

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 2264

By: Dunegan, Wells, Claunch,  
Covey, Hilliard, Kirby,  
McCarter, Tyler and Nance  
of the House

and

Crutchfield of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public officers and employees; amending 44 O.S. 2001, Section 209, which relates to officers and employees of public entities who are members of the National Guard; modifying compensation requirements for officers and employees of the state and political subdivisions of the state called to certain active or inactive service; amending 72 O.S. 2001, Sections 47 and 48, which relate to officers and employees of entities who were active duty military or are members of Reserve Components of the Armed Services of the United States; clarifying employment status of certain employees of private employers; modifying compensation requirements for officers and employees of the state and political subdivisions of the state called to certain active or inactive service; amending 74 O.S. 2001, Section 840-5.5, as amended by Section 32 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, which relates to the unclassified service of the state; adding certain positions to the unclassified service; and declaring an emergency.

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

SECTION 1. AMENDATORY 44 O.S. 2001, Section 209, is amended to read as follows:

Section 209. All officers and employees of the state, or a political subdivision thereof, ~~or a municipality therein,~~ who are members of the National Guard, shall, when ordered by proper authority to active or inactive service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating. During the

first twenty (20) calendar days for employees of political subdivisions or the first twenty (20) regular scheduled work days for state employees of such leave of absence in any federal fiscal year, the ~~officer~~ officers or ~~employee~~ employees shall receive ~~his~~ their full regular pay from the employing state, agency or political subdivision or municipality. During the remainder of such leave of absence in any federal fiscal year, the employing state, agency or political subdivision, or municipality may elect to pay ~~the officer or employee~~ them an amount equal to the difference between ~~his~~ the officers' or employees' full regular pay from the employing state, agency or political subdivision or municipality and ~~his~~ their National Guard pay, except that state officers and employees shall receive the difference between their full regular pay and their National Guard pay when they are ordered by proper authority to active or inactive service retroactive to the date that the state officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of ~~his position~~ their positions during such absence, the authority having power to fill a vacancy in the ~~position~~ positions may appoint ~~a substitute~~ substitutes, to be known as acting ~~incumbent~~ incumbents, who shall qualify as required for the regular ~~incumbent~~ incumbents and shall receive the same ~~salary~~ pay as fixed by law, if any, or otherwise such ~~salary~~ pay as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees.

SECTION 2. AMENDATORY 72 O.S. 2001, Section 47, is amended to read as follows:

Section 47. If ~~such~~ a person was in the employment of any private employer, firm, company, partnership or corporation, it is hereby declared to be the sense of the Legislature that such person, upon the expiration of ~~his~~ the person's period of active duty in the military service of the United States, be restored to the position or employment in which ~~he~~ the person was engaged at the time of being ordered into the active military service of the United States, ~~without loss of seniority, status or efficiency rating, or to a position of like seniority, status and pay pursuant to the provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, Title 38, Chapter 43 of the United States Code.~~

SECTION 3. AMENDATORY 72 O.S. 2001, Section 48, is amended to read as follows:

Section 48. All officers and employees of the state, ~~or a political subdivision thereof, or a municipality therein,~~ who are members, either officers or enlisted, of the Reserve Components, to include the Army and Air National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves, or any other component of the Armed Forces of the United States, shall, when ordered by the proper authority to active or inactive duty or service, be entitled to a leave of absence from such civilian employment for the period of such service without loss of status or seniority. During the first twenty (20) calendar days for employees of political subdivisions or the first twenty (20) regularly scheduled work days for state employees of such leave of absence in any federal fiscal year, the ~~officer~~ officers or ~~employee~~ employees shall receive ~~his~~ their full regular pay from the employing state, agency or political subdivision ~~or municipality~~. During the remainder of such leave of absence in any federal fiscal year, the employing state, agency or political subdivision, ~~or municipality~~ may elect to pay the officer or employee an amount equal to the

difference between ~~his~~ their full regular pay from the employing state, agency or political subdivision or municipality and ~~his~~ their military pay, except that state officers and employees shall receive the difference between their full regular pay and their Reserve Components pay when they are ordered by proper authority to active or inactive service retroactive to the date that the officer or employee reported to active service on or after September 11, 2001, during the period that Operation Enduring Freedom is in effect. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of ~~his position~~ their positions during such absence, the authority having power to fill a vacancy in the ~~position~~ positions may appoint a ~~substitute~~ substitutes, to be known as acting ~~incumbent~~ incumbents, who shall qualify as required for the regular ~~incumbent~~ incumbents and shall receive the same ~~salary~~ pay as fixed by law, if any, or otherwise such ~~salary~~ pay as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 840-5.5, as amended by Section 32 of Enrolled House Bill No. 2924 of the 2nd Session of the 48th Oklahoma Legislature, is amended to read as follows:

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

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and Oklahoma Department of Career and Technology Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

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

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

a. two administrative aides to the Commissioner,

- b. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor, and
- c. a maximum of seven positions for the purpose of administering the Oklahoma Police Corps Program, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

- a. an institution of higher learning within The Oklahoma State System of Higher Education,
- b. an institution of higher learning qualified to become coordinated with The Oklahoma State System of Higher Education. For purposes of this section, a student shall be considered a regularly enrolled student if the student is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or

- c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's full-time-equivalent (FTE) employee limit;

14. Employees of the House of Representatives, the State Senate, or the Legislative Service Bureau;

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

- a. Administrative aides, and executive secretaries to the Commissioners,
- b. Directors of all the divisions, personnel managers and comptrollers,
- c. General Counsel,
- d. Public Utility Division Chief Engineer,
- e. Public Utility Division Chief Accountant,
- f. Public Utility Division Chief Economist,
- g. Public Utility Division Deputy Director,
- h. Secretary of the Commission,
- i. Deputy Conservation Director,
- j. Manager of Pollution Abatement,
- k. Manager of Field Operations,
- l. Manager of Technical Services,

m. Public Utility Division Chief of Telecommunications,  
and

n. Director of Information Services;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Bill Willis Community Mental Health and Substance Abuse Center personnel occupying the following offices and positions:

a. Director of Facility,

b. Deputy Director for Administration,

c. Clinical Services Director,

d. Executive Secretary to Director, and

e. Directors or Heads of Departments or Services;

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

a. State Comptroller,

b. Information Services Division Manager,

c. Network Manager,

d. Network Technician,

e. Employees of the Budget Division, and

f. Employees of the Research Division;

19. Employees of the Oklahoma Development Finance Authority;

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

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

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars (\$24,193.00) or more, as determined by the Office of Personnel

- Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,
- b. positions requiring certification by the State Department of Education, and
  - c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

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

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

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

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

25. The State Bond Advisor and his or her employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

- a. Associate Director,
- b. Secretary to the Associate Director, and
- c. Assistant to the Executive Director;

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

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

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

Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

30. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

- a. three Administrative Service Assistant positions, and
- b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;

31. The Oklahoma State Bureau of Investigation employees occupying the following positions:

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

32. The Department of Transportation, the following positions:

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

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

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

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

- a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided, authorization for such positions shall be terminated if the federal funding for the positions is discontinued,
- b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection, and
- c. one fiscal officer;

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

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

- a. one Oversight Specialist and one Community Development Planner,
- b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued, and

- c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection;

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

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

38. Four Water Quality Specialists, and four Water Resources Division Chiefs within the Oklahoma Water Resources Board;

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

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

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

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

- a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,
- b. Agricultural Marketing Coordinator III,
- c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the State Department of Agriculture during the period of October 1 through May 31 in any fiscal year; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such employees to any benefits received by full-time employees,
- d. one Administrator for Human Resources,
- e. one Director of Administrative Services,
- f. one Water Quality Consumer Complaint Coordinator,
- g. one hydrologist position,
- h. Public Information Office Director,
- i. Market Development Services Director,
- j. Legal Services Director,
- k. Animal Industry Services Director,
- l. Water Quality Services Director,
- m. Forestry Services Director,
- n. Plant Industry and Consumer Services Director,
- o. one Grants Administrator position,
- p. Director of Laboratory Services,
- q. Chief of Communications,
- r. Public Information Manager,
- s. Inventory/Supply Officer,
- t. Agriculture Field Inspectors,
- u. Rural Fire Coordinator,
- v. Poultry Coordinator, and
- w. Food Safety Division Director;

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

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

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

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

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

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

47. All officers and employees of the Oklahoma Motor Vehicle Commission; and

48. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency.

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

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

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

Oklahoma Statutes or the termination is otherwise provided in the legislation.

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

48-2-9335          GH          6/12/15