

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1168

By: McBride, Roberts (Dustin)
and Sears of the House

and

Leewright of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to professions and occupations;
12 amending 40 O.S. 2011, Section 1, which relates to
13 the Department of labor; modifying duties of the
14 Commissioner of Labor; amending 59 O.S. 2011,
15 Sections 1000.21, as amended by Section 2, Chapter
16 223, O.S.L. 2014, 1000.22, 1000.23, as amended by
17 Section 3, Chapter 223, O.S.L. 2014, 1000.24,
18 1000.25, as last amended by Section 4, Chapter 223,
19 O.S.L. 2014 and 1000.28, as amended by Section 273,
20 Chapter 304, O.S.L. 2012 (59 O.S. Supp. 2016,
21 Sections 1000.21, 1000.23, 1000.25 and 1000.28),
22 which relate to the Oklahoma Uniform Building Code
23 Commission Act; authorizing Department of Labor to
24 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.

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

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

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

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

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

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

11 3. ~~advance~~ Advance opportunities of wage earners for profitable
12 employment; ~~and~~

13 4. Implement and administer the Oklahoma Uniform Building Code
14 Commission Act; and

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

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

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

4 Section 1000.21 A. 1. There is hereby created the Oklahoma
5 Uniform Building Code Commission within the ~~Construction Industries~~
6 ~~Board which~~ Department of Labor. The Department of Labor is
7 authorized to administer the Oklahoma Uniform Building Code
8 Commission Act and exercise all incidental powers necessary and
9 proper to implement and enforce the provisions of the Oklahoma
10 Uniform Building Code Commission Act and the rules promulgated
11 thereto. The Oklahoma Uniform Building Code Commission shall
12 consist of eleven (11) members, nine of whom shall be appointed by
13 the Governor with the advice and consent of the Senate as follows:

- 14 a. one member who is a general contractor from a
15 statewide organization that represents residential
16 construction,
- 17 b. one member who is a general contractor from a
18 statewide organization that represents commercial
19 construction,
- 20 c. one member who is a contractor from a statewide
21 organization that represents electrical contractors,
- 22 d. one member who is a contractor from a statewide
23 organization that represents plumbing contractors,

24

- 1 e. one member who is a contractor from a statewide
2 organization that represents heating and cooling
3 contractors,
- 4 f. one member who is a local-level regulator/inspector
5 who is a member of a statewide organization that is
6 exempt from taxation under federal law and designated
7 pursuant to the provisions of the Internal Revenue
8 Code, 26 U.S.C., Section 170(a), who has represented
9 municipalities and had statutory functions for
10 municipalities for at least fifteen (15) years prior
11 to November 1, 2005,
- 12 g. one member who is a Certified Building Official
13 employed by a political subdivision,
- 14 h. one member who is a licensed architect from a
15 statewide organization that represents architects, and
- 16 i. one member who is from the insurance industry with
17 knowledge of building codes and experience in property
18 loss mitigation.

19 2. The members shall be appointed for staggered terms of four
20 (4) years, beginning July 1, 2009. A full term of office for
21 purposes of determining term limits provided in subsection C of this
22 section shall be the completion of a full four-year term of
23 appointment.
24

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

4 C. Appointed members shall continue in office until a successor
5 is appointed by the Governor, notwithstanding the term limitations.
6 No appointed member shall serve more than two consecutive full four-
7 year terms; provided, such a member shall be eligible to serve until
8 a successor is appointed, and such member may be reappointed after a
9 two-year absence from the Commission. The Governor shall fill all
10 vacancies and unexpired terms in the same manner as the original
11 appointment of the member whose position is to be filled. No
12 initial appointment to a term of less than four (4) years or any
13 partial-term appointment to fill a vacancy or unexpired term of
14 another member shall be counted for purposes of determining term
15 limits. An appointed member may be removed by the Governor for
16 cause.

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

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

23 Section 1000.22 ~~1-~~ A. The Oklahoma Uniform Building Code
24 Commission shall ~~organize immediately after July 1, 2009, and~~

1 ~~annually thereafter, by electing~~ annually elect from among its
2 members a chair and a vice-chair. The Commission shall hold
3 regularly scheduled meetings at least once each quarter ~~at a time~~
4 ~~and place determined by the Commission~~ and may hold such special
5 meetings, emergency meetings or continued or reconvened meetings as
6 found by the Commission to be necessary. A majority of the members
7 of the Commission shall constitute a quorum for the transaction of
8 business.

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

13 ~~3.~~ C. The vice-chair shall perform the duties of the chair
14 during the absence or disability of the chair and shall perform such
15 other duties as may be prescribed by the Oklahoma Uniform Building
16 Code Commission Act.

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

- 19 a. ~~keep a record of all proceedings of the Commission and~~
20 ~~certify to actions of the Commission,~~
- 21 b. ~~oversee the receipt and deposit of all monies received~~
22 ~~by the Commission in the appropriate revolving funds,~~
- 23 c. ~~submit, at the first regular meeting of the Commission~~
24 ~~after the end of each fiscal year, a fully itemized~~

1 ~~report of the receipts and disbursements for the prior~~
2 ~~fiscal year, showing the amount of funds on hand, and~~
3 d. ~~perform such other duties as are prescribed in this~~
4 ~~act or as may be prescribed by the Commission.~~

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

8 ~~6. D.~~ All members of the Commission ~~and such employees as~~
9 ~~determined by the Commission~~ shall be bonded as required by Sections
10 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

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

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

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

22 Section 1000.23 A. The Oklahoma Uniform Building Code
23 Commission shall have the power and the duty to ~~review and adopt~~
24 prescribe standards and practices pursuant to this act by reviewing

1 and adopting all building codes for residential and commercial
2 construction to be used by all entities within this state. Codes
3 and standards adopted by the Commission shall be the minimum
4 standards for residential and commercial construction in this state.

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

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

18 D. ~~The Oklahoma Uniform Building Code Commission~~ shall have the
19 power and duty to establish a training ~~and certification~~ process for
20 all residential and commercial building code inspectors that
21 prescribes standards, practices and procedures for prelicensing
22 inspector training and other inspector training that enhances the
23 education of building and construction inspectors; provided the
24 training does not infringe upon the education requirements and

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

1 for the instructor, provider, if a nonstate governmental entity, and
2 the inspector trainee applications shall be promulgated by
3 administrative rules of the ~~Commission~~ Department of Labor. ~~The~~
4 ~~Commission may establish forms~~ Forms and procedures may be
5 established to implement and administer the provisions of this
6 section.

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

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

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

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

11 B. The Oklahoma Uniform Building Code Commission shall have the
12 following powers:

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

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

17 ~~3.~~ ~~Maintain an administrative staff, including, but not limited~~
18 ~~to, an Oklahoma Uniform Building Code Commission Chief Executive~~
19 ~~Officer;~~

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

1 ~~5.~~ 2. Appoint technical committees to review and recommend for
2 adoption all building codes. The technical committees shall review
3 and recommend building codes with any amendments for adoption by the
4 Commission and receive requests for advisory opinions for
5 interpretation of any statewide building code adopted pursuant to
6 this act, evaluate the requests for appropriateness of need for an
7 advisory opinion, assign any requests to the appropriate technical
8 committee requesting participation from entities responsible for the
9 enforcement of any code involved in the request providing deference
10 to an entity's previous interpretation and, upon recommendation of a
11 technical committee, issue advisory opinions interpreting the
12 adopted statewide code; and

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

20 C. ~~After October 1, 2009, the Commission~~ The Department of
21 Labor shall account for all receipts and expenditures of the monies
22 of the Commission, including annually preparing and publishing a
23 statement of receipts and expenditures of the Commission for each
24 fiscal year. The Commission's annual statement of receipts and

1 expenditures shall be audited by the State Auditor and Inspector or
2 an independent accounting firm, and the audit report shall be
3 certified to the Governor of this state to be true and correct,
4 ~~under oath, by the chair and vice-chair of the Commission~~
5 Commissioner of Labor.

6 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1000.25, as
7 last amended by Section 4, Chapter 223, O.S.L. 2014 (59 O.S. Supp.
8 2016, Section 1000.25), is amended to read as follows:

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

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

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

1 2. The ~~Commission~~ Department shall charge fees for building
2 permits and renewal of such permits issued by any state agency,
3 municipality, or other political subdivision of this state which
4 authorized work governed by codes within the purview of the
5 ~~Commission~~ Department only within the following ranges:

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

7 For renewal of permit not to exceed \$5.00

8 Fees shall be remitted to the Oklahoma Uniform Building Code
9 Commission Revolving Fund created pursuant to Section 1000.28 of
10 this title within thirty (30) days after the end of the preceding
11 calendar month. The Oklahoma Uniform Building Code Commission shall
12 report to the Governor, President Pro Tempore of the Senate and the
13 Speaker of the House semiannually its collections for the six (6)
14 months preceding the report;

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

19 4. The state agency, municipality or other political
20 subdivision shall remit the monies in the account on a monthly basis
21 directly to the State Treasury for deposit in the Oklahoma Uniform
22 Building Code Commission Revolving Fund created pursuant to Section
23 1000.28 of this title. Along with the deposits required by this
24 paragraph, each state agency, municipality or other political

1 subdivision shall also submit a report stating the total amount of
2 funds collected and the total number of fees imposed during the
3 preceding month. The report shall be made on computerized or manual
4 disposition reports as provided by ~~rule of the Commission~~ rules
5 promulgated pursuant to paragraph 1 of subsection A of Section
6 1000.24 of this title;

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

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

20 7. Funds collected by a state agency, municipality or other
21 political subdivision and remitted to the State Treasury pursuant to
22 the Oklahoma Uniform Building Code Commission Act shall be deposited
23 in the Oklahoma Uniform Building Code Commission Revolving Fund and
24 shall be used solely for the purposes of the Oklahoma Uniform

1 Building Code Commission Act; provided that of the gross permit fees
2 charged, collected and received, ten percent (10%) shall be paid
3 into the General Revenue Fund of the state; and

4 8. Nothing in this act shall prevent the Oklahoma Uniform
5 Building Code Commission from offering incentives for prompt
6 payment.

7 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1000.28, as
8 amended by Section 273, Chapter 304, O.S.L. 2012 (59 O.S. Supp.
9 2016, Section 1000.28), is amended to read as follows:

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

1 SECTION 8. REPEALER 59 O.S. 2011, Sections 1000.26 and
2 1000.27, are hereby repealed.

3 SECTION 9. This act shall become effective November 1, 2017.
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5 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
6 03/02/2017 - DO PASS, As Amended and Coauthored.
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