

ENROLLED HOUSE
BILL NO. 1577

By: Seikel of the House

and

Rozell of the Senate

An Act relating to the Department of Rehabilitation Services; amending 74 O.S. 1991, Section 840.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-4.12), which relates to certain promotional and entrance examinations; updating language; amending 63 O.S. 1991, Sections 2409, 2413 and 2415, which relate to Oklahoma Interpreter Services Program; updating and clarifying language relating to Department of Rehabilitation Services; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 840.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-4.12), is amended to read as follows:

Section 840-4.12 A. The Administrator shall be responsible for conducting promotional examinations and entrance examinations as required under this act, ~~Section 840.1 et seq. of this title.~~ Such examinations shall be of such character as to determine the qualifications, fitness and ability of the persons tested to perform the duties of the class of positions for which such tests or examinations are given. Provided however, tests and examinations of handicapped persons who have satisfactorily completed vocational and technical education courses in vocational training units or divisions approved by the ~~Division of Rehabilitative and Visual Services of the~~ Department of Human Rehabilitation Services shall be limited in scope so as to relate to the skill and physical capability required for a particular position. Adequate public notice shall be given of all examinations except for promotion within a department or agency.

B. No person shall be required to take an entrance examination if that person has been previously tested and licensed by the State of Oklahoma; such person shall be rated according to training and experience.

C. No entrance examination shall be required when the job specifications require a bachelor's degree or its equivalent, plus three (3) years of qualifying work experience; such person shall be rated according to training and experience.

D. Promotional examinations for promotion within an agency, unless requested by the agency, shall not be required; provided that said promotion is in accordance with guidelines adopted by the Administrator and is in accordance with a plan adopted by the promoting agency.

E. The Administrator shall accept Certificates of Proficiency issued by accredited private or public schools, colleges or the

Oklahoma Employment Security Commission in lieu of typing and shorthand tests.

F. The appointing authority may certify that an applicant meets necessary job qualifications of a position in the classified service, for the purpose of allowing said applicant to take any required examination or otherwise compete for said position. Any statute which creates any position or qualifications for any position in the classified service shall not be construed to limit the power of the Administrator to interpret or add to those qualifications in a reasonable manner consistent with the intent of the Legislature and the duties of that position. Any statute which empowers any agency head or other employer to hire or nominate persons for employment within the classified service shall not be construed to empower that agency head or other employer to waive or modify any qualification or rule for employment established by the Administrator. The Administrator shall not be construed to have the authority to limit or reduce any qualification established by statute for any position. The constructions established herein shall apply to any statutes or positions heretofore or hereafter created unless that statute clearly and specifically states that such constructions do not apply.

G. Subsections A, B, C, D, E and F of this section shall not apply to special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes. Provided, said veterans may elect instead to be considered for employment according to the procedures set out in subsections A through F of this section.

H. Subsections A, B, C, D, E and F of this section shall not apply to ~~special handicapped~~ persons with severe disabilities who are considered for employment under the provisions of this subsection. Provided, said persons may elect instead to be considered for employment according to the procedures set out in subsections A through F of this section.

1. As used in this subsection "~~special handicapped~~ persons with severe disabilities" means persons certified as ~~handicapped~~ having disabilities according to standards and procedures established by the Administrator. Said standards and procedures shall be developed by the Office of Personnel Management with the assistance of the Office of Handicapped Concerns, and the Department of ~~Human~~ Rehabilitation Services.

2. Agencies of this state may employ ~~special handicapped~~ persons with severe disabilities who are legal residents of the state in competitive and noncompetitive jobs. Except for the requirement of minimum qualifications specified in applicable job specifications, such ~~handicapped~~ persons with disabilities shall be exempt from entrance examinations and hiring procedures administered by the Office of Personnel Management pursuant to Sections ~~840.19~~ 840-4.12 and ~~840.20~~ 840-4.13 of this title.

3. ~~Special handicapped persons~~ Persons with severe disabilities hired pursuant to this subsection shall be appointed for a probationary period of one (1) year. At the end of the probationary period if the work of said handicapped person is satisfactorily performed, the ~~handicapped~~ person with a severe disability shall acquire permanent status.

4. Upon acquiring permanent status, ~~special handicapped~~ persons with severe disabilities shall be subject to the rules and regulations of the Office of Personnel Management.

5. A list of ~~special handicapped~~ persons with severe disabilities employed by state agencies pursuant to this section shall be provided by each state agency to the Office of Personnel

Management which shall maintain records regarding the employment of ~~special handicapped~~ persons with severe disabilities and report the total number of such ~~handicapped~~ persons with severe disabilities so employed to the Director of the Office of Handicapped Concerns.

I. 1. This subsection shall be known and may be cited as the "Fair Employment Practices Act".

2. Agencies of this state may use the optional hiring procedure provided in this subsection to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives, as defined by the Equal Employment Opportunity Commission, who are legal residents of the state in competitive and noncompetitive jobs. Individuals must meet the minimum qualifications and pass any required examinations established by the Office of Personnel Management or by statute. Except for any required examinations and minimum qualifications specified in applicable job specifications, such persons shall be exempt from the hiring procedures administered by the Office of Personnel Management. Persons may only be employed under this subsection in a job class, group or category which has been identified as underutilized and in which an appropriate hiring goal has been set in the state agency's affirmative action plan approved by the Office of Personnel Management pursuant to the provisions of Section ~~840.25~~ 840-2.1 of this title. In addition, the appointing authority of the employing agency must determine that a manifest imbalance exists which justifies remedial action pursuant to this subsection in order to reach the affirmative action hiring goal. Provided further, that eligible war veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who are members of the group for which a hiring goal has been set shall be considered by the employing agency before a nonveteran is appointed pursuant to this subsection.

3. To be eligible for appointment, the persons who are members of the group for which a hiring goal has been set must score within the top ten scores of other available members of said group based on any examination or rating of education and experience.

4. Persons hired pursuant to this subsection shall be appointed for a probationary period of six (6) months, except that the appointing authority may extend a probationary period, not to exceed a total of nine (9) months for an individual, provided, however, that the employee and the Administrator of the Office of Personnel Management shall be notified in writing as to such action and the reason therefor. At the end of the probationary period if the work of such person is satisfactorily performed as reflected in a service rating made pursuant to Section ~~841.16~~ 840-4.17 of this title, such person shall acquire permanent status.

5. Upon acquiring permanent status, the employee shall be subject to the rules and regulations of the Office of Personnel Management and to full rights and entitlements of state employees in the classified service.

6. The authority for an agency to make appointments pursuant to this subsection shall be temporary and shall cease when the appointing authority of an agency can no longer justify remedial action pursuant to this subsection.

7. A list of persons employed by state agencies pursuant to this subsection shall be provided by each state agency to the Office of Personnel Management which shall maintain records regarding the employment of persons and annually report the total number of persons so employed to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate and the Merit Protection Commission.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2409, is amended to read as follows:

Section 2409. A. In any case before any court or grand jury, wherein a person who is unable to hear the proceedings due to physical disability, such as deafness or other physical conditions, and is a complainant, defendant or witness, the court shall, upon request, appoint a qualified interpreter to interpret the proceedings to the deaf person and interpret his testimony or statements and to assist in preparation with counsel. The court shall also appoint an interpreter, upon request, for any party proceeding in forma pauperis in an action before the court.

B. Efforts to obtain the services of a qualified interpreter with the highest available level of certification will be made prior to accepting services of an interpreter with lesser certification. No qualified interpreter shall be appointed unless a preliminary determination is made that the interpreter is able to communicate readily with the deaf person and is able to interpret accurately the statements of the deaf person and interpret the proceedings in which a deaf person may be involved. It shall be the responsibility of the ~~Oklahoma Interpreter Services Program~~ Department of Rehabilitation Services to assist the appointing authority and the deaf person in the determination of interpreter qualifications.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 2413, is amended to read as follows:

Section 2413. It shall be the responsibility of the appointing authority to channel requests for qualified interpreters through either the ~~Oklahoma Commission for Human~~ Department of Rehabilitation Services or any community service agency contracting for interpreter services with the ~~Commission~~ Department or any local rehabilitation service office wherein the appointing authority or the deaf person knows that such qualified interpreters may be retained. It shall be the responsibility of the ~~Oklahoma Commission for Human~~ Department of Rehabilitation Services to compile and update annually a listing of qualified interpreters. This listing shall be made available to authorities in possible need of interpreter service as provided in this act.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 2415, is amended to read as follows:

Section 2415. An interpreter appointed under the provisions of this act shall be entitled to a reasonable fee for such services ~~as established by the~~ The Chief Justice of the Supreme Court ~~who~~ shall consider the prevailing rate of the ~~Oklahoma Interpreter Services Program~~ Department of Rehabilitation Services, and establish a rate pursuant to the provisions of Sections 2409 and 2410 of this title. When the interpreter is appointed by a court, the fee shall be paid out of the local court fund as provided for in Section 1304 of Title 20 of the Oklahoma Statutes and when the interpreter is otherwise appointed, the fee shall be paid out of funds available to the appointing authority.

SECTION 5. 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.

Passed the House of Representatives the 7th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the 5th day of April, 1995.

President of the Senate