

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2961

By: Roach

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 1991, Section 309.2, as amended by Section 1, Chapter 79, O.S.L. 1993 (36 O.S. Supp. 1995, Section 309.2), which relates to examination of insurance companies; providing for rules establishing standards for examiners and examinations; amending 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 13, Chapter 328, O.S.L. 1995 (74 O.S. Supp. 1995, Section 840-5.5), which relates to the Oklahoma Personnel Act; modifying unclassified service; providing that the Insurance Department is a Merit System agency; requiring positions and employees of the Insurance Department to be classified; providing exceptions; providing for permanent status; providing exemptions from certain requirements for initial classification; providing that salaries shall not be reduced; 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 36 O.S. 1991, Section 309.2, as amended by Section 1, Chapter 79, O.S.L. 1993 (36 O.S. Supp. 1995, Section 309.2), is amended to read as follows:

Section 309.2 A. The Insurance Commissioner or any of ~~his~~ the Insurance Commissioner's examiners may conduct an examination under Sections ~~±~~ 309.1 through ~~7~~ 309.7 of this ~~act~~ title of any company as often as the Commissioner deems appropriate but shall at a minimum, conduct an examination of every domestic insurer licensed in this state not less frequently than once every three (3) years. The Commissioner shall, at a minimum, conduct an examination of every foreign insurer licensed in this state not less frequently than once every five (5) years. The Commissioner may accept examinations conducted by accredited states on foreign insurers domiciled in such states. In scheduling and determining the nature, scope and frequency of the examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners and in effect when the Commissioner exercises discretion under this subsection. The Commissioner may also make such examinations, upon the request of five or more persons pecuniarily interested therein, who shall make affidavit of their belief, with specifications of their reasons therefor, that such company is in an unsound condition.

B. For purposes of completing an examination of any company under Sections ~~±~~ 309.1 through ~~7~~ 309.7 of this ~~act~~ title, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the company.

C. In lieu of an examination under Sections ~~4~~ 309.1 through ~~7~~ 309.7 of this ~~act~~ title of any foreign or alien insurer licensed in this state, the Commissioner may accept an examination report on such company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports may only be accepted if:

1. The insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or

2. The examination is performed with the participation of one or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

D. The Insurance Commissioner shall promulgate and adopt rules establishing standards for examinations and for qualifications of examiners.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 13, Chapter 328, O.S.L. 1995 (74 O.S. Supp. 1995, Section 840-5.5), is amended to read as follows:

Section 840-5.5 A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified 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 and the Insurance Department;

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. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided. Provided any person unclassified pursuant to this paragraph on the effective date of this act in a capacity that does not meet the criteria listed in this paragraph may continue to be employed in such status until July 1, 1995;

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. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person;

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 may 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. For purposes of this act a student shall be considered a regularly enrolled student if he or she is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, and such student is regularly attending classes during that semester of employment, or
- c. 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 either the House of Representatives or the State Senate or the Legislative Service Bureau;

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

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,
- g. Public Utility Division Deputy Director, and
- h. Secretary of the Commission;

16. 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;

17. 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,
- d. Executive Secretary to Director, and
- e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

- a. State Comptroller,
- b. Information Services Divisions Manager,
- c. Network Manager, and
- d. Network Technician;

19. Employees of the Oklahoma Development Finance Authority;

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

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

22. 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~~ subsection or in subsection B of this section;

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

24. 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;

25. The State Bond Advisor and his employees;

26. 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;

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

28. The officers and employees of the State Banking Department;

29. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the three Administrative Service Assistant positions;

31. The Oklahoma State Bureau of Investigation employee occupying the Special Investigator position; ~~and~~

32. The Governor's Representative of the Oklahoma Highway Safety Office of the Oklahoma Department of Public Safety who shall be appointed by the Governor; and

33. Insurance Department personnel occupying the following offices and positions:

- a. Deputy Commissioner,
- b. Executive Secretary to the Commissioner,
- c. Assistant Commissioners,
- d. Division Directors, and
- e. Financial Chief Examiner.

B. The unclassified service of the state may include, at the discretion of the appointing authority, the following regular offices, positions and personnel:

1. Licensed medical doctors, osteopathic physicians, dentists, and psychologists;
2. Certified public accountants;
3. Licensed attorneys; and
4. Licensed veterinarians.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-5.16 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Department shall be under the Merit System. Except as otherwise provided in Section 840-5.5 of Title 74 of the Oklahoma Statutes, all offices, positions and personnel shall be classified and subject to the provisions of the Merit System of Personnel Administration and rules promulgated pursuant to the Oklahoma Personnel Act.

B. Effective July 1, 1996, all positions and employees of the Insurance Department, unless otherwise unclassified pursuant to Section 840-5.5 of Title 74 of the Oklahoma Statutes, shall become classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Incumbent employees who are classified shall be granted permanent status in the classes to which the positions they occupy are allocated by the Office of Personnel Management. For the initial classification, these employees shall not be required to possess the minimum qualifications or to pass any required examinations, and their salaries shall not be reduced. Thereafter, the provisions and conditions of their employment shall be subject to the provisions of the Merit System of Personnel Administration.

SECTION 4. This act shall become effective July 1, 1996.

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.

45-2-7851

SD