

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1334

By: Dunegan of the House

and

Dickerson of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state employees; amending 74 O.S. 1991, Sections 840.5, as last renumbered by Section 24, Chapter 310, O.S.L. 1995, and as last amended by Section 3, Chapter 410, O.S.L. 1999, Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994, 840.16b, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 4, Chapter 410, O.S.L. 1999, 840.43, as renumbered by Section 54, Chapter 242, O.S.L. 1994, 840.21, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 14, Chapter 410, O.S.L. 1999, 840.22, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 10, Chapter 410, O.S.L. 1999, 840.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 15, Chapter 410, O.S.L. 1999, 841.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 17, Chapter 410, O.S.L. 1999, 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1999, Section 840-5.5), and as last amended by Section 25 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature and Section 9, Chapter 388, O.S.L. 1998 (74 O.S. Supp. 1999, Sections 840-1.6A, 840-2.10, 840-2.17, 840-3.5, 840-4.11, 840-4.3, 840-4.12, 840-4.15 and 840-5.21), which relate to the Oklahoma Personnel Act; modifying certain reporting date; adding authorization for certain purchases by the Administrator of the Office of Personnel Management; modifying scope of the State Employee Assistance Program; modifying list of authorized salary actions; deleting examination requirement for appointment to state service; deleting entrance and promotional examination requirement; modifying actions considered to be a demotion; modifying certain promotional posting requirement; deleting positions from the unclassified service of the state; deleting authorization to appoint certain types of employees to the unclassified service of the state; updating agency name; amending 74 O.S. 1991, Section 4112, which relates to the Committee for Incentive

Awards for State Employees; giving certain members authorization to appoint a designee; amending 62 O.S. 1991, Section 7.10, as last amended by Section 1, Chapter 73, O.S.L. 1997 (62 O.S. Supp. 1999, Section 7.10), which relates to state employee voluntary payroll deductions; deleting obsolete exemption; providing time limitation for the state to comply with certain law; 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 74 O.S. 1991, Section 840.5, as last renumbered by Section 24, Chapter 310, O.S.L. 1995, and as last amended by Section 3, Chapter 410, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-1.6A), is amended to read as follows:

Section 840-1.6A There is hereby created the Office of Personnel Management. The chief administrative officer of said Office of Personnel Management shall be the Administrator who shall be experienced in the field, theory, and application of personnel administration. The Administrator shall be appointed by the Governor with the confirmation of the Senate, and serve at the Governor's pleasure. In addition to the other duties imposed by law, the Administrator shall:

1. Be responsible for the development of an efficient and effective system of personnel administration that meets the management needs of the various agencies;

2. Effective July 1, 1995, organize the Office to provide both service and regulatory functions that are effective and efficient in meeting the management needs of various state agencies. The Administrator is directed to establish an agency service function to assist agencies with human resource needs based upon the administrative capacity and resources of the various agencies;

3. Prepare, maintain, and revise a classified system of employment designed to assure the impartial consideration of

applicants for employment and to protect state employees from arbitrary dismissal or unfair treatment;

4. Develop and maintain a classification and compensation system for all classified positions in the executive branch of state government including those established by the Oklahoma Constitution;

5. Conduct an analysis of the rates of pay prevailing in the state in the public and private sectors for comparable jobs and report the findings to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives no later than ~~November~~ December 1 of each year. Such analysis shall include all forms of compensation including fringe benefits;

6. Develop a program for the recruitment of qualified persons, including the administration of valid job-related nondiscriminatory selection procedures providing for competitive examinations when practical and for reasonable selection criteria when competitive examinations are not practical;

7. Implement state affirmative action policies, and assure equal employment opportunity;

8. Develop and implement a reasonable and expeditious method for referral of capable candidates for vacancies, probationary periods of employment, and the employment of individuals on other types of appointments as necessary;

9. Assist state agencies in implementing their duties and obligations pursuant to the Oklahoma Personnel Act, Section 840-1.1 et seq. of this title, and provide standard forms to the agencies if necessary;

10. Develop, in cooperation with appointing authorities, employee training programs, management training programs, a certified public manager program, a recruiting program, and a system of performance appraisals, and assist appointing authorities in the setting of productivity goals. The Administrator may establish and collect fees for participation in training programs. The

Administrator is authorized to purchase awards for presentation to state employees as part of employee recognition activities sponsored by the Office of Personnel Management;

11. Establish leave and pay regulations, regulations for performance pay increases, rates for pay differentials, on-call pay, and other types of pay incentives and salary adjustments;

12. Prepare and submit an annual budget covering the costs of administering the personnel program;

13. Make an annual report regarding the work of the Office of Personnel Management;

14. Adopt and implement rules necessary to perform the duties imposed by law on the Office of Personnel Management in accordance with the provisions of the Administrative Procedures Act. All rules adopted by the Oklahoma Merit Protection Commission shall remain in full force and effect until modified by the appropriate authority;

15. Assist the Oklahoma Merit Protection Commission and the Executive Director in effectuating their duties, enforcement of the rules of the Merit System of Personnel Administration, and implementation of corrective action issued by the Commission;

16. Be responsible for the development and maintenance of a uniform occupation code system, grouped by job titles or duties, for all classified, unclassified, and exempt state positions. Said responsibility shall include the establishment of rules governing the identification, tracking, and reporting of all state positions as provided in Section 840-2.13 of this title;

17. Be responsible for advising state agencies on personnel policy and administration;

18. Establish standards for continuing training, including affirmative action, and certification of personnel professionals in the executive branch of state government, excluding institutions within The Oklahoma State System of Higher Education. Employees appointed to professional personnel positions shall complete an

initial training program within six (6) months after assuming the professional personnel position. Thereafter, they shall complete annual training requirements. Each appointing authority shall ensure that all professional personnel employees are notified of, and scheduled to attend, required training programs and shall make time available for employees to complete the programs. The Administrator shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Office of Personnel Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit on the Office of Personnel Management established by law; and

19. Effective on or after November 1, 1999, implement a new classification and compensation system for classified employees that converts classes into job families and salary grades into pay bands. All classified employees shall be converted into the new job families and pay bands at the time the new classification and compensation system is implemented without loss of pay or status, and shall not have the right to appeal such conversion. The Administrator of the Office of Personnel Management shall adopt rules pursuant to Section ~~10~~ 840-4.3 of this ~~act~~ title which shall include a process for review by the Office of Personnel Management of internal classification grievances of job family level assignments which cannot be resolved at the agency level.

SECTION 2. AMENDATORY Section 1, Chapter 171, O.S.L. 1992, as amended by Section 50, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1999, Section 840-2.10), is amended to read as follows:

Section 840-2.10 A. There is hereby created a State Employee Assistance Program within the Office of Personnel Management. The program may provide assistance to state agencies in their management

of employees whose personal problems may have a negative impact on job performance. The program may also provide for assessment ~~and~~, referral, consultation, and problem resolution assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems. Participation in the State Employee Assistance Program shall be on a voluntary basis.

B. The Administrator of the Office of Personnel Management is hereby directed to:

1. Promulgate rules necessary for the administration of the State Employee Assistance Program and the maintenance and release of participant records;

2. Conduct training specific to the State Employee Assistance Program; and

3. Establish evaluation methods to assess the effectiveness of the State Employee Assistance Program.

C. Nothing in this act is intended to nullify any agency's existing employee assistance program or to prohibit any state agency from establishing its own employee assistance program; provided, however, such programs established by state agencies shall be subject to compliance with rules promulgated by the Administrator of the Office of Personnel Management to ensure equitable treatment of employees.

D. Records that relate to participation by an individual in the State Employee Assistance Program or an employee assistance program established by a state agency shall be maintained separate and apart from regular personnel records and shall not become part of an employee's personnel file. Such records relating to an individual's participation in an employee assistance program shall be confidential and not subject to subpoena unless a participant poses a threat to deliberately harm ~~himself~~ the participant or others.

Such determination shall be made by an Employee Assistance Program Professional. A participant in an employee assistance program shall have a right of access to his or her own employee assistance program records.

E. No provision of this ~~act~~ section or the rules promulgated pursuant to this ~~act~~ section shall be construed to conflict with an appointing authority's responsibility and authority to maintain discipline or to take disciplinary measures against employees for misconduct or unacceptable performance. Further, participation or nonparticipation in any state employee assistance program shall not excuse an employee from discipline or otherwise affect the terms and conditions of such employee's employment status or opportunities for advancement with the state.

F. 1. There is hereby created the Employee Assistance Program Advisory Council to assist in the implementation of the state's employee assistance program. The Council shall advise the Administrator on policy issues and provide support to expand and improve program services that are available to state employees and their families.

2. The Employee Assistance Program Advisory Council shall consist of the current nine (9) members who shall continue to hold their current positions through June 30, 1995. Effective July 1, 1995, three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the President Pro Tempore of the Senate. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy in office shall be filled by the individual who made the initial appointment. The Council shall select a chair and vice-chair from among its membership. A majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall

impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.

3. Members of the Council shall receive no compensation for serving on the Council, but shall receive necessary travel reimbursement by the employing agency for members who are state employees or appointing authorities of agencies pursuant to the State Travel Reimbursement Act. Any member employed in state government shall receive the reimbursement from their employing entity. Members who are not employed in state government shall receive travel reimbursement from the Office of Personnel Management.

4. The Council shall not have authority to adopt rules pursuant to the Administrative Procedures Act.

G. The Legislature and the judicial branch of state government may utilize the services of the State Employee Assistance Program at their discretion.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 840.16b, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 4, Chapter 410, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-2.17), is amended to read as follows:

Section 840-2.17 A. Unless otherwise provided by the Oklahoma Constitution, language in law which authorizes the setting or fixing of compensation, pay or salary of state officers and employees shall not be construed to authorize any agency, board, commission, department, institution, bureau, executive officer or other entity of the executive branch of state government to award, grant, give, authorize, or promise any officer or employee of the State of Oklahoma a cost-of-living raise or any other type of raise that would be given to state employees on an across-the-board basis, except as herein provided. Such raises are prohibited unless authorized by the Legislature and by Merit System of Personnel

Administration Rules promulgated by the Administrator. This prohibition applies to all classified, unclassified and exempt officers and employees in the executive branch of state government, excluding institutions under the administrative authority of the State Regents for Higher Education, and all employees in the University Hospitals Authority Model Personnel System created pursuant to Section 3211 of Title 63 of the Oklahoma Statutes.

B. However, nothing in this section shall be construed to prohibit the following actions if the action is made in good faith and not for the purpose of circumventing subsection A of this section, and if the appointing authority certifies that the action can be implemented for the current fiscal year and the subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency:

1. Salary advancements on promotion or direct reclassification to a job family level or class with a higher grade;

2. Salary adjustments resulting from a pay band change for a job family level or class adopted by the Office of Personnel Management;

3. Increases in longevity payments pursuant to Section 840-2.18 of this title;

4. Payment of overtime, special entrance rates, pay differentials;

5. Payment of wages, salaries, or rates of pay established and mandated by law;

6. Market adjustments for job family levels tied to market competitiveness;

7. Intra-agency lateral transfers, provided that the adjustment does not exceed five percent (5%) and the adjustment is based on the needs of the agency;

8. Skill-based adjustments;

9. Equity-based adjustments;

10. Career progression increases as an employee advances through job family levels; or

11. Salary adjustments not to exceed five percent (5%) for probationary classified employees achieving permanent status following the initial probationary period and permanent classified employees successfully completing trial periods after promotion to a different job family or following career progression to a different job family level.

C. Provided, however, any reclassification for one of the purposes provided in subsection B of this section that would require additional funding by the Legislature shall not be implemented without approval of the Legislature.

D. The pay movement mechanisms described in paragraphs ~~(6)~~ 6 through ~~(11)~~ 11 in subsection B of this section shall be implemented pursuant to rules promulgated by the Administrator of the Office of Personnel Management for the classified service.

E. Appointing authorities may implement the pay movement mechanisms in paragraphs ~~(6)~~ 6 through ~~(11)~~ 11 in subsection B of this section subject to the availability of funds within the agency's budget for the current fiscal year and subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency. Failure by the appointing authority to follow the provisions of this subsection may cause the withdrawal of the use of the pay movement mechanisms provided in paragraphs 6, 7, 9 and 10 of subsection B of this section within the agency during the next appropriations cycle.

F. All agencies, boards, and commissions shall report to the Office of Personnel Management on an annual basis the pay movement mechanisms utilized in paragraphs ~~(6)~~ 6 through ~~(11)~~ 11 in subsection B of this section. The report shall include the pay movement mechanisms type, frequency, amounts provided, affected classifications and job families, and other information as

prescribed by the Administrator of the Office of Personnel Management. Agencies shall report this information for the twelve-month period ending December 31 for classified and unclassified employees. Agencies must also report projected pay movement mechanisms and costs anticipated for the balance of the fiscal year. The Office of Personnel Management shall forward the report, which will include findings and recommendations, to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives no later than February 1 of each year.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 840.43, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1999, Section 840-3.5), is amended to read as follows:

Section 840-3.5 The Office of Personnel Management shall promulgate rules to provide that:

1. Upon successful completion of a two-year internship in the Executive Fellows Program, a participant who has met all requirements of education, and experience, ~~and who has successfully completed any required examination~~ shall be eligible for appointment to a position in the classified or unclassified service of the state and shall be deemed as meeting all other statutory requirements;

2. Persons leaving classified or exempt positions in state government in order to take an internship shall:

- a. have the right to return to the previous position at any time during the internship or upon completion of the internship, and
- b. continue to receive all fringe benefits they would have received in their previous classified or exempt positions;

3. Participants in the Undergraduate Internship Program who were not public employees prior to accepting a position in the program shall be employed in accordance with paragraph 8 of

subsection A of Section ~~840.8~~ 840-5.5 of Title 74 of the Oklahoma Statutes this title;

4. Participants in the Executive Fellows Program who were not public employees prior to accepting a position in the program shall be appointed in accordance with paragraph 10 of subsection A of Section ~~840.8~~ 840-5.5 of Title 74 of the Oklahoma Statutes this title, except that they shall be granted leave benefits commensurate with regular state employees;

5. Selection of interns shall be coordinated by the Office of Personnel Management, but shall permit appropriate involvement by institutions of higher education and state agencies in order to ensure the integrity of the program, permit the appropriate match between interns and agency assignments, and to benefit the employing agency;

6. Establish compensation plans for interns; and

7. Empower the Office of Personnel Management to intercede in an internship when the Office determines, at the request of the intern, the agency, or the institution of higher education at which the intern is enrolled, that an internship is not functioning in accordance with guidelines established for the program and that are necessary for the efficiency and integrity of the program.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 840.21, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 14, Chapter 410, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-4.11), is amended to read as follows:

Section 840-4.11 The Administrator may promulgate rules to provide for the establishment of noncompetitive appointments including, but not limited to, the positions of unskilled labor, attendants, aides, ~~janitors~~, food service helpers, or custodial or similar types of employment when the character of the work makes it impracticable to supply the needs of the service effectively by competitive examination. All such persons appointed shall serve a

probationary period in accordance with the rules adopted by the Office of Personnel Management and the provisions of the laws of the State of Oklahoma and shall acquire permanent status and be subject to the same rules as other classified employees. ~~Such persons shall be required to pass promotional examinations as prescribed by the laws of the State of Oklahoma and the rules and regulations adopted by the Office of Personnel Management before they may be promoted to a higher classification.~~

SECTION 6. AMENDATORY 74 O.S. 1991, Section 840.22, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 10, Chapter 410, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-4.3), is amended to read as follows:

Section 840-4.3 A. The Office of Personnel Management shall conduct audits of positions in the classified service to determine the proper job family to which a position is allocated, and may delegate the auditing function to an agency pursuant to subsection E of Section 840-1.15 of this title. Appointing authorities have control of positions within their agency and have the authority to organize their agencies, to create positions, to abolish positions and to prescribe or change the duties and responsibilities assigned to any position or employee at any time and shall determine the level within a job family at which duties and responsibilities are assigned. The Administrator of the Office of Personnel Management shall adopt rules establishing policies and procedures for appointing authorities to follow when determining the job family level at which duties and responsibilities are assigned within their agencies. Such rules shall include a process for review by the Office of Personnel Management of internal classification grievances of job family level assignments which cannot be resolved at the agency level. Individual audits of positions shall be conducted at the request of the appointing authority based on information provided by the agency. An incumbent employee will be given an

opportunity to respond; however, the Office of Personnel Management will rely on the appointing authority for an official listing of the duties and responsibilities of the position.

B. The appointing authority has the responsibility to ensure that employees are properly classified and that the work performed conforms to the appropriate job family descriptor describing the position. Employees shall be classified in accordance with the work they are assigned on a regular and consistent basis as an integral part of their normal work assignment and job family descriptor. An employee has the right and responsibility to file a classification grievance, as provided by law and rule, when duties performed on a regular and consistent basis do not conform to the job family descriptor. An employee is entitled to the compensation assigned to the job family level for which duties were performed on a regular and consistent basis. This provision does not entitle the employee to a higher job family level. Agency classification and reclassification decisions shall not be subject to appeal to the Oklahoma Merit Protection Commission. However, the involuntary removal of a permanent employee in permanent status in a job family level to a lower level in the same job family or to another job family level assigned a lower pay band shall be considered a demotion. Such action may be appealed by the employee to the Oklahoma Merit Protection Commission. The Administrator of the Office of Personnel Management shall adopt rules pursuant to subsection A of this section which shall include a process for review by the Office of Personnel Management of internal classification grievances of job family level assignments which cannot be resolved at the agency level.

C. Job family descriptors shall be used for the purpose of distinguishing one job family from another as clearly and definitively as possible in order that positions may be properly allocated and employees may be properly classified in accordance

with this section. Job family descriptors shall be applied in accordance with the following:

1. The position description questionnaire and job family descriptors shall be interpreted and applied as a composite picture of the job requirements. An employee is not required to perform all of the work operations described in a job family descriptor in order to be eligible for classification thereunder. An employee is not eligible or entitled to classification by reason of performing isolated or singular duties incidental to the job but which are described in another job family descriptor. Employees are entitled to the job family level they are currently assigned.

2. An employee normally performs some of the work of higher-rated jobs and some of the work of lower-rated jobs when required. The normal duties of an employee may include assistance to others.

3. An employee is required to perform the work operations and duties described or appraised as being covered by a job family descriptor pursuant to that degree or amount of guidance or instruction which is considered regular and consistent in order to qualify for the classification.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 840.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 15, Chapter 410, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-4.12), is amended to read as follows:

Section 840-4.12 A. The Administrator of the Office of Personnel Management shall be responsible for conducting promotional examinations and entrance examinations as required under the Oklahoma Personnel Act. 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 job family or job family level for which such tests or examinations are given. Provided, however, tests and examinations of persons with severe disabilities who have satisfactorily completed vocational and

technical education courses in vocational training units or divisions approved by the Department of 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 for an appointment to a job family level requiring licensing by a state agency if that person has been previously tested and is currently licensed by the State of Oklahoma.

~~C. No entrance examination shall be required when the job family descriptor requires a bachelor's degree or its equivalent, plus three (3) years of qualifying work experience.~~

~~D.~~ Promotional examinations for promotion within an agency, unless requested by the agency, shall not be required; provided that the promotion is in accordance with a plan adopted by the Administrator and is in accordance with a plan adopted by the promoting agency. Every employee promoted within an agency shall serve a six-month trial period in the job level to which the employee is promoted, unless the trial period is waived, in writing, by the appointing authority. At any time during a trial period, the appointing authority may return the employee to the level from which the employee was promoted upon written notification by the appointing authority to the employee as to such action and the reason therefor, and the employee shall not have the right to appeal.

~~E.~~ D. 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.~~ E. The Office of Personnel Management shall certify that a candidate meets the necessary job qualifications for a job family

level in the classified service for the purpose of allowing that candidate to be appointed to a job. The Administrator of the Office of Personnel Management may delegate the certification function provided by this section to an agency pursuant to subsection E of Section 840-1.15 of this title. 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.~~ F. Subsections A through ~~F~~ E 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~~ E of this section.

~~H.~~ G. Subsections A through ~~F~~ E of this section shall not apply to 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~~ E of this section.

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

2. Agencies of this state may employ 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 persons with disabilities shall be exempt from entrance examinations and hiring procedures administered by the Office of Personnel Management pursuant to this section and Section 840-4.13 of this title.

3. Persons with severe disabilities hired pursuant to this subsection shall be appointed for a probationary period pursuant to Section 840-4.13 of this title.

4. Persons with severe disabilities hired pursuant to this subsection shall be subject to the rules of the Administrator of the Office of Personnel Management.

5. The Office of Personnel Management shall maintain records regarding the employment of persons with severe disabilities by state agencies and shall report the number of persons so employed in its annual report for the Office of Personnel Management required by Section 840-1.6A of this title.

~~F.~~ H. 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 family level, 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 840-2.1 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 pursuant to Section 840-4.13 of this title.

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. The Office of Personnel Management shall maintain records regarding the employment of persons by state agencies pursuant to this subsection and shall report the number of persons so employed in its annual report for the Office of Personnel Management required by Section 840-1.6A of this title.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 841.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 17, Chapter 410, O.S.L. 1999 (74 O.S. Supp. 1999, Section 840-4.15), is amended to read as follows:

Section 840-4.15 A. The appointing authority shall post announcements of a vacancy or vacancies in accordance with a promotional plan filed by the agency with the Office of Personnel Management. In order to give qualified employees an opportunity to apply for and be considered for possible promotions, the vacancy notices shall be posted conspicuously in transparent, secured enclosures situated in prominent locations throughout the agency, at least five (5) working days prior to the closing date for the receipt of applications by the appointing authority. Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any ~~vacant~~ supervisory position or level. Each agency's promotional posting plan shall describe where promotional notices will be posted and require that all vacancy or promotional notices be posted conspicuously in transparent, secured enclosures. Notices must be posted throughout the agency. However, an agency's plan may limit the posting of notices for a vacancy in a work unit, local office or administrative area to within that location, if the vacancy is to be

filled by an employee from the same location. The posting shall include:

1. A copy of the job family descriptor;
2. Identification of the job family level of the vacancy or vacancies;
3. The pay band and range;
4. The anticipated number of vacancies;
5. The specific location of work;
6. The time limits and procedure for filing an application with the appointing authority; and
7. Any additional factors which the appointing authority will consider in filling the vacancy.

B. The appointing authority may elect to post general promotional opportunities in accordance with the provisions of this section in cases where there are usually continuous multiple vacant positions within a given job family; provided the appointing authority maintains a promotional applicant list for each job family which is posted on the basis of general promotional opportunities. In such cases, the posting must include the length of time and conditions under which the promotional application of the candidate will remain available for active consideration by the appointing authority.

C. If an employee still feels that the employee has not been treated fairly with regard to a promotional action pursuant to this section after such complaint has been reviewed in a formal grievance procedure conducted in accordance with the provisions of Section 840-6.2 of this title, the employee may seek a remedy through the procedures established in the Oklahoma Personnel Act. If a violation of Section 840-2.9 of this title has been committed, the Oklahoma Merit Protection Commission may declare a position open.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 840.8, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp.

1999, Section 840-5.5), and as last amended by Section 25 of Enrolled House Bill No. 2711 of the 2nd Session of the 47th Oklahoma Legislature, 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;

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;

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. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period and seasonal employees employed pursuant to Section 1806.1 of this title who work less than one thousand two hundred (1,200) hours in any twelve-month period. This category of employees may include persons employed on an intermittent, provisional, seasonal, temporary or emergency basis;

9. Department of Public Safety employees occupying the following offices or positions:

- a. two administrative aides to the Commissioner, and
- b. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor;

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 The Oklahoma State System of Higher Education. For purposes of this section, a student shall be considered a regularly enrolled student if the student 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, 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 (FTE) employee limit;

14. Employees of the House of Representatives, 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,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,

m. Public Utility Division Chief of Telecommunications,
and

n. Director of Information Services;

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 and Substance Abuse 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 Division 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 Oklahoma 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 or in subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

- a. the Carl Albert Internship Program Coordinator, and
- b. one Administrative Assistant;

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

- a. two Deputy Commissioners,
- b. Executive Secretary to the Commissioner,
- c. Chief of Staff, and
- d. two Administrative Assistants;

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 or as otherwise provided for in Section 3213.2 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 employees occupying the following positions:

- a. two special investigators,
- b. one information representative,
- c. one federally funded physical evidence technician,
- d. four federally funded laboratory analysts,
- e. one Data Base Administrator,
- f. two Data Processing Branch Managers,
- g. four Senior Data Processing Applications Specialists,
- h. a total of three positions from the following classes:
Senior Data Processing Systems Specialists, Data Processing Applications Specialists, or Data Processing Systems Specialists,
- i. one Senior Computer Services Technician, or Computer Services Technician,
- j. one Senior Computer Services Coordinator, or Computer Services Coordinator, and
- k. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

32. The Department of Transportation, the following positions:

- a. Director of the Oklahoma Aeronautics and Space Commission,
- b. four Department of Transportation Assistant Director positions,
- c. eight field division engineer positions, and
- d. one pilot position;

33. Commissioners of the Land Office employees occupying the following positions:

- a. Director of the Investments Division,
- b. Assistant Director of the Investments Division, and
- c. one Administrative Assistant;

34. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

- a. two Narcotics Agent positions, provided, authorization for such positions shall be terminated when federal support for the positions by the Gang Intelligence/Enforcement Program is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection, and
- c. one fiscal officer;

35. The Oklahoma Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

36. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and
- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

37. The following positions and employees of the Department of Central Services:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. the Director of Central Purchasing,
- c. one Alternate Fuels Administrator,
- d. one Director of Special Projects,
- e. three postauditors,
- f. four high-technology contracting officers,
- g. one Executive Assistant to the Purchasing Director,
- h. one Contracts Manager,
- i. one Associate Director, and
- j. one specialized HiTech/Food Contracting Officer;

38. One Environmental Specialist I, three Water Quality Specialists, and four Water Resources Division Chiefs within the Oklahoma Water Resources Board;

39. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

- a. Physical Therapists,
- b. Physical Therapist Assistants,
- c. Occupational Therapists,
- d. Certified Occupational Therapist Aides, and
- e. Speech Pathologists;

40. The Development Officer and the Director of the State Museum of History within the Oklahoma Historical Society;

41. State Department of Agriculture personnel occupying the following positions:

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. Agricultural Marketing Coordinator III,

- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the State Department of Agriculture during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,
- d. one Administrator for Human Resources,
- e. one Director of Administrative Services,
- f. one Water Quality Consumer Complaint Coordinator,
- g. one hydrologist position,
- h. Public Information Office Director,
- i. Market Development Services Director,
- j. Legal Services Director,
- k. Animal Industry Services Director,
- l. Water Quality Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director, and
- o. one Grants Administrator position;

42. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

~~43. All positions and personnel of the Criminal Justice Resource Center within the Department of Public Safety;~~

44. The Development Officer within the Oklahoma Department of Libraries;

~~45.~~ 44. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

- a. Educational Program Director, and
- b. Data Processing Manager;

~~46.~~ 45. A Chief Consumer Credit Examiner for the Department of Consumer Credit; and

~~47.~~ 46. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

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

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

~~D. Agencies having a need to convert and test databases to accommodate the change of the millennium may appoint unclassified programmers, programmer analysts, and systems analysts to perform the work. Appointments so made shall expire not later than June 30, 2000, shall not be included within any limitation on full-time equivalent (FTE) employee positions for the agency, and shall not be counted against authorized limits for unclassified appointments. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire not later than June 30, 2000. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of unclassified~~

~~appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job classification and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.~~

SECTION 10. AMENDATORY Section 9, Chapter 388, O.S.L. 1998 (74 O.S. Supp. 1999, Section 840-5.21), is amended to read as follows:

Section 840-5.21 A. All offices, positions, and personnel of the Oklahoma ~~Turnpike~~ Transportation Authority shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. This section shall supersede and repeal any and all Executive Orders issued pursuant to the Oklahoma Personnel Act to place the Authority under the Merit System.

B. In addition to offices, positions, and personnel that are unclassified pursuant to Section 840-5.5 of this title, the following positions and personnel shall be in the unclassified service:

1. Information Technology Analysts;
2. Process Integration Specialists;
3. Project Managers;
4. System Integration Specialists; and
5. One Administrative Assistant.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 4112, is amended to read as follows:

Section 4112. There is hereby created within the Office of Personnel Management the Committee for Incentive Awards for State Employees, referred to in the Incentive Awards for State Employees Act as the "Committee".

The Committee shall consist of seven (7) members as follows:

1. The Director of ~~Public Affairs~~ Central Services or designee who shall be the chairperson;

2. The Director of State Finance or designee;

3. The Administrator of the Office of Personnel Management or designee;

4. The chief administrative officer of a state executive agency, department, commission, or office who shall be appointed by the Governor;

5. A state employee who does not occupy a supervisory position, to be appointed by the Governor;

6. A person who is not a state officer or employee, to be appointed by the President Pro Tempore of the Senate; and

7. A person who is not a state officer or employee, to be appointed by the Speaker of the House of Representatives.

Each member who is appointed by the Governor shall serve on the Committee at the pleasure of the Governor. Those members not appointed by the Governor shall serve on the Committee at the pleasure of their respective appointing authority. Each member who is not a state officer or employee shall have experience in administering employee incentive programs as such programs are used in private industry or in the public sector. Each member shall serve on the Committee without receiving compensation for said service or any reimbursement pursuant to the provisions of the State Travel Reimbursement Act.

SECTION 12. AMENDATORY 62 O.S. 1991, Section 7.10, as last amended by Section 1, Chapter 73, O.S.L. 1997 (62 O.S. Supp. 1999, Section 7.10), is amended to read as follows:

Section 7.10 A. 1. Upon the request of a state employee, a state agency, board, or commission shall make voluntary payroll deductions for the employee to a credit union which primarily serves state employees or employees of a political subdivision of the state.

2. The governing body of any county, municipality, or school district may provide for voluntary payroll deductions to a credit union serving the employees of the county, municipality, or school district.

B. Upon the request of a state employee and pursuant to procedures established by the Administrator of the Office of Personnel Management, a state agency, board, or commission shall make payroll deductions for:

1. The payment of any insurance premiums due a private insurance organization with a minimum participation of five hundred (500) state employees for life, accident, and health insurance which is supplemental to that provided for by the state;

2. The payment of any insurance premiums due a private insurance organization or service company which is regulated by the State Insurance Commissioner and with a minimum participation of five hundred (500) state employees for legal services;

3. Premiums or payments for retirement plans with a minimum participation of five hundred (500) state employees for retirement plans which are supplemental to that provided for by the state;

4. Salary adjustment agreements included in a flexible benefits plan as authorized by the State Employees Flexible Benefits Act;

5. Membership dues in the Oklahoma Public Employees Association or any other statewide association limited to state employee membership with a minimum membership of one thousand (1,000) dues-paying members; and

6. Contributions to its foundation organized pursuant to 26 U.S.C., Section 501(c) (3) in the Oklahoma Public Employees Association or any other statewide association limited to state employee membership with a minimum membership of one thousand (1,000) dues-paying members.

C. The administrative costs of processing payroll deductions or administering salary adjustment agreements for insurance premiums as

provided for in subsection B of this section shall be a charge of two percent (2%) of the gross annual premiums for insurance plans. The administrative costs of processing payroll deductions or administering salary adjustment agreements for payments for retirement plans as provided for in subsection B of this section shall be one percent (1%) of the gross annual payments for retirement plans. These charges shall be collected monthly from the private insurance or retirement plan organization by the Office of Personnel Management and shall be deposited to the credit of the General Revenue Fund. Provided that these costs shall not be collected from state employees or state agencies unless otherwise directed in Section 1 et seq. of this title.

~~D. Any insurance or retirement plan organization with a payroll deduction as of the date the Office of State Finance begins administering this section shall be exempt from the minimum state employee participation requirement for a period of six (6) months from said date.~~

~~E.~~ Any statewide association granted a payroll deduction prior to March 23, 1984, shall be exempt from the minimum state employee membership requirement.

~~F.~~ E. Approval of a payroll deduction or salary adjustment agreement for any insurance organization, line of coverage or policy shall not be construed as an assumption of liability, for the term of policy or the performance of the insurance organization, by this state, or any of its agencies, boards, commissions, institutions or any officer or employee thereof. Contracts for such insurance shall be in all respects subject to the insurance laws of this state, and shall be enforceable solely pursuant to such laws.

~~G.~~ F. The Oklahoma Employment Security Commission is authorized to deduct from the wages or salary of its employees the employees' contribution to the Employment Security Commission Retirement Plan.

~~H.~~ G. Payroll deductions shall be made for premium payments for group insurance for retired members or beneficiaries of any state-supported retirement system upon proper authorization given by the member or beneficiary to the board from which the member or beneficiary is currently receiving retirement benefits.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 275.11 of Title 62, unless there is created a duplication in numbering, reads as follows:

The State of Oklahoma shall be allowed ten (10) working days after the regular payday designated by an employer in order to comply with the requirements of Section 165.2 of Title 40 of the Oklahoma Statutes.

SECTION 14. This act shall become effective July 1, 2000.

SECTION 15. 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.

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