

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1334

6
7 By: Dunegan

8 COMMITTEE SUBSTITUTE

9 An Act relating to state personnel; enacting the
10 Classification and Compensation Reform Act of 1999;
11 amending 74 O.S. 1991, Sections 840.3, as renumbered
12 by Section 54, Chapter 242, O.S.L. 1994, and as last
13 amended by Section 1, Chapter 256, O.S.L. 1998,
14 840.5, as last renumbered by Section 24, Chapter 310,
15 O.S.L. 1995, and as last amended by Section 2,
16 Chapter 320, O.S.L. 1996, Section 5, Chapter 287,
17 O.S.L. 1997, 841.14, as last renumbered by Section
18 20, Chapter 287, O.S.L. 1997, and as last amended by
19 Section 2, Chapter 256, O.S.L. 1998, 840.30, as
20 renumbered by Section 54, Chapter 242, O.S.L. 1994,
21 and as last amended by Section 7, Chapter 320, O.S.L.
22 1996, 840.13, as amended by Section 21, Chapter 242,
23 O.S.L. 1994, and as renumbered by Section 54, Chapter
24 242, O.S.L. 1994, 840.22, as renumbered by Section
25 54, Chapter 242, O.S.L. 1994, and as last amended by
26 Section 3, Chapter 406, O.S.L. 1997, 840.19a, as
27 renumbered by Section 54, Chapter 242, O.S.L. 1994,
28 and as amended by Section 39, Chapter 246, O.S.L.
29 1998, 840.16, as amended by Section 22, Chapter 242,
30 O.S.L. 1994, and as renumbered by Section 54, Chapter
31 242, O.S.L. 1994, 840.16a, as renumbered by Section
32 54, Chapter 242, O.S.L. 1994, 840.21, as renumbered
33 by Section 54, Chapter 242, O.S.L. 1994, 840.19, as
34 renumbered by Section 54, Chapter 242, O.S.L. 1994,
35 and as last amended by Section 32, Chapter 364,
36 O.S.L. 1998, 840.20, as renumbered by Section 54,
37 Chapter 242, O.S.L. 1994, and as last amended by
38 Section 9, Chapter 245, O.S.L. 1998, 841.19, as
39 renumbered by Section 54, Chapter 242, O.S.L. 1994,
40 841.16, as renumbered by Section 54, Chapter 242,
41 O.S.L. 1994, and as last amended by Section 8,
42 Chapter 235, O.S.L. 1998 and Section 6, Chapter 286,
43 O.S.L. 1997 (74 O.S. Supp. 1998, Sections 840-1.3,
44 840-1.6A, 840-2.27B, 840-2.27C, 840-3.13, 840-4.2,
45 840-4.3, 840-4.4, 840-4.6, 840-4.7, 840-4.11, 840-
46 4.12, 840-4.13, 840-4.15, 840-4.17 and 840-5.16),
47 which relate to the Oklahoma Personnel Act; modifying
48 and adding definitions; adding to the duties of the
49 Administrator of the Office of Personnel Management;
50 providing for the conversion into a new
51 classification and compensation system; clarifying
52 applicability of certain definitions; changing
53 terminology regarding state job classifications;
54 prohibiting certain appeals; modifying compensation
55 system requirements; modifying requirements regarding
56 noncompetitive appointments; requiring trial periods
57 for promoted employees; clarifying probationary

1 period for persons with severe disabilities and
2 persons hired pursuant to the Fair Employment
3 Practices Act; deleting certain pilot project;
4 modifying probationary periods; clarifying content of
5 vacancy notices; requiring the Office of Personnel
6 Management to provide a standard performance
7 management system; deleting reporting requirement;
8 limiting eligibility for performance pay increases;
9 providing for promulgation of various rules;
10 repealing 74 O.S. 1991, Section 840-16b, as
11 renumbered by Section 54, Chapter 242, O.S.L. 1994,
12 and as last amended by Section 16, Chapter 290,
13 O.S.L. 1996 and 62 O.S. 1991, Section 7.11, as
14 amended by Section 45, Chapter 242, O.S.L. 1994, and
15 as renumbered by Section 54, Chapter 242, O.S.L. 1994
16 (74 O.S. Supp. 1998, Sections 840-2.17 and 840-4.5),
17 which relate to the Merit System of Personnel
18 Administration Salary Schedule and raises; providing
19 for noncodification; providing an effective date; and
20 declaring an emergency.

21
22
23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law not to be
25 codified in the Oklahoma Statutes reads as follows:

26 This act shall be known and may be cited as the "Classification
27 and Compensation Reform Act of 1999".

28 SECTION 2. AMENDATORY 74 O.S. 1991, Section 840.3, as
29 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last
30 amended by Section 1, Chapter 256, O.S.L. 1998 (74 O.S. Supp. 1998,
31 Section 840-1.3), is amended to read as follows:

32 Section 840-1.3 As used in the Oklahoma Personnel Act, unless
33 otherwise provided in Sections 840-1.1 through 840-6.9 of this
34 title:

35 1. "Agency" means any office, department, board, commission or
36 institution of the executive branch of state government;

37 2. "Employee" or "state employee" means an elected or appointed
38 officer or employee of an agency unless otherwise indicated;

39 3. "Appointing authority" means the chief administrative
40 officer of an agency;

41 4. ~~"Class" or "class of positions"~~ means positions that are
42 sufficiently similar in duties, levels of responsibility, and

1 ~~requirements of the work to warrant similar treatment as to title,~~
2 ~~pay grade, and minimum qualifications;~~

3 5. ~~"Class specification"~~ means a written document that
4 describes a class;

5 6. "Classification" means:

6 a. the process of placing an employee into an appropriate
7 job family and level within the job family, consistent
8 with the allocation of the position to which the
9 employee is assigned, and
10 b. an employee's job family and the level at which work
11 is assigned;

12 5. "Classification plan" means the orderly arrangement of
13 positions within an agency into separate and distinct ~~classes job~~
14 ~~families~~ so that each ~~class job family~~ will contain those positions
15 which involve similar or comparable skills, duties and
16 responsibilities;

17 7. 6. "Classified service" means state employees and positions
18 under the jurisdiction of the Oklahoma Merit System of Personnel
19 Administration;

20 8. 7. "Entrance examination" means any employment test used by
21 the Office of Personnel Management to rank the names of applicants
22 who possess the minimum requirements of education, experience, or
23 licensure for a ~~class job or group of similar jobs~~ on a register of
24 eligibles established by the Office of Personnel Management;

25 8. "Job" means a position or job family level in a job family;

26 9. "Job family" means:

27 a. jobs which require similar core skills and involve
28 similar work, and
29 b. a logical progression of roles in a specific type of
30 occupation in which the differences between roles are
31 related to the depth and breadth of experience at
32 various levels within the job family and which are

sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills and abilities required, and education and experience requirements;

10. "Job family level" means a role in a job family having distinguishable characteristics such as knowledge, skills, abilities, education, and experience;

11. "Job family descriptor" means a written document that:

- a. describes a job family, including, but not limited to,
the basic purpose, typical functions performed,
various levels within the job family, and the
knowledge, skills, abilities, education, and
experience required for each level; and
- b. identifies the pay band assigned for each level;

12. "Promotional examination" means any employment test

16 designated by the Office of Personnel Management to determine
17 further the qualifications of a permanent classified employee of a
18 state agency for employment in a different ~~class~~ job for which the
19 employee possesses the minimum qualifications of education,
20 experience, or licensure within that agency;

21 10. 13. "Interagency transfer" means an action in which an
22 employee leaves employment with one agency and enters employment
23 with another agency while continuously employed with the state;

24 11. 14. "Intra-agency transfer" means moving an employee from
25 one position to another position with the same agency either with or
26 without reclassification;

27 12. 15. "Job-related organization" means a membership
28 association which collects annual dues, conducts annual meetings and
29 provides job-related education for its members and which includes
30 state employees, including any association for which payroll
31 deductions for membership dues are authorized pursuant to paragraph

1 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma
2 Statutes;

3 13. 16. "Lateral transfer" means the reclassification of an
4 employee to another ~~class state job~~ with the same ~~salary grade pay~~
5 band assignment as the job family level in which the employee had
6 been classified prior to the lateral transfer;

7 14. 17. "Merit Rules" or "Merit Rules for Employment" or "Merit
8 System of Personnel Administration Rules" means rules adopted by the
9 Administrator of the Office of Personnel Management or the Oklahoma
10 Merit Protection Commission pursuant to the Oklahoma Personnel Act;

11 15. 18. "Noncompetitive appointment" means the appointment of a
12 person to a noncompetitive ~~class job level within a job family~~;

13 16. 19. "Noncompetitive ~~class job~~" means ~~a class of positions~~
14 ~~of an unskilled or semiskilled labor or a similar class job~~
15 designated by the Office of Personnel Management as noncompetitive.
16 Noncompetitive jobs do not require written examinations for
17 placement on registers of eligibles;

18 17. 20. "Permanent classified employee" means a classified
19 service employee who has acquired permanent status in accordance
20 with the Oklahoma Personnel Act, and rules adopted pursuant thereto,
21 and who has the right to appeal involuntary demotion, suspension
22 without pay, and discharge to the Commission;

23 18. 21. "Presiding official" means a person serving the
24 Oklahoma Merit Protection Commission in the capacity of
25 administrative hearing officer, mediator, or other alternative
dispute resolution arbitrator or facilitator;

27 19. 22. "Progressive discipline" means a system designed to
28 ensure the consistency, impartiality and predictability of
29 discipline and the flexibility to vary penalties if justified by
30 aggravating or mitigating conditions;

31 20. 23. "Reclassification" means the process of changing a
32 classified employee from one job family to another job family or

1 from one job family level to another job family level in the same
2 job family, resulting in a change in the employee's assigned job
3 code;

4 24. "Regular and consistent" means, in connection with the work
5 assignments of an employee, the usual and normal work assignments of
6 the employee, excluding incidental, casual, or occasional tasks and
7 activities the employee assumes without direction to do so.

8 Temporary work assignments of less than sixty (60) days in any
9 twelve (12) consecutive months period shall not be considered
10 regular and consistent;

11 21. 25. "Regular unclassified service employee" means an
12 unclassified service employee who is not on a temporary or other
13 time-limited appointment;

14 22. 26. "Unclassified service" or "exempt service" means
15 employees and positions excluded from coverage of the Oklahoma Merit
16 System of Personnel Administration;

17 23. 27. "Merit System" means the Oklahoma Merit System of
18 Personnel Administration;

19 24. 28. "Administrator" means the appointing authority of the
20 Office of Personnel Management;

21 25. 29. "Executive Director" means the appointing authority of
22 the Oklahoma Merit Protection Commission;

23 26. 30. "Office" means the Office of Personnel Management;

24 27. 31. "Commission" means the Oklahoma Merit Protection
25 Commission;

26 28. 32. "Veteran" means a person who has been honorably
27 discharged from the Armed Forces of the United States and has been a
28 resident of Oklahoma for at least one (1) year prior to the date of
29 the examination; and

30 29. 33. "Voluntary out" means the voluntary separation of
31 employees from the state service in exchange for benefits offered by

32

1 an agency in order to reduce or eliminate the adverse impact of an
2 imminent reduction-in-force.

3 SECTION 3. AMENDATORY 74 O.S. 1991, Section 840.5, as
4 last renumbered by Section 24, Chapter 310, O.S.L. 1995, and as last
5 amended by Section 2, Chapter 320, O.S.L. 1996 (74 O.S. Supp. 1998,
6 Section 840-1.6A), is amended to read as follows:

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

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

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

24 3. Prepare, maintain, and revise a classified system of
25 employment designed to assure the impartial consideration of
applicants for employment and to protect state employees from
arbitrary dismissal or unfair treatment;

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

31 5. Conduct an analysis of the rates of pay prevailing in the
32 state in the public and private sectors for comparable jobs and

1 report the findings to the Governor, the President Pro Tempore of
2 the Senate, and the Speaker of the House of Representatives no later
3 than November 1 of each year. Such analysis shall include all forms
4 of compensation including fringe benefits;

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

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

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

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

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

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

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

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

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

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

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

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

19 18. Establish standards for continuing training, including
20 affirmative action, and certification of personnel professionals in
21 the executive branch of state government, excluding institutions
22 within The Oklahoma State System of Higher Education. Employees
23 appointed to professional personnel positions shall complete an
24 initial training program within six (6) months after assuming the
25 professional personnel position. Thereafter, they shall complete
26 annual training requirements. Each appointing authority shall
27 ensure that all professional personnel employees are notified of,
28 and scheduled to attend, required training programs and shall make
29 time available for employees to complete the programs. The
30 Administrator shall be authorized to bill agencies for the training
31 of personnel professionals pursuant to this paragraph to recover
32 reasonable costs associated with the training. Monies received for

1 such training shall be deposited in the Office of Personnel
2 Management Revolving Fund. Expenditure of such funds collected for
3 the training shall be exempt from any expenditure limit on the
4 Office of Personnel Management established by law; and

5 19. Effective on or after November 1, 1999, implement a new
6 classification and compensation system for classified employees that
7 converts classes into job families and salary grades into pay bands.
8 All classified employees shall be converted into the new job
9 families and pay bands at the time the new classification and
10 compensation system is implemented.

11 SECTION 4. AMENDATORY Section 5, Chapter 287, O.S.L.

12 1997 (74 O.S. Supp. 1998, Section 840-2.27B), is amended to read as
13 follows:

14 Section 840-2.27B As used in Sections 5 840-2.27B through 11
15 840-2.27G of this ~~act~~ title:

16 1. "Affected ~~classes~~ job family levels" means ~~classes~~ those
17 containing affected positions;

18 2. "Affected employees" means classified and unclassified
19 employees in affected positions;

20 3. "Affected positions" means positions being abolished or
21 positions which are subject to displacement action;

22 4. "Agency" means any office, department, board, commission, or
23 institution of all branches of state government, except for
24 institutions within The Oklahoma State System of Higher Education;

25 5. "Displacement" or "displace" means the process of an
26 employee accepting an offer of employment to an occupied or funded
27 vacant position;

28 6. "Displacement limit" means any area within an agency in
29 which displacement may not occur. These areas may include, but are
30 not limited to, job ~~classes~~ families, units, and geographic areas
31 within an agency;

32

1 7. "Displacement opportunity" means the circumstances under
2 which an occupied or funded vacant position is subject to
3 displacement by an affected employee;

4 8. "Displacement privilege" means the privilege an affected
5 employee has to utilize a displacement opportunity;

6 9. "Educational institution" means an institution within The
7 Oklahoma State System of Higher Education, a facility under the
8 management or control of the Oklahoma State Department of Vocational
9 and Technical Education, or a licensed private educational
10 institution in the State of Oklahoma;

11 10. "Limited-term unclassified employee" means an unclassified
12 affected employee in an employment status in the state service whose
13 employment status is temporary or time-limited and does not make an
14 employee eligible for participation in a state retirement system;

15 11. "Personnel transaction" means the record of the separation
16 as a result of a reduction-in-force of a classified affected
17 employee from an agency, or the record of the transfer or demotion
18 of a classified affected employee;

19 12. "Reduction-in-force" means abolition of positions in an
20 agency or part of an agency and the corresponding nondisciplinary
21 removal of affected employees from such positions through separation
22 from employment or through displacement to other positions.

23 Reduction-in-force may also include reorganizations;

24 13. "Severance benefits" means employee benefits provided by
25 the State Government Reduction-in-Force and Severance Benefits Act
26 to affected employees separated through a reduction-in-force; and

27 14. "Years of service" means current and prior service which is
28 creditable for the Longevity Pay Plan. An affected employee shall
29 not be required to have been continuously employed for two (2) years
30 to be given credit for either current or prior service pursuant to
31 the State Government Reduction-in-Force and Severance Benefits Act.

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1 SECTION 5. AMENDATORY 74 O.S. 1991, Section 841.14, as
2 last renumbered by Section 20, Chapter 287, O.S.L. 1997, and as last
3 amended by Section 2, Chapter 256, O.S.L. 1998 (74 O.S. Supp. 1998,
4 Section 840-2.27C), is amended to read as follows:

5 Section 840-2.27C A. Whenever a reduction-in-force occurs, the
6 appointing authority shall provide a plan for such reduction-in-
7 force at least sixty (60) days before the scheduled beginning of
8 reduction-in-force separations or as otherwise provided by law. A
9 reduction-in-force shall not be used as a disciplinary action. The
10 reduction-in-force plan of an agency, except for the fiscal
11 components of the plan as provided by paragraph 1 of this
12 subsection, in the executive branch of state government is subject
13 to the approval of the Administrator of the Office of Personnel
14 Management who shall reject any plan that is not in substantial
15 compliance with this section and the rules promulgated hereunder.

16 1. The Director of the Office of State Finance shall review the
17 fiscal components of the plan and reject any plan that does not:

18 a. demonstrate that funds are available to cover
19 projected costs,
20 b. contain an estimate of the number of affected
21 employees likely to participate in the education
22 voucher program established in Section 840-2.27D of
23 this title, and
24 c. contain an estimate of the cost savings or reduced
25 expenditures likely to be achieved by the agency.

26 2. If the reduction-in-force is conducted pursuant to a
27 reorganization, the fiscal components of the reduction-in-force plan
28 shall contain reasons for the reorganization, which may include, but
29 not be limited to, increased efficiency, improved service delivery,
30 or enhanced quality of service.

31 B. The reduction-in-force plan and subsequent personnel
32 transactions directly related to the reduction-in-force shall be in

1 compliance with rules adopted by the Administrator. The appointing
2 authority shall post in each office of executive branch agencies
3 affected by the proposed reduction-in-force plan a copy of the plan
4 five (5) days prior to the submission of the proposed plan to the
5 Administrator and the Director of State Finance. An approved
6 reduction-in-force plan, the description of and reasons for
7 displacement limits and protections from displacement actions,
8 severance benefits that will be offered pursuant to Section 840-
9 2.27D of this title, and the implementation schedule shall be posted
10 in each office affected by the plan within two (2) business days
11 after approval of the plan by the Administrator for executive branch
12 agencies or appointing authorities in the legislative and judicial
13 departments. The plan shall:

14 1. Provide for the appointing authority to determine the
15 specific position or positions to be abolished within specified
16 units, divisions, facilities, agency-wide or any parts thereof;

17 2. Provide for retention of affected employees based on
18 classification and type of appointment. If an agency has both
19 classified and unclassified positions in affected ~~classes~~ job family
20 levels, the appointing authority shall not reduce a higher
21 percentage of occupied classified positions than occupied
22 unclassified positions;

23 3. Require the separation of probationary classified affected
24 employees in affected ~~classes~~ job family levels, except those
25 affected employees on probationary status after reinstatement from
26 permanent classified status without a break in service, prior to the
27 separation or displacement of any permanent classified affected
28 employee in an affected ~~class~~ job family level;

29 4. Require the separation of limited term unclassified affected
30 employees and regular unclassified affected employees with less than
31 six (6) months continuous service in affected classes or job family
32 levels prior to the separation or displacement of regular

1 unclassified affected employees with six (6) months or more of
2 continuous service in an affected class or job family level;

3 5. Provide for retention of permanent classified affected
4 employees in affected ~~classes~~ job family levels and those affected
5 employees on probationary status after reinstatement from permanent
6 classified status without a break in service based upon
7 consideration of years of service;

8 6. Provide for exercise of displacement opportunities by
9 permanent classified affected employees and those affected employees
10 on probationary status after reinstatement from permanent classified
11 status without a break in service if any displacement opportunities
12 exist; and

13 7. Provide outplacement assistance and employment counseling
14 from the Oklahoma Employment Security Commission and any other
15 outplacement assistance and employment counseling made available by
16 the agency to affected employees regarding the options available
17 pursuant to the State Government Reduction-in-Force and Severance
18 Benefits Act prior to the date that a reduction-in-force is
19 implemented.

20 C. The appointing authority may limit displacement of affected
21 employees at the time of a reduction-in-force. Displacement limits
22 shall not be subject to the approval of the Administrator. Any
23 limitation shall be based upon reasonable, written, articulated
24 criteria as certified by the appointing authority. If displacement
25 is limited, the appointing authority shall take action to avoid or
26 minimize any adverse impact on minorities or women. However, if an
27 appointing authority does not limit displacement, the appointing
28 authority shall explain in writing the reasons displacement was not
29 limited.

30 1. The appointing authority may protect from displacement
31 action up to twenty percent (20%) of projected post-reduction-in-
32 force employees in affected positions within displacement limits;

1 provided, that any fractional number resulting from the final
2 mathematical calculation of the number of those positions shall be
3 rounded to the next higher whole number. The appointing authority
4 must explain why affected employees are being protected, which
5 explanation shall not be subject to the approval of the
6 Administrator.

7 2. If the affected employee has not held within the last five
8 (5) years a position in the ~~class job family~~ in which the affected
9 employee is otherwise eligible for a displacement opportunity, the
10 appointing authority may determine that the affected employee does
11 not possess the recent relevant experience for the position and deny
12 in writing the displacement opportunity.

13 3. An affected permanent classified employee may exercise a
14 displacement privilege, if one exists, if the affected employee has
15 received an overall rating of at least "satisfactory", or its
16 equivalent, on the most recent annual service rating. If an
17 affected employee has not been rated in accordance with the time
18 limits established in Section 840-4.17 of this title, the employee
19 shall be deemed to have received an overall rating of at least
20 "satisfactory" or its equivalent on the most recent service rating.
21 An affected employee who exercises a displacement privilege pursuant
22 to this section shall:

23 a. be required, as a condition of continued employment by
24 the agency, to sign an agreement, in a form to be
25 prescribed by the Administrator of the Office of
26 Personnel Management, acknowledging that the employee
27 had an opportunity to receive severance benefits and
28 affirmatively elected to exercise a displacement
29 privilege and to forego such benefits. An affected
30 employee who signs the agreement required by this
31 subparagraph waives any privilege which might
32 otherwise have been available to the affected employee

pursuant to the agreement for the provision of severance benefits, and

- b. not have the right to exercise any subsequent right to receive severance benefits from the agency for which the affected employee performs services on the date that the employee exercises a displacement privilege. The provisions of this section shall not prohibit any person from exercising a displacement privilege in, or accepting severance benefits from, more than one agency during employment with the State of Oklahoma or from the agency which the affected employee exercised a displacement privilege in any future reduction-in-force.

D. An affected employee who does not agree pursuant to Section 840-2.27E of this title to accept severance benefits and who does not have a displacement opportunity or does not accept a displacement opportunity shall be separated by the reduction-in-force and shall not receive any severance benefits that would have otherwise been provided pursuant to Section 840-2.27D of this title.

E. Permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service removed from a ~~class job family level~~ by taking a position in another ~~class job family level~~ through displacement or separated after foregoing severance benefits shall be recalled by the agency to the ~~class job family level~~ from which removed in inverse order of removal before the agency may appoint other persons to the ~~class job family level~~, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided by this section. Upon declination of an offer of reappointment to the ~~class job family level~~ from which removed or eighteen (18) months after the

1 date of removal from the ~~class job family level~~, whichever is first,
2 this right to be recalled shall expire.

3 F. The names of permanent classified affected employees, those
4 affected employees on probationary status after reinstatement from
5 permanent classified status without a break in service and regular
6 unclassified affected employees with six (6) months or more
7 continuous service who have been separated pursuant to the State
8 Government Reduction-in-Force and Severance Benefits Act, who apply
9 and meet all requirements for state jobs in the classified service
10 shall be placed on Priority Reemployment Consideration Rosters in
11 accordance with their individual final earned ratings for a maximum
12 of eighteen (18) months after the date of separation. Before any
13 vacant position is filled by any individual eligible for initial
14 appointment from the employment register, individuals on the
15 Priority Reemployment Consideration Rosters shall be given priority
16 consideration for reemployment by any state agency within eighteen
17 (18) months after the date of the reduction-in-force. Upon
18 declination of an offer of reemployment to a ~~class job family level~~
19 having the same or higher ~~grade pay band~~ than ~~that class the job~~
20 ~~family level~~ from which removed, or eighteen (18) months after the
21 date of separation, whichever is first, this priority consideration
22 for reemployment shall expire. If an agency, including but not
23 limited to the University Hospitals Authority, has posted a
24 reduction-in-force plan and implementation schedule, all affected
25 employees in positions covered by the plan and any within the
26 displacement limits established by the appointing authority of the
27 agency who have been separated shall be eligible for priority
28 reemployment consideration.

29 G. If an agency or any part thereof is scheduled to be closed
30 or abolished as a result of legislation or a court order, the
31 affected employees, who would be eligible for Priority Reemployment
32 Consideration after their separation in accordance with subsection F

1 of this section, may apply and, if qualified and eligible, shall be
2 accorded Priority Reemployment Consideration not to exceed twelve
3 (12) months before the scheduled date of separation. If an agency,
4 including but not limited to the University Hospitals Authority, has
5 posted a reduction-in-force plan and implementation schedule, all
6 affected employees in positions covered by the plan and any within
7 the displacement limits established by the appointing authority of
8 the agency shall be eligible for Priority Reemployment Consideration
9 beginning with the date the schedule is posted, not to exceed twelve
10 (12) months before the scheduled date of separation.

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

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

26 2. Mandatory furlough means the involuntary temporary reduction
27 of work hours or the placement of an employee on involuntary leave
28 without pay. Rules governing leave regulations, longevity pay and
29 participation in the State Employees Group Health, Dental,
30 Disability, and Life Insurance program shall not be affected by
31 mandatory furloughs. Furlough, as provided for in this section or
32 by rules adopted by the Administrator of the Office of Personnel

1 Management, shall not be appealable under the provisions of the
2 Oklahoma Personnel Act.

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

12 J. All agencies directed by the Contingency Review Board to
13 terminate or furlough employees, shall report the cumulative cost
14 savings achieved by the reductions-in-force or furloughs to the
15 Governor, President Pro Tempore of the Senate and Speaker of the
16 House of Representatives on a quarterly basis for one (1) year
17 following the effective date of the action.

18 K. The appointing authority of an agency which has an approved
19 reduction-in-force plan pursuant to the State Government Reduction-
20 in-Force and Severance Benefits Act may request the Administrator of
21 the Office of Personnel Management to appoint an interagency
22 advisory task force for the purpose of assisting the agency and its
23 employees with the implementation of the reduction-in-force. The
24 appointing authority of state agencies requested by the
25 Administrator to participate on a task force shall assign
26 appropriate administrative personnel necessary to facilitate the
27 necessary assistance required for the efficient implementation of
28 the approved reduction-in-force.

29 L. Except as otherwise provided, the University Hospitals
30 Authority shall not be subject to the provisions of this section.
31 Beginning August 25, 1995, the provisions of subsection E of this
32 section regarding priority reemployment consideration shall apply to

1 any employee of the University Hospitals Authority who was employed
2 on or became employed after February 1, 1995, and who is separated
3 from state service as a result of a reduction-in-force. The
4 University Hospitals Authority shall conduct a reduction-in-force to
5 terminate employees, regardless of status, whose positions are
6 eliminated because of a contract with a private nongovernmental
7 entity for the lease and operations of the University Hospitals
8 pursuant to the University Hospitals Authority Act.

9 SECTION 6. AMENDATORY 74 O.S. 1991, Section 840.30, as
10 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last
11 amended by Section 7, Chapter 320, O.S.L. 1996 (74 O.S. Supp. 1998,
12 Section 840-3.13), is amended to read as follows:

13 Section 840-3.13 A. All personnel interchange assignments are
14 intended to be temporary in nature. An individual's period of
15 assignment to any receiving agency shall not exceed twelve (12)
16 months in any thirty-six-month period; except that the period of
17 assignment for mentor executives participating in the mentor program
18 established by Section 840-3.8 of this title shall not exceed
19 twenty-four (24) months in any thirty-six-month period.

20 B. An individual shall be assigned as a participating employee
21 only upon the individual's freely given written consent, without any
22 form of coercion or duress. Personnel interchanges shall be
23 executed by mutual consent agreement by the appointing authority of
24 the sending agency, the appointing authority of the receiving
25 agency, and the participating individual.

26 C. A participating employee shall be considered an employee of
27 the sending agency for all purposes other than supervision. The
28 receiving agency shall be responsible for all costs and liabilities
29 arising from the performance of work assigned to the participating
30 employee by the receiving agency which is found to be contrary to
31 law and public policy by a court of competent jurisdiction.

32

1 D. A participating classified or unclassified employee may be
2 assigned to a classified or unclassified position for the duration
3 of the assignment without regard to the status of the employee in
4 the sending agency.

5 E. Work assigned to a participating employee by a receiving
6 agency shall be exempt from the classification and compensation
7 provisions of the Oklahoma Personnel Act. Further, although all
8 agencies are encouraged to resolve employee complaints at the lowest
9 possible level, nothing in this section shall be construed to
10 require a receiving agency to establish or adopt a grievance
11 procedure pursuant to Section 840-6.2 of this title, to hear formal
12 grievances, or to designate a grievance manager. Whenever an
13 interchange agreement is terminated in accordance with ~~this act the~~
14 Oklahoma Personnel Act and rules promulgated by the Administrator of
15 the Office of Personnel Management, the participating employee shall
16 be entitled to return to the previous class job family level of the
17 employee or its successor class job family level, if one exists in
18 the sending agency. Otherwise, the reduction-in-force provision of
19 Section ~~840-2.27~~ 840-2.27C of this title shall apply.

20 F. Except as provided in subsection E of this section, a
21 participating employee who is assigned to a receiving agency shall
22 neither lose, or suffer diminution of, any right, power, privilege,
23 or benefit to which the employee would otherwise be entitled,
24 including but not limited to salary, seniority, promotion,
25 reinstatement, insurance, retirement, classified or unclassified
26 status, progressive discipline, and use of grievance and appeals
27 procedures. An employee's class job family level shall not be
28 adversely affected by another employee's participation in an
29 interchange.

30 G. Any participating employee who suffers injury, occupational
31 disease, or death, arising out of and in the course of an assignment
32 to a receiving agency or sustained in the discharge of duties in

1 connection with said assignment shall be considered an employee of
2 the sending agency, and shall not be deprived by virtue of
3 participating in said program of any right or expectancy that would
4 otherwise accrue pursuant to the laws of this state governing labor
5 and workers' compensation.

6 H. Except as provided in this section, a participating employee
7 shall neither receive nor accept any compensation from the receiving
8 agency to which the employee is assigned. Any receiving agency
9 shall, in accordance with any applicable laws and policies,
10 reimburse the per diem and travel expenses of any participating
11 employee assigned thereto.

12 I. Nothing in the State Personnel Interchange Program is
13 intended to preclude the adoption of rules governing the interchange
14 of employees of state governmental entities via other interchange
15 provisions, such as leaves of absence without pay and career
16 executive appointments.

17 SECTION 7. AMENDATORY 74 O.S. 1991, Section 840.13, as
18 amended by Section 21, Chapter 242, O.S.L. 1994, and as renumbered
19 by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1998, Section
20 840-4.2), is amended to read as follows:

21 Section 840-4.2 A. Except as otherwise provided by law,
22 effective on the date an unclassified employee is made subject to
23 the Merit System of Personnel Administration by virtue of an
24 Executive Order issued pursuant to Section 2 840-4.1 of this ~~act~~
25 title or legislation, the employee shall be given status in the
26 ~~class job family level~~ to which the position occupied by the
27 employee is initially allocated by the Office of Personnel
28 Management. The employee shall not be required to take any
29 examination or qualify for the ~~class job family level~~, and the
30 salary of the employee shall not be reduced as a result of such
31 initial allocation. The status of the employee shall be determined
32 as follows:

1 1. An employee who has been continuously employed by the agency
2 for a minimum of six (6) months immediately preceding the date on
3 which the employee is made subject to the provisions of the Merit
4 System shall be given permanent status in the classified service.

5 2. An employee who has been continuously employed by the agency
6 for less than six (6) months on the date the employee is made
7 subject to the provisions of the Merit System shall be given
8 probationary status in the classified service. Such employee may
9 obtain permanent status in the classified service six (6) months
10 after the employee's entry-on-duty date with the agency pursuant to
11 the provisions of the Merit System.

12 B. Persons appointed to the classified service of any agency
13 under the Merit System shall achieve classified status only in
14 accordance with the Merit System of Personnel Administration Rules
15 promulgated pursuant to ~~this act~~ the Oklahoma Personnel Act.

16 C. Any classified employee who is serving in a position on the
17 effective date of the removal of the position from the classified
18 service and placement into the unclassified service shall have the
19 option of retaining ~~his or her~~ the employee's classified status.
20 Any such employee who elects to change from classified to
21 unclassified status shall so indicate in writing. All future
22 appointees to such positions shall be in the unclassified service.

23 SECTION 8. AMENDATORY 74 O.S. 1991, Section 840.22, as
24 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last
25 amended by Section 3, Chapter 406, O.S.L. 1997 (74 O.S. Supp. 1998,
26 Section 840-4.3), is amended to read as follows:

27 Section 840-4.3 A. The Office of Personnel Management shall
28 conduct audits of positions in the classified service to ~~ensure that~~
29 ~~positions are properly~~ determine the proper job family to which a
30 position is allocated, and may delegate the auditing function to an
31 agency pursuant to ~~paragraph 5 of~~ subsection D E of Section 840-1.15
32 of this title. Appointing authorities have control of positions

1 within their agency and have the authority to organize their
2 agencies, to create positions, to abolish positions and to prescribe
3 or change the duties and responsibilities assigned to any position
4 or employee at any time and shall determine the level within a job
5 family at which duties and responsibilities are assigned.

6 Individual audits of positions shall be conducted at the request of
7 the appointing authority based on information provided by the
8 agency. An incumbent employee will be given an opportunity to
9 respond; however, the Office of Personnel Management will rely on
10 the appointing authority for an official listing of the duties and
11 responsibilities of the position.

12 B. The appointing authority has the responsibility to ensure
13 that employees are properly classified and that the work performed
14 conforms to the appropriate ~~class specification~~ job family
15 descriptor describing the position. Employees shall be classified
16 in accordance with the work they are assigned on a regular and
17 consistent basis as an integral part of their normal work assignment
18 and ~~class specification~~ job family descriptor. An employee has the
19 right and responsibility to file a classification grievance, as
20 provided by law and rule, when duties performed on a regular and
21 consistent basis do not conform to the ~~class specification~~ job
22 family descriptor. An employee is entitled to the compensation
23 assigned to the ~~class specification~~ job family level for which
24 duties were performed on a regular and consistent basis as
25 determined by the Office of Personnel Management. This provision
26 does not entitle the employee to a higher ~~classification or job~~
27 family level. Agency classification and reclassification shall not
28 be subject to appeal to the Oklahoma Merit Protection Commission.

29 C. ~~Class specifications~~ Job family descriptors shall be used
30 for the purpose of distinguishing one job ~~classification family~~ from
31 another as clearly and definitively as possible in order that
32 positions may be properly allocated and employees may be properly

1 classified in accordance with this section. ~~Class specifications~~
2 Job family descriptors shall be applied in accordance with the
3 following:

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

15 2. An employee normally performs some of the work of higher-
16 rated jobs and some of the work of lower-rated jobs when required.
17 ~~The normal duties of an employee may include some of the work of~~
18 ~~related jobs in the same salary grade when required.~~ The normal
19 duties of an employee may include assistance to others.

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

25 SECTION 9. AMENDATORY 74 O.S. 1991, Section 840.19a, as
26 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended
27 by Section 39, Chapter 246, O.S.L. 1998 (74 O.S. Supp. 1998, Section
28 840-4.4), is amended to read as follows:

29 Section 840-4.4 When the appointing authority determines that
30 certain knowledge and sign language skills are required in any
31 position in order to effectively work with deaf or hard-of-hearing
32 persons, such requirements shall be incorporated into the

1 specifications of the appropriate job classifications family
2 descriptors. Such requirements shall not be construed as placing
3 additional requirements on persons who are incumbents in such
4 positions at the time such a determination is made.

5 SECTION 10. AMENDATORY 74 O.S. 1991, Section 840.16, as
6 amended by Section 22, Chapter 242, O.S.L. 1994, and as renumbered
7 by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1998, Section
8 840-4.6), is amended to read as follows:

9 Section 840-4.6 A. The State of Oklahoma, to recruit, retain
10 and motivate a quality workforce for the purpose of providing
11 quality services to the citizens of Oklahoma, shall provide a pay
12 structure based on internal equity and external competitiveness
13 balanced by the state's fiscal conditions. The state's goal shall
14 be to provide a flexible and adaptable state employee pay system
15 based on the market data found in relevant public and private sector
16 markets.

17 B. The Administrator of the Office of Personnel Management
18 shall develop a salary schedule for the classified service and pay
19 lines as appropriate to meet the needs of agencies. ~~The schedule~~
20 ~~shall reflect the minimum and maximum salaries for each grade~~
21 ~~listed.~~

22 C. The Administrator shall design a compensation system for all
23 classified state employees. ~~The system may include, but shall not~~
24 ~~be limited to:~~

25 1. ~~Entrance rates above the minimum;~~

26 2. ~~Competitive area pay and pay differentials, including on-~~
27 ~~call pay, shift pay, and hazardous duty pay; and~~

28 3. ~~Salaries on reclassifications, promotions, demotions, and~~
29 ~~detail to special duty~~ The compensation system developed pursuant to
30 this subsection shall be consistent with the recommendations

31 contained in the Classification and Compensation Reform Report from
32 the Administrator, dated December 1998, and submitted to the

1 Governor, Speaker of the House of Representatives, and President Pro
2 Tempore of the Senate.

3 D. All executive branch state agencies who employ personnel in
4 the unclassified service of the state, whose salaries are not
5 prescribed by law, shall establish salary schedules for such
6 employees.

7 SECTION 11. AMENDATORY 74 O.S. 1991, Section 840.16a, as
8 renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp.
9 1998, Section 840-4.7), is amended to read as follows:

10 Section 840-4.7 A. Proposed initial assignment of pay ~~grades~~
11 bands and pay ~~grade~~ band adjustments may be adopted by the
12 Administrator of the Office of Personnel Management after a public
13 hearing. Such action shall become effective the following July 1
14 unless the Administrator finds it essential for the provision or
15 continuation of government services to adopt an earlier effective
16 date. All such actions shall be reported to the Governor, President
17 Pro Tempore of the Senate and Speaker of the House of
18 Representatives. The report shall include the justification and
19 financial impact of the action.

20 B. The provisions of this section shall not be subject to the
21 provisions of ~~Sections 301 through 326 of Title 75 Article I~~ of the
22 Oklahoma ~~Statutes~~ Administrative Procedures Act.

23 SECTION 12. AMENDATORY 74 O.S. 1991, Section 840.21, as
24 renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp.
25 1998, Section 840-4.11), is amended to read as follows:

26 Section 840-4.11 The Administrator ~~by~~ may promulgate rules and
27 regulations ~~shall~~ to provide for the establishment of noncompetitive
28 appointments ~~for~~ including, but not limited to, the positions of
29 unskilled labor, attendants, aides, janitors, food service helpers,
30 ~~porters, waiters, bellhops, watchmen, elevator operators, or~~
31 custodial or similar types of employment when the character of the
32 work makes it impracticable to supply the needs of the service

1 effectively by competitive examination. All such persons appointed
2 shall serve a probationary period in accordance with the rules ~~and~~
3 ~~regulations~~ adopted by the Office of Personnel Management and the
4 provisions of the laws of the State of Oklahoma and shall acquire
5 permanent status and be subject to the same rules ~~and regulations~~ as
6 other classified employees. Such persons shall be required to pass
7 promotional examinations as prescribed by the laws of the State of
8 Oklahoma and the rules and regulations adopted by the Office of
9 Personnel Management before they may be promoted to a higher
10 classification.

11 SECTION 13. AMENDATORY 74 O.S. 1991, Section 840.19, as
12 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last
13 amended by Section 32, Chapter 364, O.S.L. 1998 (74 O.S. Supp. 1998,
14 Section 840-4.12), is amended to read as follows:

15 Section 840-4.12 A. The Administrator of the Office of
16 Personnel Management shall be responsible for conducting promotional
17 examinations and entrance examinations as required under the
18 Oklahoma Personnel Act. Such examinations shall be of such
19 character as to determine the qualifications, fitness and ability of
20 the persons tested to perform the duties of the ~~class~~ of positions
21 for which such tests or examinations are given. Provided, however,
22 tests and examinations of persons with severe disabilities who have
23 satisfactorily completed vocational and technical education courses
24 in vocational training units or divisions approved by the Department
25 of Rehabilitation Services shall be limited in scope so as to relate
26 to the skill and physical capability required for a particular
27 position. Adequate public notice shall be given of all examinations
28 except for promotion within a department or agency.

29 B. No person shall be required to take an entrance examination
30 for an appointment to a job family requiring licensing by a state
31 agency if that person has been previously tested and licensed by the
32

1 State of Oklahoma; such person shall be rated according to training
2 and experience.

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

8 D. Promotional examinations for promotion within an agency,
9 unless requested by the agency, shall not be required; provided that
10 said the promotion is in accordance with guidelines a plan adopted
11 by the Administrator and is in accordance with a plan adopted by the
12 promoting agency. Every classified employee promoted within an
13 agency shall serve a six-month trial period in the job level to
14 which the employee is promoted, unless the trial period is waived,
15 in writing, by the appointing authority. At any time during a trial
16 period, the appointing authority may return the employee to the job
17 level from which the employee was promoted upon written notification
18 by the appointing authority to the employee as to such action and
19 the reason therefor, and the employee shall not have the right to
20 appeal the action.

21 E. The Administrator shall accept Certificates of Proficiency
22 issued by accredited private or public schools, colleges or the
23 Oklahoma Employment Security Commission in lieu of typing and
24 shorthand tests.

25 F. The Office of Personnel Management shall certify that a
26 candidate meets the necessary job qualifications ~~ef~~ for a
27 classification job family level in the classified service for the
28 purpose of allowing that candidate to be appointed to a ~~position in~~
29 ~~that class job~~. The Administrator of the Office of Personnel
30 Management may delegate the certification function provided by this
31 section to an agency pursuant to subsection E of Section 840-1.15 of
32 this title. Any statute which creates any position or

1 qualifications for any position in the classified service shall not
2 be construed to limit the power of the Administrator to interpret or
3 add to those qualifications in a reasonable manner consistent with
4 the intent of the Legislature and the duties of that position. Any
5 statute which empowers any agency head or other employer to hire or
6 nominate persons for employment within the classified service shall
7 not be construed to empower that agency head or other employer to
8 waive or modify any qualification or rule for employment established
9 by the Administrator. The Administrator shall not be construed to
10 have the authority to limit or reduce any qualification established
11 by statute for any position. The constructions established herein
12 shall apply to any statutes or positions heretofore or hereafter
13 created unless that statute clearly and specifically states that
14 such constructions do not apply.

15 G. Subsections ~~A, B, C, D, E and~~ through F of this section
16 shall not apply to special disabled veterans who are considered for
17 employment under the provisions of Sections 401 through 404 of Title
18 72 of the Oklahoma Statutes. Provided, said veterans may elect
19 instead to be considered for employment according to the procedures
20 set out in subsections A through F of this section.

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

27 1. As used in this subsection "persons with severe
28 disabilities" means persons certified as having disabilities
29 according to standards and procedures established by the
30 Administrator. Said standards and procedures shall be developed by
31 the Administrator of the Office of Personnel Management with the
32

1 assistance of the Office of Handicapped Concerns, and the Department
2 of Rehabilitation Services.

3 2. Agencies of this state may employ persons with severe
4 disabilities who are legal residents of the state in competitive and
5 noncompetitive jobs. Except for the requirement of minimum
6 qualifications specified in applicable job specifications, such
7 persons with disabilities shall be exempt from entrance examinations
8 and hiring procedures administered by the Office of Personnel
9 Management pursuant to this section and Section 840-4.13 of this
10 title.

11 3. Persons with severe disabilities hired pursuant to this
12 subsection shall be appointed for a probationary period ~~of six (6)~~
13 ~~months. At the end of the probationary period if the work of said~~
14 ~~person with severe disabilities is satisfactorily performed, the~~
15 ~~person with a severe disability shall acquire permanent status~~
16 pursuant to Section 840-4.13 of this title.

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

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

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

27 2. Agencies of this state may use the optional hiring procedure
28 provided in this subsection to employ females, blacks, Hispanics,
29 Asian/Pacific Islanders and American Indians/Alaskan natives, as
30 defined by the Equal Employment Opportunity Commission, who are
31 legal residents of the state in competitive and noncompetitive jobs.
32 Individuals must meet the minimum qualifications and pass any

1 required examinations established by the Office of Personnel
2 Management or by statute. Except for any required examinations and
3 minimum qualifications specified in applicable job specifications,
4 such persons shall be exempt from the hiring procedures administered
5 by the Office of Personnel Management. Persons may only be employed
6 under this subsection in a job class family level, group or category
7 which has been identified as underutilized and in which an
8 appropriate hiring goal has been set in the state agency's
9 affirmative action plan approved by the Office of Personnel
10 Management pursuant to the provisions of Section 840-2.1 of this
11 title. In addition, the appointing authority of the employing
12 agency must determine that a manifest imbalance exists which
13 justifies remedial action pursuant to this subsection in order to
14 reach the affirmative action hiring goal. Provided further, that
15 eligible war veterans, as defined by Section 67.13a of Title 72 of
16 the Oklahoma Statutes, who are members of the group for which a
17 hiring goal has been set shall be considered by the employing agency
18 before a nonveteran is appointed pursuant to this subsection.

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

23 4. Persons hired pursuant to this subsection shall be appointed
24 for a probationary period ~~of six (6) months, except that the~~
25 ~~appointing authority may extend a probationary period, not to exceed~~
26 ~~a total of nine (9) months for an individual, provided, however,~~
27 ~~that the employee and the Administrator of the Office of Personnel~~
28 ~~Management shall be notified in writing as to such action and the~~
29 ~~reason therefor. At the end of the probationary period if the work~~
30 ~~of such person is satisfactorily performed as reflected in a service~~
31 ~~rating made pursuant to Section 840-4.17 840-4.13 of this title,~~
32 ~~such person shall acquire permanent status.~~

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

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

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

14 SECTION 14. AMENDATORY 74 O.S. 1991, Section 840.20, as
15 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last
16 amended by Section 9, Chapter 245, O.S.L. 1998 (74 O.S. Supp. 1998,
17 Section 840-4.13), is amended to read as follows:

18 Section 840-4.13 A. Based upon the results of competitive
19 entrance examinations and registers, as provided by the Oklahoma
20 Personnel Act, the Administrator of the Office of Personnel
21 Management shall certify to the appointing authority the names of
22 the ten persons receiving the highest grade or score in said
23 examinations plus all eligible applicants whose grade or score is
24 tied with the lowest ranking of those so eligible. ~~The~~
25 ~~Administrator of the Office of Personnel Management is authorized to~~
26 ~~implement a pilot project which will allow agencies to make~~
27 ~~appointments from broad band certificates issued by the~~
28 ~~Administrator. The pilot project shall include no more than twenty~~
29 ~~(20) classes and will begin no earlier than January 1, 1996, and end~~
30 ~~July 1, 1999. During the pilot project, the Administrator may~~
31 ~~implement a variety of broad band certification methods that certify~~
32 ~~to appointing authorities no fewer names for appointment than they~~

1 ~~otherwise receive. The Administrator shall consult with employing~~
2 ~~agencies prior to implementing broad band certification for a~~
3 ~~specific class and shall notify eligibles for a specific class~~
4 ~~subject to the pilot project.~~

5 B. In addition to establishing statewide registers pursuant to
6 subsection A of this section, the Administrator is hereby authorized
7 to promulgate rules creating a local register to fill a vacancy in a
8 local office of an agency by providing a certificate of available
9 names of eligible persons who are residents of the county where the
10 local office is located or said county and adjacent counties or a
11 group of contiguous counties comprising a service area of an agency.
12 Available eligible residents shall be certified ahead of other
13 available eligible persons who reside outside the area of the local
14 register. In filling vacant positions, the appointing authority
15 shall select any one of the persons whose names have been so
16 certified and may give preference in all cases to persons who have
17 resided in this state for at least one (1) year prior to the date of
18 the examination. Provided, however, that any appointing authority
19 authorized to employ persons who are not citizens of the United
20 States, pursuant to Section 255 of this title, may request the
21 Office to certify only the names of persons who are citizens of the
22 United States in carrying out the provisions of this section; and
23 such appointing authority may select any person so certified to the
24 Administrator to fill such vacant positions even though a noncitizen
25 may have received a higher grade on the examination. Provided,
26 further, that any appointing authority may select special disabled
27 veterans considered for employment pursuant to Sections 401 through
28 404 of Title 72 of the Oklahoma Statutes. The Department of Public
29 Safety, in filling vacancies for Highway Patrol Cadets, may
30 disqualify any eligible whose name has been certified for Highway
31 Patrol Cadet pursuant to subsection A of this section, if the
32 Department of Public Safety considers the eligible in connection

1 with the hiring of three other eligibles pursuant to subsection A of
2 this section from that certificate. The name of such disqualified
3 eligible shall be omitted from further certification to, and
4 consideration by, the Department of Public Safety for appointment as
5 a Highway Patrol Cadet to the next immediate Highway Patrol Academy
6 for which vacancies are being filled. Such disqualification shall
7 neither deprive any person of any preference pursuant to paragraph 3
8 of subsection A of Section 840-4.14 of this title nor deprive any
9 person from certification to, and consideration by, the Department
10 of Public Safety for appointment as a Highway Patrol Cadet to a
11 Highway Patrol Academy to be held after the next immediate Highway
12 Patrol Academy. The Department of Public Safety shall provide
13 written notice of the disqualification to the Office of Personnel
14 Management.

15 C. Agencies may fill positions requiring professional practice
16 licensure and hard-to-fill positions pursuant to authorization by
17 the Administrator without regard to subsections A and B of this
18 section. The Administrator shall promulgate rules to authorize
19 agencies to fill positions directly, pursuant to this subsection.
20 Such rules shall include criteria for identifying professional
21 practice licensure positions and hard-to-fill positions which shall
22 not require establishment of an employment list of eligible persons
23 or the application of veterans preference. The Administrator shall
24 monitor appointments made by agencies pursuant to this subsection
25 and shall establish recordkeeping and reporting procedures and the
26 conditions under which the Administrator may withdraw authorization
27 for agencies to directly hire persons into hard-to-fill positions.
28 Nothing in this subsection shall be construed to waive any
29 requirement for any job ~~classification~~ or position established by
30 statute or the Administrator.

31 D. Every person, except ~~for agents employed by the Alcoholic~~
32 ~~Beverage Laws Enforcement Commission who shall be appointed for~~

1 ~~probationary periods of one (1) year as provided in subsection E of~~
2 ~~this section, upon initial appointment under the classified service,~~
3 shall be appointed for a probationary period of ~~six (6) months one~~
4 ~~(1) year, except that the appointing authority may extend or waive,~~
5 ~~in writing, the remainder of the probationary period, not to exceed~~
6 ~~a total of nine (9) months for an individual; provided, however,~~
7 that the employee and the Administrator of the Office of Personnel
8 Management shall be notified in writing as to such action and the
9 reason therefor. The probationary appointment of any person may be
10 terminated at any time during the probationary period without the
11 right of appeal. At the close of the probationary period, as herein
12 provided, said person shall acquire a permanent status under the
13 conditions prescribed in the Oklahoma Personnel Act.

14 E. Every person initially appointed under the classified
15 service as an agent of the Alcoholic Beverage Laws Enforcement
16 Commission shall be appointed for a probationary period of one (1)
17 year.

18 SECTION 15. AMENDATORY 74 O.S. 1991, Section 841.19, as
19 renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp.
20 1998, Section 840-4.15), is amended to read as follows:

21 Section 840-4.15 A. The appointing authority shall post
22 announcements of a vacancy or vacancies in a particular class of
23 positions in accordance with a promotional plan filed by the agency
24 with the Office of Personnel Management. In order to give qualified
25 employees an opportunity to apply for and be considered for possible
26 promotions, the vacancy notices shall be posted conspicuously in
27 transparent, secured enclosures situated in prominent locations
28 throughout the agency, at least five (5) working days prior to the
29 closing date for the receipt of applications by the appointing
30 authority. Each agency's promotional posting plan shall describe
31 where promotional notices will be posted and require that all
32 vacancy or promotional notices be posted conspicuously in

1 transparent, secured enclosures. Notices must be posted throughout
2 the agency. However, an agency's plan may limit the posting of
3 notices for a vacancy in a work unit, local office or administrative
4 area to within that location, if the vacancy is to be filled by an
5 employee from the same location. The posting shall include:

6 1. A copy of the ~~class specification~~ job family descriptor;

7 2. Identification of the job family level of the vacancy or
8 vacancies;

9 3. The salary grade pay band and range;

10 3. 4. The anticipated number of vacancies;

11 4. 5. The specific location of work;

12 5. 6. The time limits and procedure for filing an application
13 with the appointing authority; and

14 6. 7. Any additional factors which the appointing authority
15 will consider in filling the vacancy.

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

26 C. If an employee still feels that ~~he or she~~ the employee has
27 not been treated fairly with regard to a promotional action after
28 such complaint has been reviewed in a formal grievance procedure
29 conducted in accordance with the provisions of Section ~~841.9~~ 840-6.2
30 of this title, the employee may seek a remedy through the procedures
31 established in ~~this act~~ the Oklahoma Personnel Act. If a violation

1 of Section ~~841.10~~ 840-2.9 of this title has been committed, the
2 Oklahoma Merit Protection Commission may declare a position open.

3 SECTION 16. AMENDATORY 74 O.S. 1991, Section 841.16, as
4 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last
5 amended by Section 8, Chapter 235, O.S.L. 1998 (74 O.S. Supp. 1998,
6 Section 840-4.17), is amended to read as follows:

7 Section 840-4.17 A. ~~Each agency shall adopt and maintain a~~
8 ~~system of employee service ratings.~~ The Office of Personnel
9 Management shall make available a one standard performance
10 management system ~~for this purpose, but an appointing authority may~~
11 ~~develop a separate system, subject to approval of the Administrator~~
12 ~~of the Office of Personnel Management to be used by all agencies for~~
13 ~~completing employee service ratings. Agencies shall implement this~~
14 ~~new system on or before January 1, 2000. Until January 1, 2000,~~
15 ~~agencies may continue to use employee service rating systems which~~
16 ~~were approved or provided by the Administrator prior to November 1,~~
17 ~~1999. The purpose of the this employee performance management~~
18 ~~system of employee service rating is to evaluate the performance of~~
19 ~~each regular classified, unclassified and exempt employee in the~~
20 ~~executive branch of state government except those in the exempt~~
21 ~~unclassified service as specified in paragraphs 1 and 2 of~~
22 ~~subsection A of Section 840-5.5 of this title and those employees~~
23 ~~employed by the institutions under the administrative authority of~~
24 ~~The Oklahoma State System of Higher Education. The Administrator of~~
25 ~~the Office of Personnel Management, on or before January 1 of each~~
26 ~~year, shall submit a report to the Speaker of the House of~~
27 ~~Representatives, the President Pro Tempore of the Senate, and the~~
28 ~~Governor identifying those state agencies that have complied with~~
29 ~~the provisions of this section.~~

30 B. The employee performance management system shall provide for
31 the following:

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

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

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

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

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

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

15 D. Any permanent classified employee who disagrees with ~~his or~~
16 ~~her~~ the employee's individual service rating may file a grievance
17 pursuant to Section 840-6.2 of this title. Any employee, regardless
18 of status, who is required to be rated pursuant to this section and
19 who disagrees with ~~his or her~~ the individual service rating of the
20 employee may file a complaint through any other dispute resolution
21 process made available through the employing agency or the Oklahoma
22 Merit Protection Commission. The Oklahoma Merit Protection
23 Commission shall not have jurisdiction to investigate or hear
24 appeals of individual service ratings.

25 E. The agency shall use available service ratings of current or
26 former state employees in decisions regarding promotions,
27 appointments, demotions, performance pay increases and discharges.
28 Reductions-in-force shall not be considered discharges.

29 F. The agency shall retain a copy of the service rating for
30 each employee of the agency. A copy of the service rating shall be
31 furnished to the Administrator of the Office of Personnel Management
32

1 for review to determine compliance with the provisions of this
2 section and shall be retained in the file on the employee.

3 SECTION 17. AMENDATORY Section 6, Chapter 286, O.S.L.

4 1997 (74 O.S. Supp. 1998, Section 840-5.16), is amended to read as
5 follows:

6 Section 840-5.16 A. There is hereby created the State Work
7 Incentive Program aimed at employing Temporary Assistance to Needy
8 Families Program participants in Oklahoma in the state service. The
9 program shall focus on placement of persons in entry-level
10 positions. The Department of Human Services shall notify agencies
11 in all branches of state government of this program and shall
12 certify to appointing authorities and the Administrator of the
13 Office of Personnel Management that a person is a participant in the
14 Temporary Assistance to Needy Families Program before the person is
15 eligible to be employed under the State Work Incentive Program by a
16 state agency. Agencies shall cooperate with the Department of Human
17 Services in seeking to provide employment opportunities to persons
18 participating in the Temporary Assistance to Needy Families Program.
19 The Department of Human Services and the Office of Personnel
20 Management shall coordinate with agencies to facilitate the
21 transition of participants in the Temporary Assistance to Needy
22 Families Program into the State Work Incentive Program.

23 B. Agencies employing eligible persons in the State Work
24 Incentive Program shall employ them in unclassified status for up to
25 two (2) years in full-time or part-time capacity. State Work
26 Incentive Program positions shall not be included within any
27 limitation on full-time-equivalent employee positions for any
28 agency. The service of participants shall be rated pursuant to
29 Section 840-4.17 of this title.

30 C. Employees hired under the State Work Incentive Program are
31 eligible for leave benefits and other benefits available to state
32

1 employees, subject to other eligibility requirements, and may be
2 reassigned or promoted while they are participating in the program.

3 D. Employees hired under the State Work Incentive Program shall
4 be eligible for conversion to permanent classified status after two
5 (2) years of continuous participation in the program. Such employee
6 shall be exempt from probationary hiring procedures including, but
7 not limited to, placement on hiring lists and certification from
8 registers, provided the employee:

9 1. Has had satisfactory performance as evidenced by service
10 ratings conducted pursuant to Section 840-4.17 of this title;

11 2. Possesses the minimum requirements specified ~~in~~ for an
12 applicable job ~~specifications~~; and

13 3. Passes any entrance examination required for the applicable
14 job ~~specification~~ by the Office of Personnel Management.

15 The Administrator of the Office of Personnel Management shall
16 adopt such rules as are necessary for the implementation of the
17 State Work Incentive Program.

18 SECTION 18. NEW LAW A new section of law not to be
19 codified in the Oklahoma Statutes reads as follows:

20 In order to provide for the efficient implementation of this
21 act, the Administrator of the Office of Personnel Management and the
22 Oklahoma Merit Protection Commission may promulgate emergency and
23 permanent rules before November 1, 1999. Any rules promulgated
24 pursuant to this section shall not be operative prior to November 1,
25 1999.

26 SECTION 19. REPEALER 74 O.S. 1991, Section 840.16b, as
27 renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last
28 amended by Section 16, Chapter 290, O.S.L. 1996 and 62 O.S. 1991,
29 Section 7.11, as amended by Section 45, Chapter 242, O.S.L. 1994,
30 and as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S.
31 Supp. 1998, Sections 840-2.17 and 840-4.5), are hereby repealed.

1 SECTION 20. Sections 1 through 17 and Section 19 of this act
2 shall become effective November 1, 1999.

3 SECTION 21. It being immediately necessary for the preservation
4 of the public peace, health and safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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