

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)
2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1462

By: Steidley of the House

and

Mickle of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state government personnel; amending 56 O.S. 1991, Sections 26.17 and 162, which relate to the Human Services Commission and the Department of Human Services; placing certain positions and personnel of the Department of Human Services in the classified service on certain dates; providing exceptions; authorizing the Director of Human Services to permit certain employees to remain in the unclassified service; authorizing the placement of percentage of positions in the unclassified service; requiring the Administrator of the Office of Personnel Management to promulgate rules for placement of certain persons in the unclassified service; clarifying references; providing for discharge of executive and administrative duties; placing certain positions of the Highway Safety Coordinating Committee in the classified service; providing an exception; amending 74 O.S. 1991, Section 840.7a, as amended by Section 3, Chapter 367, O.S.L. 1992, 840.8, as last amended by Section 14 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature and 841.20 (74 O.S. Supp. 1992, Section 840.7a), which relate to the Oklahoma Personnel Act; authorizing the Administrator of the Office of Personnel Management to implement a pilot program; placing the Director of the Marketing Division of the Department of Agriculture in the unclassified service; authorizing the Office of Personnel Management to establish standards, procedures and rates for implementing on-call pay system for certain employees; allowing agencies to pay compensation pursuant to said standards, procedures and rates; modifying definition of job-related organization for certain purposes; placing employees of the Oklahoma Aeronautics Commission in the classified service in permanent status; amending Section 12, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 4190), which relates to the state employee daycare program; modifying amount of licensed spaces daycare center must reserve for minor dependents of state employees; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 56 O.S. 1991, Section 26.17, is amended to read as follows:

Section 26.17 A. The Director of ~~Public Welfare~~ Human Services, subject to the approval of the ~~Oklahoma Public Welfare Commission~~ for Human Services, shall have the power to employ and fix the qualifications, duties and compensation of employees necessary to the fulfillment of the provisions of this act, and shall have the power to approve any legal claim for payment. Effective July 1, 1993, all positions and personnel within the Department of Human Services shall be in the classified service and shall be subject to the provisions of the Merit System of Personnel Administration, as provided in the Oklahoma Personnel Act, except as provided in subsections B and C of this section.

B. Superintendents, teachers and other employees of the Oklahoma School for the Deaf and the Oklahoma School for the Blind, campus police appointed pursuant to Section 162.2 of Title 56 of the Oklahoma Statutes, the legal division or unit established pursuant to Section 236 of Title 56 of the Oklahoma Statutes, employees of the Children's Hospital of Oklahoma placed on an exempt status or retained in the unclassified service pursuant to Section 408 of Title 56 of the Oklahoma Statutes, employees of Oklahoma Memorial Hospital, and personnel placed in the unclassified service pursuant to Section 840.8 or 840.10 of Title 74 of the Oklahoma Statutes, shall be in the unclassified service.

C. Effective July 1, 1994, all employees of the Department of Human Services who have been appointed to the unclassified service pursuant to Section 4 of Article XXV of the Oklahoma Constitution shall become subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. These employees shall be granted permanent status in the classified service in the classes to which the positions they occupy are allocated by the Office of Personnel Management. These employees shall not be required to possess the minimum qualifications or take any required examinations, and their salaries shall not be reduced.

D. The Director of the Department of Human Services may permit employees of the Department of Human Services who have been appointed to the unclassified service pursuant to Section 4 of Article XXV of the Oklahoma Constitution may remain in the unclassified service while in the positions they currently occupy.

E. The Director of the Department of Human Services may place up to one percent (1%) of total agency allocated positions in the unclassified service if the duties of the positions are primarily performance of administrative and policy functions for the Department, as designated by the Commission for Human Services.

F. The Administrator of the Office of Personnel Management shall promulgate rules allowing for the direct appointment to positions in the classified service, at the Department of Human Services, for which they qualify, individuals completing training under the Community Work Experience Program authorized under Section 402(a)(19) of the Social Security Act.

SECTION 2. AMENDATORY 56 O.S. 1991, Section 162, is amended to read as follows:

Section 162. The Commission shall have the power and it shall be its duty to:

~~(a)~~ 1. Select a Director of ~~Public Welfare~~ Human Services who shall not be a member of the Commission and who shall serve as executive and administrative officer of the Department of Human Services. The Director shall be appointed wholly on the basis of ability, training and experience qualifying him or her for public welfare administration. All executive and administrative duties and responsibilities of the Department shall be discharged by the Director, subject to the approval of the Commission. The Director shall serve at the pleasure of the Commission. The salary of the Director shall be fixed by the Commission;

~~(b)~~ 2. Formulate the policies and adopt rules and regulations for the effective administration of the duties of the Department;

~~(c)~~ 3. Require and set the amount of the bond for employees within its discretion;

~~(d)~~

~~(e)~~ 4. Cooperate with the Federal Social Security Board, created under Title 7 of the Social Security Act, 42 U.S.C., Section 901 et seq., enacted by the Seventy-Fourth Congress and approved August 14, 1935, or other like agency created by Congress, in any reasonable manner as may be necessary to qualify for federal aid to states in providing assistance to needy persons in conformity with the provisions of this act, including the making of such reports in such form and containing such information as the Social Security Board or other similar federal agency may from time to time require, and comply with such provisions as the Social Security Board, or other similar federal agency may find necessary to insure the correctness and verification of such reports; ~~and~~

~~(f)~~ 5. Publish an annual report, not later than four (4) months after the close of each fiscal year, showing for such year the total amount paid to needy persons in this state under the provisions of this act, and the total number of such needy persons given assistance, classified by age, sex, race, residence of persons assisted, and such other particulars as may be deemed advisable. Such report shall be presented to the Governor; and

~~(g)~~ 6. Present to the Federal Social Security Board a new or modified plan for old-age assistance, aid to dependent children and aid to needy blind.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4009.2 of Title 69, unless there is created a duplication in numbering, reads as follows:

On and after July 1, 1993, all positions and personnel of the Highway Safety Coordinating Committee, within the Department of Public Safety, except the Governor's Representative, shall be in the classified service of the Merit System of Personnel Administration, except as provided in Sections 840.8 and 840.10 of Title 74 of the Oklahoma Statutes. Effective July 1, 1993, all such incumbent employees shall be classified without being required to possess the minimum qualifications or take any examinations for the positions they hold and their salaries shall not be reduced. Such employees shall be granted permanent status

in the class of positions to which the position occupied by the employee is allocated by the Office of Personnel Management. The Governor's Representative of the Highway Safety Coordinating Committee shall be appointed by and serve at the pleasure of the Governor and shall be in the unclassified service and not subject to the provisions of the Merit System of Personnel Administration.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 840.7a, as amended by Section 3, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 840.7a), is amended to read as follows:

Section 840.7a A. The Administrator of the Office of Personnel Management shall promulgate such emergency and permanent rules regarding annual leave and sick leave as are necessary to assist the state and its agencies in the equitable implementation of the State Disability Insurance Program. Such rules shall be so designed as to provide for coordination between leave accrual, leave accumulation, leave use, and eligibility for disability insurance coverage, such disability insurance coverage to be determined by the State Employees Group Health, Dental and Life Insurance Board.

B. The Office of Personnel Management, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave will be accrued on a monthly basis and prorated, as appropriate, for less than full-time service.

2.	ACCRUAL RATES	ACCUMULATION LIMITS
	Years of <u>Services</u>	Annual <u>Leave</u>
	Annual <u>Leave</u>	Sick <u>Leave</u>
Persons employed	0-5 yrs = 15 day/yr	15 days
	5-20 yrs = 18 day/yr	30 days
days		per year
	over 20 yrs = 20 day/yr	60 days

All accrued annual leave and all leave eligibility under O.A.C. 530:10-15-11(b)(5) which is in excess of annual leave limits shall not be reduced or eliminated as a result of these rule changes.

3. Employees entering on duty in eligible status and eligible employees reinstated or reemployed following a break in service on or after July 1, 1985, shall accrue annual and sick leave in accordance with the provisions of paragraph 2 of this section on and after the effective date of this act, Section 840.1 et seq. of this title, but shall not be entitled to any additional leave for the period between July 1, 1985, and the effective date of this act as a result of the provisions of this act.

4. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority.

5. This act is not intended to mandate the amendment of any rule of the Office of Personnel Management except as provided herein.

C. The Administrator of the Office of Personnel Management is authorized to implement a pilot program establishing a program compensating employees for accrued sick leave at Hissom Memorial Center. The Administrator shall allow the employees to exchange four (4) days of sick leave for one (1) day of annual leave.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 840.8, as last amended by Section 14 of Enrolled Senate Bill No. 1 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 840.8 The following offices, positions, and personnel comprise the exempt unclassified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Federally funded time-limited employees hired for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and State Department of Vocational and Technical Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period. This category of employees shall include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Temporary lake patrol officers, regardless of the number of hours worked, who are employed by the Department of Public Safety during the period March 16 through October 31 in any calendar year; provided, the hours worked shall be considered in determining the temporary employee's eligibility for subsequent employment in any other unclassified temporary employment category;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who

are regularly enrolled in (a) an institution of higher learning within The Oklahoma State System of Higher Education (b) an institution of higher learning qualified to become coordinated with said State System of Higher Education (c) for purposes of this act a student shall be considered a regularly enrolled student if he is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, and regularly attending classes during that semester of employment or (d) high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's Full-Time-Equivalent Employee Limit;

14. Employees of State Capitol cafeterias;

15. Employees of either the House of Representatives or the State Senate;

16. Grand River Dam Authority personnel occupying the following offices and positions:

- a. The general manager, assistant general managers, secretaries to the general manager, and assistant general managers,
- b. The chief engineer and the engineers, superintendents, and assistant superintendents,
- c. The general counsel and the attorneys on the general counsel's staff,
- d. The secretary,
- e. The treasurer,
- f. Rate analysts, and

- g. Unclassified employees hired prior to May 1, 1989, who hold engineering job titles but who are not registered engineers, provided said persons are reassigned nonengineering job titles. At such time as the positions occupied by said unclassified employees are vacated, the positions shall revert to the classified service;

17. Oklahoma Tax Commission personnel occupying the following offices and positions:

- a. All revenue administrators, the budget officer and the comptroller of the Tax Commission,
- b. All administrators and unit managers in the Management Information Services Division,
- c. All Computer Programming Systems Specialist positions,
- d. All Data Processing Programmer Analyst Supervisor and Data Processing Programmer Analyst III positions,
- e. All Public Affairs Officer and Assistant Public Affairs Officer positions,
- f. Public Information Officer, and
- g. All Tax Economist positions;

18. Corporation Commission personnel occupying the following offices and positions:

- a. Administrative assistant, administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, and
- c. General Counsel;

19. State Department of Education personnel occupying the following offices and positions:

- a. Administrative Assistants,
- b. Informational Representatives III,
- c. Driver Educational Electronics Technician,
- d. Media Technical Assistants,
- e. Executive Secretaries,
- f. Accounting Supervisor,

- g. Supervisor of Records,
- h. Supervisor of Printing Services,
- i. Migrant Records Transfer System Representative,
- j. Financial Managers, and
- k. In addition to the State Department of Education offices and positions listed in this paragraph, any and all offices and positions within the State Department of Education for which the annual salary is Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall also be in the unclassified service of this state.

Nothing in this paragraph is intended to change the status, whether classified or unclassified, of any person employed by the Department of Education prior to May 1, 1989. No position shall become unclassified while it is occupied by a classified employee because of any change in salary or grade. Hereafter, any position paid an annual salary of Twenty-one Thousand Nine Hundred Forty-three Dollars (\$21,943.00) or more shall be in the unclassified service upon being vacated;

20. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

21. Bill Willis Community Mental Health Center personnel occupying the following offices and positions:

- a. Director of Facility,
- b. Deputy Director for Administration,
- c. Clinical Services Director, and
- d. Executive Secretary to Director;

22. The State Comptroller, Office of the Director of State Finance;

23. Employees of the Oklahoma Development Finance Authority;

24. Those positions so specified in the annual business plan of the Department of Commerce;

25. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

26. The following positions and employees of the Oklahoma School of Science and Mathematics:

- a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
- c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in Section 840.10 of this title;

27. State Insurance Fund personnel occupying the following offices and positions:

- a. Commissioner,
- b. Deputy Commissioner,
- c. Administrative Assistants to the Commissioner,
- d. Executive Secretaries to the Commissioner and Deputy Commissioner,
- e. Law Clerks and Legal Assistants,
- f. Special Counsel,
- g. General Counsel,
- h. Medical Analysts Supervisor,
- i. Medical Analysts,
- j. Field Adjusters,
- k. Investment Officer, and
- l. Collections Attorneys;

28. The Carl Albert Internship Program Coordinator within the Office of Personnel Management;

29. Department of Corrections personnel occupying the following offices and positions:

- a. Associate Director,
- b. Executive Secretary,
- c. General Counsel,
- d. Assistant General Counsel,
- e. Deputy Director,
- f. Public Information Officer,
- g. Personnel Manager,
- h. Administrator of Planning and Research,
- i. Administrator of Finance and Accounting,
- j. Executive Assistant,
- k. Administrator of Information Services,
- l. Affirmative Action Officer,
- m. System Development Manager,
- n. Computer Operations Manager,
- o. Training Director,
- p. Assistant Training Director,
- q. Administrator of Construction and Maintenance,
- r. Administrative Assistant,
- s. Secretary,
- t. Administrator of Classification and Programs,
- u. Coordinator of Facility Classification,
- v. Mediation Coordinator,
- w. Inspector General,
- x. Medical Director,
- y. Psychiatrist,
- z. Physician,
- aa. Optometrist,
- ab. Dental Services Supervisor,
- ac. Dentist,
- ad. Psychologist,
- ae. Administrator of Dietary Services,
- af. Warden I,
- ag. Warden II,
- ah. Warden III,
- ai. Deputy Warden I,
- aj. Deputy Warden II,

- ak. Deputy Warden III,
- al. Community Treatment Center Superintendent,
- am. Community Treatment Center Assistant Superintendent,
- an. Probation and Parole District Supervisor,
- ao. Probation and Parole Assistant District Supervisor,
- ap. Administrator of Human Resources,
- aq. Facility Staffing Pattern Analyst,
- ar. Correctional School Superintendent,
- as. Regional Director,
- at. Assistant Regional Director,
- au. Chief of Operations, and
- av. Chief Psychologist;

30. Department of Corrections personnel occupying the following offices and positions as representatives of the Oklahoma State Industries:

- a. Administrator of Industrial Production,
- b. Administrator of Agriculture Production,
- c. OSI Sales Representative,
- d. OSI Sales Manager, and
- e. Marketing Manager.

The positions listed in this paragraph shall be funded from the Department of Corrections Industries' Revolving Fund only. In addition to the regular salary, any unclassified sales representative of the Oklahoma State Industries of the Department of Corrections who is responsible for obtaining a contract for products manufactured or services provided by prison industries may, at the discretion of the Director of the Department of Corrections, be awarded additional compensation of not more than five percent (5%) of the total amount of said contracts but not more than Five Thousand Dollars (\$5,000.00) per year. This compensation may be in addition to the salary of the employee and may be paid in one lump sum from any funds available to the Department of Corrections. No such compensation shall be made unless funds are available. Funds for payment of any compensation awards shall be encumbered to the extent of the awards.

Incumbents in positions listed in paragraph 29 of this section and in this paragraph that are classified under the Merit System of Personnel Administration on the effective date of this act shall have the option of remaining in their classified status under the Merit System of Personnel Administration. Incumbents that choose to accept unclassified appointments shall so signify in writing. All future appointees to these positions shall be unclassified. Incumbents that choose to remain in the classified service under the Merit System of Personnel Administration shall be subject to all rules and procedures of the Merit System of Personnel Administration. By the end of the first full work week of each month, the Director of the Department of Corrections shall submit to the Director of State Finance a report listing the total number of part-time employees employed during the preceding month, the positions for which they were employed, and the number of hours worked for each part-time position;

31. Department of Labor personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. Administrative Assistant, Legal;

32. The State Bond Advisor and his employees;

33. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director; ~~and~~

34. Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant; and

35. The Director of the Marketing Division of the Department of Agriculture.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840.16e of Title 74, unless there is created a duplication in numbering, reads as follows:

The Administrator of the Office of Personnel Management shall establish standards, procedures and rates for the payment of on-call pay within the classified service. Agencies may compensate the employees according to the standards, procedures and rates established by the Administrator.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 841.20, is amended to read as follows:

Section 841.20 A. A permanent classified employee or a regular unclassified employee shall be entitled to take leave with pay for not to exceed three (3) days a year to attend meetings of job-related professional organizations of which the employee is a member upon receiving permission from the appointing authority. The denial by an appointing authority or organizational leave shall be in writing and state the reasons for denying said leave.

B. For purposes of this section, "job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees or any association for which payroll deductions for membership dues are authorized by Section 7.10 of Title 62 of the Oklahoma Statutes.

C. The leave authorized by this section shall not be used for lobbying activities which include the lobbying of legislative or executive branch elected officials within state-owned or leased buildings.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 850 of Title 74, unless there is created a duplication in numbering, reads as follows:

All employees of the Oklahoma Aeronautics Commission are hereby placed under the classified service of the state in permanent status.

SECTION 9. AMENDATORY Section 12, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 4190), is amended to read as follows:

Section 4190. A. The Administrator of the Office of Personnel Management is authorized to implement a pilot program

establishing one or more child day care centers for minor dependents of state employees.

1. The Administrator shall appoint an advisory committee to review the child care needs of state employees, recommend suitable sites for centers, monitor and evaluate the operation of centers.

2. The advisory body shall report annually on the progress of the program to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

B. The Office of Personnel Management, the Office of Public Affairs, the Department of Human Services, and the Oklahoma State Department of Health are directed to cooperate in the implementation of this pilot program.

C. The Administrator is authorized to promulgate any State Employee Child Day Care Program Rules necessary for the establishment and implementation of this program. Any such rules shall:

1. Include eligibility requirements for participation in the program; and

2. Be promulgated pursuant to the provisions of the Administrative Procedures Act.

D. The initial child day care center shall be located in the Tulsa State Office Building. This child day care center shall reserve ~~two-thirds (2/3)~~ one-half (1/2) of the licensed spaces for eligible minor dependents of the state employees and may allow eligible children of other than state employees to utilize ~~one-third (1/3)~~ one-half (1/2) of the licensed spaces, with state employees retaining first priority for all vacant spaces.

E. The Administrator shall establish rates for child care consistent with the rates of the industry within the geographic area.

SECTION 10. This act shall become effective July 1, 1993.

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

44-1-7337

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