STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 464 By: Dickerson of the Senate

and

Dunegan of the House

COMMITTEE SUBSTITUTE

An Act relating to state personnel; enacting the Classification and Compensation Reform Act of 1999; amending 74 O.S. 1991, Section 840.3, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1, Chapter 256, O.S.L. 1998, 840.5, as last renumbered by Section 24, Chapter 310, O.S.L. 1995, and as last amended by Section 2, Chapter 320, O.S.L. 1996, Section 5, Chapter 287, O.S.L. 1997, 841.14, as last renumbered by Section 20, Chapter 287, O.S.L. 1997, and as last amended by Section 2, Chapter 256, O.S.L. 1998, 840.30, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 7, Chapter 320, O.S.L. 1996, 840.13, as amended by Section 21, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994, 840.22, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 3, Chapter 406, O.S.L. 1997, 840.19a, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 39, Chapter 246, O.S.L. 1998, 840.16, as amended by Section 22, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994, 840.16a, as renumbered by Section 54, Chapter 242, O.S.L. 1994, 840.21, as renumbered by Section 54, Chapter 242, O.S.L. 1994, 840.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 35 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, 840.20, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 36 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, 841.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and 841.16, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 37 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature and Section 6, Chapter 286, O.S.L. 1997 (74 O.S. Supp. 1998, Sections 840-1.3, 840-1.6A, 840-2.27B, 840-2.27C, 840-3.13, 840-4.2, 840-4.3, 840-4.4, 840-4.6, 840-4.7, 840-4.11, 840-4.15, and 840-5.16), which relate to the Oklahoma Personnel Act; modifying and adding definitions; adding to the duties of the Administrator of the Office of Personnel Management; clarifying applicability of certain definitions; changing

terminology regarding state job classifications; modifying compensation system requirements; modifying requirements regarding noncompetitive appointments; providing for promulgation of rules; requiring trial periods for promoted employees; clarifying probationary period for persons with severe disabilities and persons hired pursuant to the Fair Employment Practices Act; deleting certain pilot project; modifying probationary periods; clarifying content of vacancy notices; requiring the Office of Personnel Management to provide a standard performance management system; deleting reporting requirement; applying restriction on performance pay increases; providing for promulgation of rules; repealing 74 O.S. 1991, Section 840-16b, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 16, Chapter 290, O.S.L. 1996 and 62 O.S. 1991, Section 7.11, as amended by Section 45, Chapter 242, O.S.L. 1994, and as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1998, Sections 840-2.17 and 840-4.5), which relate to the Merit System of Personnel Administration Salary Schedule and raises; providing for noncodification; providing an effective date; and declaring an emergency.

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

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

This act shall be known and may be cited as the “Classification and Compensation Reform Act of 1999”.

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

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

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

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

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

4. ~~"Class" or "class of positions" means positions that are sufficiently similar in duties, levels of responsibility, and requirements of the work to warrant similar treatment as to title, pay grade, and minimum qualifications;~~

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

~~6.~~ "Classification" means:

a. the process of placing an employee into an appropriate job family and level within the job family, consistent with the allocation of the position to which the employee is assigned, or

b. an employee's job family and the level at which work is assigned;

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

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

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

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

9. "Job family" means:

a. jobs which require similar core skills and involve similar work, and

b. a logical progression of roles in a specific type of occupation in which the differences between roles are

related to the depth and breadth of experience at 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 designated by the Office of Personnel Management to determine further the qualifications of a permanent classified employee of a state agency for employment in a different ~~class~~ job for which the employee possesses the minimum qualifications of education, experience, or licensure within that agency;

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

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

~~12.~~ 15. "Job-related organization" means a membership association which collects annual dues, conducts annual meetings and provides job-related education for its members and which includes state employees, including any association for which payroll

deductions for membership dues are authorized pursuant to paragraph 5 of subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes;

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

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

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

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

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

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

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

~~20.~~ 23. "Reclassification" means the process of changing a classified employee from one job family to another job family or from one job family level to another job family level in the same job family, resulting in a change in the employee's assigned job code;

24. "Regular and consistent" means, in connection with the work assignments of an employee, the usual and normal work assignments of the employee, excluding incidental, casual, or occasional tasks and activities the employee assumes without direction to do so. Temporary work assignments of less than sixty (60) days in any twelve (12) consecutive months period shall not be considered regular and consistent;

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

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

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

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

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

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

~~27.~~ 31. "Commission" means the Oklahoma Merit Protection Commission;

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

~~29.~~ 33. "Voluntary out" means the voluntary separation of employees from the state service in exchange for benefits offered by an agency in order to reduce or eliminate the adverse impact of an imminent reduction-in-force.

SECTION 3. 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 2, Chapter 320, O.S.L. 1996 (74 O.S. Supp. 1998, 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 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;

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 ~~and regulations~~ 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; ~~and~~

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.

SECTION 4. AMENDATORY Section 5, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1998, Section 840-2.27B), is amended to read as follows:

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

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

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

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

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

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

6. "Displacement limit" means any area within an agency in which displacement may not occur. These areas may include, but are

not limited to, job ~~classes~~ families, units, and geographic areas within an agency;

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

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

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

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

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

12. "Reduction-in-force" means abolition of positions in an agency or part of an agency and the corresponding nondisciplinary removal of affected employees from such positions through separation from employment or through displacement to other positions. Reduction-in-force may also include reorganizations;

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

14. "Years of service" means current and prior service which is creditable for the Longevity Pay Plan. An affected employee shall not be required to have been continuously employed for two (2) years

to be given credit for either current or prior service pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

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

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

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

a. demonstrate that funds are available to cover projected costs,

b. contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 840-2.27D of this title, and

c. contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.

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

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

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

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

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

4. Require the separation of limited term unclassified affected employees and regular unclassified affected employees with less than

six (6) months continuous service in affected classes or job family levels prior to the separation or displacement of regular unclassified affected employees with six (6) months or more of continuous service in an affected class or job family level;

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

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

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

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

1. The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees in affected positions within displacement limits; provided, that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected, which explanation shall not be subject to the approval of the Administrator.

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

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

a. be required, as a condition of continued employment by the agency, to sign an agreement, in a form to be prescribed by the Administrator of the Office of Personnel Management, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. An affected

employee who signs the agreement required by this subparagraph waives any privilege which might 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 date of removal from the ~~class~~ job family level, whichever is first, this right to be recalled shall expire.

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

G. If an agency or any part thereof is scheduled to be closed or abolished as a result of legislation or a court order, the

affected employees, who would be eligible for Priority Reemployment Consideration after their separation in accordance with subsection F of this section, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation. If an agency, including but not limited to the University Hospitals Authority, has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency shall be eligible for Priority Reemployment Consideration beginning with the date the schedule is posted, not to exceed twelve (12) months before the scheduled date of separation.

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

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

2. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave without pay. Rules governing leave regulations, longevity pay and participation in the State Employees Group Health, Dental, Disability, and Life Insurance program shall not be affected by

mandatory furloughs. Furlough, as provided for in this section or by rules adopted by the Administrator of the Office of Personnel Management, shall not be appealable under the provisions of the Oklahoma Personnel Act.

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

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

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

L. Except as otherwise provided, the University Hospitals Authority shall not be subject to the provisions of this section.

Beginning August 25, 1995, the provisions of subsection E of this section regarding priority reemployment consideration shall apply to any employee of the University Hospitals Authority who was employed on or became employed after February 1, 1995, and who is separated from state service as a result of a reduction-in-force. The University Hospitals Authority shall conduct a reduction-in-force to terminate employees, regardless of status, whose positions are eliminated because of a contract with a private nongovernmental entity for the lease and operations of the University Hospitals pursuant to the University Hospitals Authority Act.

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

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

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

C. A participating employee shall be considered an employee of the sending agency for all purposes other than supervision. The receiving agency shall be responsible for all costs and liabilities arising from the performance of work assigned to the participating

employee by the receiving agency which is found to be contrary to law and public policy by a court of competent jurisdiction.

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

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

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

G. Any participating employee who suffers injury, occupational disease, or death, arising out of and in the course of an assignment to a receiving agency or sustained in the discharge of duties in connection with said assignment shall be considered an employee of the sending agency, and shall not be deprived by virtue of participating in said program of any right or expectancy that would otherwise accrue pursuant to the laws of this state governing labor and workers' compensation.

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

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

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

Section 840-4.2 A. Except as otherwise provided by law, effective on the date an unclassified employee is made subject to the Merit System of Personnel Administration by virtue of an Executive Order issued pursuant to Section ~~2~~ 840-4.1 of this ~~act~~ title or legislation, the employee shall be given status in the ~~class~~ job family level to which the position occupied by the employee is initially allocated by the Office of Personnel Management. The employee shall not be required to take any examination or qualify for the ~~class~~ job family level, and the

salary of the employee shall not be reduced as a result of such initial allocation. The status of the employee shall be determined as follows:

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

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

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

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

SECTION 8. 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 3, Chapter 406, O.S.L. 1997 (74 O.S. Supp. 1998, 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 ~~ensure that positions are properly~~ determine the proper job family to which a

position is allocated, and may delegate the auditing function to an agency pursuant to paragraph 5 of subsection D 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 as necessary establishing policies and procedures for appointing authorities to follow when allocating positions within their agencies. 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 ~~class specification~~ 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 ~~class specification~~ 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 ~~class specification~~ job family descriptor. An employee is entitled to the compensation assigned to the ~~class specification~~ job family level for which duties were performed on a regular and consistent basis ~~as determined by the Office of Personnel Management~~. This provision does not entitle the employee to a higher ~~classification~~ job family

level. Agency classification and reclassification decisions shall not be subject to appeal to the Oklahoma Merit Protection Commission.

C. ~~Class specifications~~ Job family descriptors shall be used for the purpose of distinguishing one job ~~classification~~ 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. ~~Class specifications~~ Job family descriptors shall be applied in accordance with the following:

1. The position description questionnaire and ~~class specification~~ 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 ~~class specification~~ 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 ~~class specification~~ job family descriptor. Employees are entitled to the ~~classification~~ 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 some of the work of related jobs in the same salary grade 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 ~~class specification~~ 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 9. AMENDATORY 74 O.S. 1991, Section 840.19a, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 39, Chapter 246, O.S.L. 1998 (74 O.S. Supp. 1998, Section 840-4.4), is amended to read as follows:

Section 840-4.4 When the appointing authority determines that certain knowledge and sign language skills are required in any position in order to effectively work with deaf or hard-of-hearing persons, such requirements shall be incorporated into the specifications of the appropriate job ~~classifications~~ family descriptors. Such requirements shall not be construed as placing additional requirements on persons who are incumbents in such positions at the time such a determination is made.

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

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

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

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

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

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

~~3. Salaries on reclassifications, promotions, demotions, and detail to special duty~~ The compensation system developed pursuant to this subsection shall be consistent with but not limited to the recommendations contained in the Classification and Compensation Reform Report from the Administrator, dated December 1998 and submitted to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives.

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

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

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

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

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

Section 840-4.11 The Administrator ~~by~~ may promulgate rules ~~and regulations shall~~ to provide for the establishment of noncompetitive appointments ~~for~~ including, but not limited to, the positions of unskilled labor, attendants, aides, janitors, food service helpers, ~~porters, waiters, bellhops, watchmen, elevator operators,~~ 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 ~~and regulations~~ 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 ~~and regulations~~ 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 13. 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 35 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, 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 class of positions 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 licensed by the State of Oklahoma~~; such person shall be rated according to training and experience~~.

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

D. Promotional examinations for promotion within an agency, unless requested by the agency, shall not be required; provided that ~~said~~ the promotion is in accordance with ~~rules~~ 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 ~~class~~ 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 ~~class~~ 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. The Administrator shall accept Certificates of Proficiency issued by accredited private or public schools, colleges or the

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

F. The Office of Personnel Management shall certify that a candidate meets the necessary job qualifications ~~of~~ for a ~~classification~~ job family level in the classified service for the purpose of allowing that candidate to be appointed to a ~~position in that class~~ 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. Subsections A through F of this section shall not apply to special disabled veterans who are considered for employment under the provisions of Sections 401 through 404 of Title 72 of the Oklahoma Statutes. Provided, said veterans may elect instead to be considered for employment according to the procedures set out in subsections A through F of this section.

H. Subsections A through F 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 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.

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

2. Agencies of this state may use the optional hiring procedure provided in this subsection to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives, as defined by the Equal Employment Opportunity Commission, who are legal residents of the state in competitive and noncompetitive jobs. Individuals must meet the minimum qualifications and pass any required examinations established by the Office of Personnel Management or by statute. Except for any required examinations and minimum qualifications specified in applicable job specifications, such persons shall be exempt from the hiring procedures administered by the Office of Personnel Management. Persons may only be employed under this subsection in a job ~~class~~ 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 14. AMENDATORY 74 O.S. 1991, Section 840.20, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 36 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

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

~~to appointing authorities no fewer names for appointment than they otherwise receive. The Administrator shall consult with employing agencies prior to implementing broad band certification for a specific class and shall notify eligibles for a specific class subject to the pilot project.~~

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

Department of Public Safety considers the eligible in connection with the hiring of three other eligibles pursuant to subsection A of this section from that certificate. The name of such disqualified eligible shall be omitted from further certification to, and consideration by, the Department of Public Safety for appointment as a Highway Patrol Cadet to the next immediate Highway Patrol Academy for which vacancies are being filled. Such disqualification shall neither deprive any person of any preference pursuant to paragraph 3 of subsection A of Section 840-4.14 of this title nor deprive any person from certification to, and consideration by, the Department of Public Safety for appointment as a Highway Patrol Cadet to a Highway Patrol Academy to be held after the next immediate Highway Patrol Academy. The Department of Public Safety shall provide written notice of the disqualification to the Office of Personnel Management. The Department of Corrections, in filling vacancies for Correctional Officer Cadets and Probation and Parole Officers, may disqualify any eligible whose name has been certified for Correctional Officer Cadet or Probation and Parole Officer, pursuant to subsection A of this section, if the Department of Corrections considers the eligible in connection with the hiring of three other eligibles pursuant to subsection A of this section from that or any other certificate. The name of such disqualified eligible shall be omitted from future certification to, and consideration by, the Department of Corrections for appointment as a Correctional Officer Cadet or Probation and Parole Officer for a period of six (6) months, at which time the eligible may request restoration to the register by the Office of Personnel Management. Such disqualification shall not deprive any person of any preference pursuant to paragraph 3 of subsection A of Section 840-4.14 of this title. The Department of Corrections shall provide written notice of the disqualification to the Office of Personnel Management.

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

D. Every person, except as provided in subsection E of this section, upon initial appointment under the classified service, shall be appointed for a probationary period of one (1) year, except that the appointing authority may waive in writing the remainder of the probationary period at any time after a probationary employee has served six (6) months; provided, however, that the employee and the Administrator of the Office of Personnel Management shall be notified in writing as to such action and the reason therefor. The probationary appointment of any person may be terminated at any time during the probationary period without the right of appeal. At the close of the probationary period, as herein provided, said person shall acquire a permanent status under the conditions prescribed in the Oklahoma Personnel Act.

E. Every person initially appointed under the classified service as an agent of the Alcoholic Beverage Laws Enforcement

Commission shall be appointed for a probationary period of one (1) year.

SECTION 15. AMENDATORY 74 O.S. 1991, Section 841.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1998, 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 a particular class of positions~~ 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. 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 ~~class specification~~ job family descriptor;

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

3. The ~~salary grade~~ pay band and range;

~~3.~~ 4. The anticipated number of vacancies;

~~4.~~ 5. The specific location of work;

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

~~6.~~ 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 ~~class of positions~~ job family; provided the appointing authority maintains a promotional applicant list for each ~~class of positions~~ 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 ~~he or she~~ 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 ~~841.9~~ 840-6.2 of this title, the employee may seek a remedy through the procedures established in ~~this act~~ the Oklahoma Personnel Act. If a violation of Section ~~841.10~~ 840-2.9 of this title has been committed, the Oklahoma Merit Protection Commission may declare a position open.

SECTION 16. AMENDATORY 74 O.S. 1991, Section 841.16, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 37 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 840-4.17 A. ~~Each agency shall adopt and maintain a system of employee service ratings.~~ The Office of Personnel Management shall make available one ~~or more~~ standard ~~systems for this purpose, but an appointing authority may develop a separate system, subject to approval of the Administrator of the Office of Personnel Management~~ performance management system to be used by all agencies for completing employee service ratings. Agencies shall implement this new system on or before January 1, 2000. Until

January 1, 2000, agencies may continue to use employee service rating systems which were approved or provided by the Administrator prior to November 1, 1999. The purpose of this employee ~~service rating systems~~ performance management system is to evaluate the performance of each regular classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 of this title and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education. ~~The Administrator of the Office of Personnel Management, on or before January 1 of each year, shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor identifying those state agencies that have complied with the provisions of this section.~~

B. ~~Employee service evaluation systems~~ The employee performance management system shall provide for the following:

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

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

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

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

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

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

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

E. The agency shall use available service ratings of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases and discharges. Reductions-in-force shall not be considered discharges. No classified or unclassified state employee shall be eligible for a performance pay increase until such time as the employee's performance has been evaluated for a period of at least six (6) months pursuant to the performance management system which shall be implemented by state agencies on or before January 1, 2000, but in no case shall employees be eligible for a performance pay increase prior to July 1, 2000.

F. The agency shall retain a copy of the service rating for each employee of the agency. A copy of the service rating shall be furnished to the Administrator of the Office of Personnel Management for review to determine compliance with the provisions of this section and shall be retained in the file on the employee.

SECTION 17. AMENDATORY Section 6, Chapter 286, O.S.L. 1997 (74 O.S. Supp. 1998, Section 840-5.16), is amended to read as follows:

Section 840-5.16 A. There is hereby created the State Work Incentive Program aimed at employing Temporary Assistance to Needy Families Program participants in Oklahoma in the state service. The

program shall focus on placement of persons in entry-level positions. The Department of Human Services shall notify agencies in all branches of state government of this program and shall certify to appointing authorities and the Administrator of the Office of Personnel Management that a person is a participant in the Temporary Assistance to Needy Families Program before the person is eligible to be employed under the State Work Incentive Program by a state agency. Agencies shall cooperate with the Department of Human Services in seeking to provide employment opportunities to persons participating in the Temporary Assistance to Needy Families Program. The Department of Human Services and the Office of Personnel Management shall coordinate with agencies to facilitate the transition of participants in the Temporary Assistance to Needy Families Program into the State Work Incentive Program.

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

C. Employees hired under the State Work Incentive Program are eligible for leave benefits and other benefits available to state employees, subject to other eligibility requirements, and may be reassigned or promoted while they are participating in the program.

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

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

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

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

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

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

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

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

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

SECTION 21. 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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