 such temporary appointment shall remain in effect until a successor
13 is duly qualified as provided by law, but if such officer is
14 acquitted, such temporary appointment shall expire at that time, and
15 the person so acquitted shall immediately resume his or her office.

16 SECTION 7. AMENDATORY 22 O.S. 2011, Section 1196, is
17 amended to read as follows:

18 Section 1196. The question of fact shall be tried as in other
19 actions, and if the accused is found guilty, the judgment shall be
20 entered either fining the officer or removing the officer from his
21 or her office and declaring the ~~latter~~ office vacant, or as provided
22 for in the code of criminal procedure, and a copy thereof shall be
23 certified to the board of county commissioners, and the county clerk
24 shall enter the same upon the proper record.

SECTION 8. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
dated 02/27/2020 - DO PASS, As Amended and Coauthored.