

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1330

BY: ROACH of the HOUSE

and

LONG (Lewis) of the SENATE

COMMITTEE SUBSTITUTE AN ACT RELATING TO STATE GOVERNMENT; AMENDING SECTION 1, CHAPTER 199, O.S.L. 1988, AS AMENDED BY SECTION 1, CHAPTER 89, O.S.L. 1989 (74 O.S. SUPP. 1990, SECTION 840.7b), WHICH RELATES TO EMPLOYEE LEAVE WITHOUT PAY; MODIFYING CIRCUMSTANCES FOR PLACEMENT OF STATE EMPLOYEES ON LEAVE WITHOUT PAY STATUS; PROVIDING FOR CONTINUATION OF CERTAIN BENEFITS, RIGHTS AND OBLIGATIONS THROUGHOUT EMPLOYEE LEAVE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY Section 1, Chapter 199, O.S.L. 1988, as amended by Section 1, Chapter 89, O.S.L. 1989 (74 O.S. Supp. 1990, Section 840.7b), is amended to read as follows:

Section 840.7b A. If a state employee, whether in the classified, unclassified or exempt service, is absent because of an illness or injury arising out of, ~~or~~ and sustained in the course of his or her employment with the state, ~~and such absence exceeds all of the employee's accumulated sick and annual leave, the employee shall be placed on leave without pay and for which workers' compensation benefits have been filed, the employing agency shall place the employee on leave without pay if the employee so requests;~~

provided, leave without pay pursuant to this section shall not for any purpose be considered a break in service.

B. An employee who sustains an illness or injury arising out of ~~or~~ and sustained in the course of employment with the State of Oklahoma shall not be required to use either accumulated sick or annual leave during such period; ~~provided, if such an employee elects to use accumulated sick or annual leave, the provisions of this section shall apply~~ prior to being placed on leave without pay pursuant to this section.

C. An employee placed on leave without pay pursuant to the provisions of this section shall continue receiving insurance coverage paid by the agency during the leave without pay.

D. An employee on leave without pay pursuant to the provisions of this section shall have the right to be returned to his or her original position in accordance with rules promulgated by the Office of Personnel Management. If it is found necessary for the good of the state to fill the position during the period the employee is on leave without pay the employee filling the position shall vacate the position upon the return of the employee on leave without pay, subject to layoff, transfer or demotion rights earned under the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes and rules of the Office of Personnel Management. The right to return to the original position shall expire one (1) year from the date of the start of leave without pay. If the employee has not returned to the original position of the employee or some other position within the agency within one (1) year from the date of the start of leave without pay, the employee may be separated in accordance with the Oklahoma Personnel Act and rules of the Office of Personnel Management.

E. An employee on leave without pay pursuant to the provisions of this section shall provide a medical statement as to his or her

ability to perform the duties of the position to the appointing authority at least every three (3) months.

F. If the employee becomes medically able with reasonable accommodation to perform the duties of his or her original position, the employee shall be returned to such position. If the employee is unable to perform the duties of the original position with reasonable accommodation, but is medically able with reasonable accommodation to perform the duties of any other position within the agency for which ~~he or she~~ the employee is qualified ~~or to perform any of the duties of his or her original position,~~ and appointment to such other position does not constitute a promotion, the employee shall have first preference for any such position which becomes vacant within the agency, notwithstanding any other preference provisions of the Oklahoma Personnel Act or of other laws of the State of Oklahoma. An employee accepting a another position pursuant to this subsection shall not forfeit his or her right to be returned to the original position within twelve (12) months after the start of leave without pay pursuant to the provisions of subsection D of this section.

G. An ill or injured employee shall be eligible to participate in the Disability Insurance Program established pursuant to the provisions of Section 1331 et seq. of Title 74 of the Oklahoma Statutes in accordance with rules promulgated by the State Employees Group Insurance Board.

H. All benefits, rights, and obligations contained in this section shall continue during the time the employee remains on leave without pay status, for a continuous period not to exceed twelve (12) months. However, if a workers' compensation claim based on such illness or injury is denied during the twelve-month period, all benefits, rights and obligations conferred upon an employee pursuant to this section shall cease and be discontinued immediately.

I. A classified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to employment with any state agency for twelve (12) months after the date of separation whether in the classified or unclassified service in accordance with rules adopted by the Administrator of the Office of Personnel Management provided the employee is qualified for the position to which reinstated. An unclassified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to unclassified employment with any state agency for twelve (12) months after the date of separation in accordance with rules promulgated by the Administrator of the Office of Personnel Management provided the employee is qualified for the position to which reinstated. Nothing in this subsection shall be construed to compel or require any agency of the state to reinstate a former employee who is separated pursuant to subsection D of this section. Further, nothing in this subsection shall be construed as limiting or reducing a former employee's eligibility for reinstatement pursuant to other general reinstatement or reemployment provisions in rules promulgated by the Administrator.

SECTION 2. This act shall become effective September 1, 1991.

43-1-1002

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