

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 338, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Paxton

Paxton-BG-FS-Req#1979
3/10/2021 2:28 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 338

6 By: Paxton and Bergstrom of the
7 Senate

8 and

9 Hill of the House

10 FLOOR SUBSTITUTE

11 An Act relating to Oklahoma Highway Patrol; amending
12 47 O.S. 2011, Sections 2-102, as amended by Section
13 1, Chapter 60, O.S.L. 2018 and 2-105, as last amended
14 by Section 1, Chapter 282, O.S.L. 2017 (47 O.S. Supp.
15 2020, Sections 2-102 and 2-105), which relate to
16 qualifications; providing for certain compensation;
17 providing for certain removal; modifying certain
18 qualifications; modifying allowable service for
19 qualifications; modifying allowable hours of service;
20 updating statutory language; providing an effective
21 date; and declaring an emergency.

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

23 SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-102, as
24 amended by Section 1, Chapter 60, O.S.L. 2018 (47 O.S. Supp. 2020,
Section 2-102), is amended to read as follows:

Section 2-102. A. 1. The Department shall be under the
control of an executive officer to be known as the "Commissioner of
Public Safety", who shall be appointed by the Governor with the

1 advice and consent of the Senate and shall serve at the pleasure of
2 the Governor and may be removed or replaced without cause.

3 Compensation for the Commissioner shall be determined by the
4 Governor. The Commissioner may be removed from office by a two-
5 thirds (2/3) vote of the members elected to and constituting each
6 chamber of the Legislature.

7 2. The Commissioner of Public Safety shall be a ~~professional~~
8 ~~law enforcement officer with ten (10) years' experience in the field~~
9 ~~of law enforcement or with five (5) years' experience in the field~~
10 ~~of law enforcement and a graduate of a four-year college with a~~
11 ~~degree in law enforcement administration, law, criminology or a~~
12 ~~related science~~ qualified for such position by character, knowledge,
13 skill, ability, education, training and successful administrative
14 experience and shall have five (5) years of professional level work.

15 3. Any vacancy in the office of the Commissioner shall be
16 filled in the same manner as the original appointment is made.

17 4. The Commissioner shall be allowed the actual and necessary
18 expenses incurred in the performance of official duties of the
19 Commissioner while away from the office.

20 B. The Commissioner of Public Safety, after appointment and
21 before entering upon the discharge of duties, shall take and
22 subscribe to the oath of office required by the Constitution.

23 Bonding of the Commissioner of Public Safety and other employees of
24

1 the Department will be provided under the provisions of Section
2 85.26 of Title 74 of the Oklahoma Statutes.

3 C. The Commissioner of Public Safety shall be eligible to
4 participate in either the Oklahoma Public Employees Retirement
5 System or in the Oklahoma Law Enforcement Retirement System and
6 shall make an irrevocable election in writing to participate in one
7 of the two retirement systems.

8 D. Any employee of the Department of Public Safety appointed to
9 the position of Commissioner shall have the ability to return to the
10 previous position of the employee without any loss of rights,
11 privileges or benefits immediately upon completion of the duties as
12 Commissioner, provided the employee is not otherwise disqualified
13 due to disciplinary reasons, termination of employment or inability
14 to effectively lead the agency.

15 SECTION 2. AMENDATORY 47 O.S. 2011, Section 2-105, as
16 last amended by Section 1, Chapter 282, O.S.L. 2017 (47 O.S. Supp.
17 2020, Section 2-105), is amended to read as follows:

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

20 1. A Chief of the Oklahoma Highway Patrol Division with the
21 rank of Colonel, Deputy Chiefs of the Oklahoma Highway Patrol
22 Division with the rank of Lieutenant Colonel, and subordinate
23 officers and employees of the Oklahoma Highway Patrol Division,
24 including Majors, Captains, Lieutenants, and Highway Patrolmen with

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

10 2. A Captain, Lieutenants~~7~~ and Patrolmen~~2~~ who shall comprise
11 the Marine Enforcement Section of the Oklahoma Highway Patrol
12 Division of the Department of Public Safety;

13 3. A Captain, Lieutenants~~7~~ and Patrolmen, who shall comprise
14 the Capitol Patrol Section of the Oklahoma Highway Patrol Division
15 of the Department of Public Safety; and

16 4. Communications Coordinators, Communications Superintendents,
17 Communications Supervisors, Communications Dispatchers, Radio
18 Technicians and Tower Maintenance Officers shall comprise the
19 Communications Division of the Department of Public Safety.

20 B. 1. The Commissioner, when appointing commissioned officers
21 and employees to the positions set out in subsection A of this
22 section, shall determine, in consultation with the Director of the
23 Office of Management and Enterprise Services, minimum qualifications
24 and shall select such officers and employees only after examinations

1 to determine their physical and mental qualifications for such
2 positions. The content of the examinations shall be prescribed by
3 the Commissioner, and all such appointees shall satisfactorily
4 complete a course of training in operations and procedures as
5 prescribed by the Commissioner.

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

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

12 (1) possess an associate's degree or a minimum of
13 sixty-two (62) successfully completed semester
14 hours from an accredited college or university as
15 denoted in the Database of Accredited
16 Postsecondary Institutions and Programs provided
17 by the U.S. Department of Education and whose
18 hours are transferable between such recognized
19 institutions, or

20 (2) ~~shall~~ have successfully completed thirty-two (32)
21 semester hours from an accredited college or
22 university as denoted in the Database of
23 Accredited Postsecondary Institutions and
24 Programs provided by the U.S. Department of

1 Education and whose hours are transferable
2 between such recognized institutions and have
3 three (3) years of honorable active military ~~or~~
4 service, reserve military service or law
5 enforcement experience, as described in this
6 section, or

7 (3) have been a paid, full-time CLEET certified law
8 enforcement officer of a state or local law
9 enforcement agency within the State of Oklahoma,
10 or

11 (4) have been a paid, full-time sworn law enforcement
12 officer who has been certified by a state peace
13 officer standards and training agency as a peace
14 officer in another state, or any officer who has
15 been certified as a federal peace officer by a
16 CLEET Council recognized law enforcement agency,
17 and

18 b. ~~applicants with prior military service, shall receive~~
19 ~~up to ten (10) semester hours for each year of~~
20 ~~honorable service in any active military or reserve~~
21 ~~military service up to a maximum of three (3) years or~~
22 ~~thirty (30) semester hours, and~~

23 ~~e-~~ for any such position in the Communications Division,
24 a person shall be at least eighteen (18) years of age

1 and shall possess a high school diploma or General
2 Educational Development equivalency certificate.

3 3. Applicants with prior military service shall receive up to
4 ten (10) semester hours for each year of honorable service in any
5 active military or reserve military up to a maximum of three (3)
6 years or thirty (30) semester hours.

7 4. Applicants with prior law enforcement experience shall
8 receive up to ten (10) semester hours for each year of service as a
9 paid, full-time, sworn law enforcement officer up to a maximum of
10 three (3) years or thirty (30) semester hours.

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

18 ~~4.~~ 6. The Commissioner or any employee of the Department shall
19 not be a candidate for any political office, or in any way be active
20 or participate in any political contest of any Primary, General, or
21 Special Election, except to cast a ballot. No commissioned officer
22 of the Department, while in the performance of the officer's
23 assigned duty of providing security and protection, shall be
24 considered as participating in a political campaign. The provisions

1 of this paragraph shall not be construed to preclude a commissioned
2 officer of the Oklahoma Highway Patrol Division of the Department of
3 Public Safety from being a candidate for a position on a local board
4 of education.

5 ~~5.~~ 7. Drunkenness or being under the influence of intoxicating
6 substances shall be sufficient grounds for the removal of any
7 commissioned officer of the Department, in and by the manner
8 provided for in this section.

9 C. 1. Upon initial appointment to the position of Cadet
10 Highway Patrolman or Probationary Communications Dispatcher, the
11 appointed employee shall be required to serve an initial
12 probationary period of twelve (12) months. The Commissioner may
13 extend the probationary period for up to three (3) additional months
14 provided that the employee and the Office of Management and
15 Enterprise Services are notified in writing as to such action and
16 the reasons thereof. During such probationary period, the employee
17 may be terminated at any time and for any reason at the discretion
18 of the Commissioner. Retention in the service after expiration of
19 the initial probationary period shall entitle such employee to be
20 classified as a permanent employee and the employee shall be so
21 classified. No permanent employee may be discharged or removed
22 except as provided for in this section.

23 2. A commissioned officer of the Oklahoma Highway Patrol
24 Division may be promoted during the initial probationary period if

1 such officer satisfactorily completes all training requirements
2 prescribed by the Commissioner.

3 D. 1. No permanent employee, as provided for in this section,
4 who is a commissioned officer of the Department, may be suspended
5 without pay or dismissed unless the employee has been notified in
6 writing by the Commissioner of such intended action and the reasons
7 thereof. No such notice shall be given by the Commissioner unless
8 sworn charges or statements have been obtained to justify the
9 action.

10 2. Whenever such charges are preferred, the Commissioner may
11 suspend the accused pending the hearing and final determination of
12 such charges. If the charges are not sustained in whole or in part,
13 the accused shall be entitled to pay during the period of such
14 suspension. If the charges are sustained in whole or in part, the
15 accused shall not receive any pay for the period of such suspension.

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

21 4. The Department of Public Safety shall follow the uniform
22 grievance procedure established and adopted by the Office of
23 Management and Enterprise Services for permanent classified
24 employees, except for those employees who are commissioned officers

1 of the Department. The Department of Public Safety shall establish
2 and adopt a proprietary grievance procedure for commissioned
3 officers of the Department which is otherwise in compliance with the
4 provisions of Section 840-6.2 of Title 74 of the Oklahoma Statutes.

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

11 2. Each commissioned officer of the Highway Patrol Division of
12 the Department of Public Safety shall be entitled to reimbursement
13 of expenses pursuant to the State Travel Reimbursement Act while
14 away from the assigned area of the officer as designated by the
15 Chief of the Oklahoma Highway Patrol Division, when such expense is
16 incurred in the service of the state.

17 F. 1. The positions with the rank of Colonel and Lieutenant
18 Colonel of the Oklahoma Highway Patrol Division shall be filled from
19 the body of commissioned officers of the Oklahoma Highway Patrol
20 Division and appointment to ~~said~~ the position shall be based on
21 qualifications, previous record as a commissioned officer of the
22 Oklahoma Highway Patrol Division, length of service, years of
23 experience within the Oklahoma Highway Patrol Division or other
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1 service as prescribed in this subsection, and efficiency of service
2 performed.

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

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

7 (1) as Commissioner of Public Safety,

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

9 (3) as Assistant Chief,

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

11 (1) as Deputy Chief or higher rank, or

12 (2) if the experience was prior to April 21, 2006, as
13 Major or higher rank,

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

15 (1) as Major or higher rank, or

16 (2) if the experience was prior to April 21, 2006, as
17 Captain or higher rank, or

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

19 (1) as Captain or higher rank, or

20 (2) if the experience was prior to April 21, 2006, as
21 First Lieutenant or higher rank.

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

- 1 a. one (1) year of experience in any combination:
2 (1) as Commissioner of Public Safety,
3 (2) as Assistant Commissioner of Public Safety, or
4 (3) as Colonel,

- 5 b. two (2) years of experience in any combination:
6 (1) as Major or higher rank, or
7 (2) if the experience was prior to April 21, 2006, as
8 Captain or higher rank, or

- 9 c. four (4) years of experience in any combination:
10 (1) as Captain or higher rank, or
11 (2) if the experience was prior to April 21, 2006, as
12 Highway Patrol First Lieutenant or higher rank.

13 G. The Commissioner of Public Safety is hereby authorized to
14 send employees of the Department of Public Safety to schools such as
15 Northwestern University Center for Public Safety, Southern Police
16 Institute, the FBI National Academy, the Institute of Police
17 Technology and Management, or to any other schools of similar
18 training which would be conducive to improving the efficiency of the
19 Oklahoma Highway Patrol Division and the Department of Public
20 Safety. While an employee is attending a school, the Commissioner
21 is authorized to permit the employee to use a state-owned vehicle
22 and to use a fuel-purchasing card for any expenses related to the
23 operation of the vehicle. In addition, while an employee is
24 attending the FBI National Academy, a one-time expense allowance of

1 Two Thousand Dollars (\$2,000.00) for uniforms, fees, travel, room
2 and board, and other related expenses shall be paid to the employee
3 by the Department; provided, the employee shall not be further
4 compensated through the State Travel Reimbursement Act, and, if any
5 other agency reimburses the employee for any expenses, the
6 reimbursement shall be given to the Department. All purchases made
7 by the employee with the expense allowance shall be considered
8 property of the employee.

9 H. 1. Any former commissioned officer of the Department whose
10 separation from the Department was at such officer's own request and
11 not a result of such officer's own actions contrary to the policy of
12 the Department or was not as a result of the retirement of that
13 officer from the Department may make application for reinstatement
14 as a commissioned officer of the division or section of the
15 Department in which such officer was previously employed, provided
16 such reinstated officer will be able to complete twenty (20) years
17 of credited service by the time the reinstated officer reaches
18 sixty-two (62) years of age. The Commissioner may waive the
19 requirements of possessing the number of semester hours or degree as
20 required in subsection B of this section for any former commissioned
21 officer making application for reinstatement as a commissioned
22 officer of the Department. The Commissioner may require the
23 applicant for reinstatement to attend selected courses of
24 instruction, as prescribed by the Commissioner.

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

9 SECTION 3. This act shall become effective July 1, 2021.

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

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