

SHORT TITLE: Cities and towns; excluding all supervisory positions from state and city merit systems; emergency.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 26

By: Long (Lewis)

AS INTRODUCED

An Act relating to cities and towns; amending 11 O.S. 1991, Sections 9-117, 10-120, 11-121 and 12-114, which relate to organization of cities and towns; excluding supervisory positions from city merit systems; amending Section 1, Chapter 387, O.S.L. 1992, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 5, Chapter 315, O.S.L. 1994 (74 O.S. Supp. 1994, Sections 840-3.1 and 840-5.5), which relate to training programs and classification of positions; excluding all supervisory positions from any merit system in city and state government; providing definition; placing supervisory positions in unclassified service; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 9-117, is amended to read as follows:

Section 9-117. Appointments and promotions in the service of a statutory aldermanic city shall be made solely on the basis of merit and fitness. Removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council may suspend for cause, by a majority vote of all its members, any officer of the

city except the mayor. The council by ordinance may establish a system for appointment and removal of employees on the basis of merit, which shall not include any supervisors as defined in subsection C of Section 5 of this act. After the council establishes a merit system, it shall adopt regulations governing the organization and functioning of the system, and for the regulation of personnel matters. The ordinance establishing the merit system may not be repealed except upon the approval of a majority of the registered voters voting on the question at a special or general election in the city.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 10-120, is amended to read as follows:

Section 10-120. Appointments and promotions in the service of a statutory council-manager city shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The council by ordinance may establish a merit system, which shall not include supervisors as defined in subsection C of Section 5 of this act and provide for its organization and functioning, and provide for personnel administration and regulation of personnel matters.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 11-121, is amended to read as follows:

Section 11-121. All officers and employees of a statutory strong-mayor-council city shall be divided into the classified and the unclassified service. The unclassified service shall consist of:

1. The mayor and council members, one secretary of the mayor, if any, the municipal judge, and one clerk or secretary of the municipal court, if any;

2. All personnel appointed, elected or confirmed by the council;

3. Members and secretaries of boards, commissions and other plural authorities;

4. All personnel who serve without compensation; ~~and~~

5. Persons appointed or employed on a temporary basis to make or conduct a special audit, inquiry, investigation, study, examination or installation, or to perform a temporary professional or technical service, subject to exclusions, limitations and regulations as may be prescribed by ordinance or personnel rules; and

6. All supervisors as defined in subsection C of Section 5 of this act.

All other officers and employees shall be in the classified service.

SECTION 4. AMENDATORY 11 O.S. 1991, Section 12-114, is amended to read as follows:

Section 12-114. Appointments and promotions in the service of a statutory town board of trustees government shall be made solely on the basis of merit and fitness; and removals, demotions, suspensions, and layoffs shall be made solely for the good of the service. The board by ordinance may establish a merit system, which shall not include any supervisors as defined in subsection C of Section 5 of this act and provide for its organization and functioning, and provide for personnel administration and regulation of personnel matters. The board of trustees may remove for cause any appointive officer by a majority vote of all its members.

SECTION 5. AMENDATORY Section 1, Chapter 387, O.S.L. 1992, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-3.1), is amended to read as follows:

Section 840-3.1 A. Each supervisor employed as of January 1, 1993, by a state agency, board or commission in the executive branch of state government, excluding those within The Oklahoma State System of Higher Education, shall attend, prior to December 31,

1993, a training program for supervisory personnel. The training program shall be established pursuant to subsection D of this section.

B. Employees appointed to supervisory positions after January 1, 1993, shall complete training pursuant to subsection D of this section within six (6) months of assuming such supervisory position. Thereafter, supervisors are required to complete sixteen (16) hours of training pursuant to subsection D of this section each year. The appointing authority of each agency shall ensure each supervisory employee is notified and scheduled to attend such required training and shall make time available for each such employee to complete the training.

C. As used in this section "supervisor" means ~~a classified or~~ an unclassified employee who has been assigned authority and responsibility for all of the following functions on a continuous and uninterrupted basis with respect to subordinates:

1. Assigning work to subordinates and making sure work is performed correctly and in a timely manner;
2. Training subordinates in the performance of their assigned duties or planning and directing such training through subordinates;
3. Reviewing work performance of subordinates; and
4. Participating in determining appropriate personnel actions regarding subordinates such as performance appraisal, discipline, and corrective action.

D. 1. The Office of Personnel Management shall promulgate any rules necessary to develop and implement training programs for supervisory personnel which shall include areas such as: supervisory skills, affirmative action and equal employment opportunity, selection, performance appraisal, employee assistance, corrective discipline, and other legal and ethical issues relevant to supervisors.

2. Training programs for supervisors under this act may be approved by the Office of Personnel Management; provided, however, such programs shall be subject to standards developed by the Office of Personnel Management. All state agencies, boards and commissions may participate in any such government employee training program established by an institution that is a member of The Oklahoma State System of Higher Education and approved by the Office of Personnel Management as provided for in this paragraph.

SECTION 6. 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 5, Chapter 315, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-5.5), is amended to read as follows:

Section 840-5.5 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. 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 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 aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist, and
- g. Secretary of the Commission;

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

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;

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

35. The officers and employees of the State Banking Department;
~~and~~

36. 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

37. All state employees classified as supervisors, as such term is defined in subsection C of Section 5 of this act.

SECTION 7. 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.

45-1-0108

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