

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1067

By: Campbell

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 1991, Section 841.10, which relates to discrimination and other prohibited acts; prohibiting use of official authority for appointments to the unclassified service; amending 74 O.S. 1991, Section 841.14, which relates to reductions-in-force; modifying plans for reductions-in-force; amending 74 O.S. 1991, Section 841.16, as amended by Section 18, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 841.16), which relates to employee service rating; deleting prohibition against considering reductions-in-force as discharges; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 841.10, is amended to read as follows:

Section 841.10 A. No person in the state service, whether subject to the provisions of the Merit System or in unclassified service, shall be appointed to or demoted or dismissed from any

position in the state service, or in any way favored or discriminated against with respect to employment in the state service because of political or religious opinions or affiliations, race, creed, gender, color or national origin or by reason of any physical handicap so long as the physical handicap does not render the employee unable to do the work for which he is employed. The hiring of special disabled veterans pursuant to Sections 401 through 404 of Title 72 of the Oklahoma Statutes shall not constitute favoritism as herein prohibited.

B. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified or unclassified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration. Letters of inquiry, recommendation and reference for public employees by public officials shall not be considered official authority or influence unless such letter contains a threat, intimidation, or irrelevant, derogatory or false information.

C. No person shall make any false statement, certificate, score, rating or report with regard to any test, certification or appointment made under any provision of the Oklahoma Personnel Act or in any manner commit any fraud preventing the implementation of the provisions of the Oklahoma Personnel Act and rules made pursuant thereto.

D. No employee, examiner or other person shall deny, deceive or obstruct any person in his or her right to examination, eligibility, certification or appointment or furnish to any person any special or secret information for the purpose of effecting the rights or

prospects of any person with respect to employment in the classified service.

E. No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or as a result of any appointment, proposed appointment, promotion or proposed promotion to or any advantage in, a position in the classified or unclassified service.

F. Alleged violation of this section shall be reported to the Oklahoma Merit Protection Commission.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 841.14, is amended to read as follows:

Section 841.14 A. Whenever the number of positions and employees in any state agency is reduced, the appointing authority shall, subject to the approval of the Administrator of the Office of Personnel Management, provide a plan for such reduction-in-force within the agency. Such plan and subsequent personnel transactions shall be in compliance with rules adopted by the Administrator. The appointing authority shall post in each office of the agency a copy of the proposed reduction-in-force plan five (5) days prior to the submission of the proposed plan to the Administrator. Such plan shall provide for the appointing authority to determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof. It shall also provide for retention of employees based on classification and type of appointment. It shall require the separation of probationary and other limited term unclassified/exempt and classified employees in classes affected by a reduction-in-force prior to the separation or displacement of any permanent classified employee in an affected class. The plan shall additionally provide for retention of permanent classified employees in classes affected by the reduction-in-force based upon equal consideration of length of service and consideration of employee service ratings. The plans

for agencies having both classified and unclassified/exempt positions in affected classes shall provide that the percentage of occupied classified positions abolished as compared to the total number of occupied classified positions in the affected class shall not exceed the percentage of occupied unclassified/exempt positions abolished as compared to the total number of occupied unclassified/exempt positions in the affected class.

The Administrator of the Office of Personnel Management shall review the agency plan and shall reject any plan which is not in substantial compliance with this section and the rules promulgated hereunder.

B. The appointing authority may limit displacement of employees at the time of a reduction-in-force if such limitation is based upon reasonable, written, articulated criteria. If displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women.

C. Permanent classified employees removed from a class by an agency under the provisions of this section shall be recalled by the agency to the class from which removed in inverse order of removal before the agency may appoint other persons to the class, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided in subsection D of this section. Upon declination of an offer of reappointment to the class from which removed or eighteen (18) months after the date of removal from the class, whichever is first, this right to be recalled shall expire.

D. The names of probationary and permanent employees, and regular exempt and unclassified full-time employees with over six (6) months continuous service who have been separated as a result of an officially conducted reduction-in-force or the abolition of a state agency, board or commission or any part thereof, who apply and meet all requirements for state jobs in the classified service shall

be placed on Priority Reemployment Consideration Rosters in accordance with their individual final earned ratings for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any person eligible for initial appointment from the employment register, persons on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen (18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a class having the same or higher grade than that class from which removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire.

E. If an institution, facility, or agency of this state is scheduled to be closed or abolished as a result of legislation or a court order, the employees of the institution, facility, or agency who would be eligible for Priority Reemployment Consideration after their separation in accordance with subsection D of this section, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation.

F. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct agencies, boards and commissions to reduce the number of employees working for said agency, board or commission whenever it is deemed necessary and proper. Such reduction shall be made pursuant to reduction-in-force plans as provided in this section.

G. State employees separated as a result of a reduction-in-force or as a consequence of the abolition of a state agency, board or commission or any part thereof shall be given the option of being placed on leave without pay status and may retain their membership in the State Employees Group Health, Dental and Life Insurance program for a period of time consistent with

applicable rules and regulations. Each affected employee electing to retain his or her insurance membership shall be responsible for payment of all premiums on the insurance.

H. 1. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct and require mandatory furloughs for all state employees whenever it is deemed necessary and proper. The Contingency Review Board shall specify the effective dates for furloughs and shall note any exceptions to state employees affected by same. All classified, unclassified, exempt or nonmerit employees, including those employees of agencies or offices established by statute or the Constitution, shall be affected by such actions.

2. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave without pay. Rules governing leave regulations, longevity pay and participation in the State Employees Group Health, Dental and Life Insurance program shall not be affected by mandatory furloughs. Furlough, as provided for in this section or by rules adopted by the Administrator of the Office of Personnel Management, shall not be appealable under the provisions of the Oklahoma Personnel Act.

3. Notwithstanding existing laws or provisions to the contrary, members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough. The Contingency Review Board shall additionally call upon elected officials, members of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

I. All agencies, boards and commissions directed by the Contingency Review Board to terminate or furlough employees, shall report the cumulative cost savings achieved by the

reductions-in-force or furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on a quarterly basis for one (1) year following the effective date of the action.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 841.16, as amended by Section 18, Chapter 367, O.S.L. 1992 (74 O.S. Supp. 1992, Section 841.16), is amended to read as follows:

Section 841.16 A. Each agency shall adopt and maintain a system of employee service ratings. The Office of Personnel Management shall make available a standard system for this purpose, but an appointing authority may develop a separate system, subject to approval of the Administrator of the Office of Personnel Management. The purpose of the system of employee service rating is to evaluate the performance of each regular classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of Section 840.8 of this title and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education. The Administrator of the Office of Personnel Management, on or before January 1 of each year, shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor identifying those state agencies that have complied with the provisions of this section.

B. The system shall provide for the following:

1. An objective evaluation of the employee, by the immediate supervisor, of the performance of the employee within the assigned duties of the job;

2. The identification of the strengths and deficiencies of the employee;

3. Corrective actions, if necessary, to correct deficiencies;

4. An interview with the employee by the immediate supervisor who shall provide the employee with a copy of the service ratings; and

5. The opportunity for the employee to submit written comments regarding the service rating.

C. Each employee shall be rated thirty (30) days prior to the end of the probationary period. Thereafter, each employee shall be rated no less than once each year.

D. Any permanent classified employee who disagrees with his or her individual service rating may file a grievance pursuant to Section 841.9 of this title. Any employee, regardless of status, who is required to be rated pursuant to this section and who disagrees with his or her individual service rating may file a complaint through any other dispute resolution process made available through the employing agency or the Oklahoma Merit Protection Commission. The Oklahoma Merit Protection Commission shall not have jurisdiction to investigate or hear appeals of individual service ratings.

E. The agency shall use the service ratings of employees in decisions regarding promotions, demotions, performance pay increases and discharges. ~~Reductions in force shall not be considered discharges.~~

F. The agency shall retain a copy of the service rating for each employee of the agency. A copy of the service rating shall be furnished to the Administrator of the Office of Personnel Management for review to determine compliance with the provisions of this section and shall be retained in the file on the employee.

SECTION 4. This act shall become effective September 1, 1993.

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