

ENROLLED HOUSE
BILL NO. 1103

By: Mitchell of the House

and

Kerr of the Senate

An Act relating to Department of Human Services; amending 56 O.S. 1991, Section 26.17, as amended by Section 42, Chapter 242, O.S.L. 1994 (56 O.S. Supp. 2000, Section 26.17), which relates to classification of employees at the Department of Human Services; modifying cap on unclassified employees; amending 56 O.S. 1991, Section 189a, as amended by Section 2, Chapter 177, O.S.L. 1993 (56 O.S. Supp. 2000, Section 189a), which relates to facilities for the Department of Human Services; modifying procedure for authorizing lease-purchase agreements; authorizing lease-purchase agreements in certain counties; providing expiration date for authorization; providing for noncodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 56 O.S. 1991, Section 26.17, as amended by Section 42, Chapter 242, O.S.L. 1994 (56 O.S. Supp. 2000, Section 26.17), is amended to read as follows:

Section 26.17 A. The Director of Human Services, subject to the approval of the Commission for Human Services, shall have the power to employ and fix the qualifications, duties and compensation of employees necessary to the fulfillment of the provisions of this act, and shall have the power to approve any legal claim for payment.

B. The Department of Human Services shall be a Merit System agency. The provisions of this section shall supersede and revoke any and all Executive Orders placing the Department of Human Services or its predecessors under the provisions of the Merit System of Personnel Administration.

C. In addition to offices, positions, and personnel in the unclassified service pursuant to Sections ~~8~~ 840-5.3 and ~~15~~ 840-5.5 of ~~this act~~ Title 74 of the Oklahoma Statutes, the following offices, positions, and personnel shall be in the unclassified service:

1. Campus police appointed pursuant to Section 162.2 of ~~Title 56 of Oklahoma Statutes~~ this title;

2. The legal division or unit established pursuant to Section 236 of ~~Title 56 of the Oklahoma Statutes~~ this title;

3. The Construction Unit and the Architectural and Engineering Unit or their successor units; and

4. A maximum of ~~two percent (2%)~~ four percent (4%) of the maximum number of full-time-equivalent positions authorized by law to the Department of Human Services provided the Director of the Department of Human Services certifies that each position so designated as unclassified meets at least one of the following criteria:

- a. any incumbent in the position reports directly to the Director or provides support directly to the Commission, or
- b. the duties of the position are primarily administrative or managerial in nature and involve establishing broad policies or program direction for the Department or divisions within the Department.

The Director shall submit such certification and a list of such positions to the Office of Personnel Management by September 1, 1994, and annually thereafter.

D. All other offices, positions and personnel of the Department of Human Services shall be classified and subject to the provisions of the Merit System of Personnel Administration, as provided in the Oklahoma Personnel Act and rules promulgated thereunder.

E. Effective September 1, 1994, all unclassified employees of the Department of Human Services occupying classified positions shall be granted permanent status in the classified service unless:

1. They are retained by the Director in the unclassified service pursuant to subsection C of this section; or
2. They waive in writing their right to classified status pursuant to this subsection and elect to remain in the unclassified service while in the positions they occupy on September 1, 1994.

Employees who are classified shall be granted permanent status in the classes to which the positions they occupy are allocated by the Office of Personnel Management. The Office of Personnel Management shall not require such employees to independently complete descriptions of the positions they occupy. Such descriptions may be completed by the Department of Human Services, provided that each employee shall be given a copy and any employee who elects to do so may independently complete a position description questionnaire before submission to the Office of Personnel Management. If an employee elects to complete a position description questionnaire, the Department of Human Services, after review and comment, shall submit it to the Office of Personnel Management for allocation. For the initial classification, these employees shall not be required to possess the minimum qualifications or to pass any required examinations, and their salaries shall not be reduced. Thereafter, the provisions and conditions of their employment shall be subject to the provisions of the Merit System of Personnel Administration.

Employees retained in the unclassified service under the provisions of this section shall be employees at will.

SECTION 2. AMENDATORY 56 O.S. 1991, Section 189a, as amended by Section 2, Chapter 177, O.S.L. 1993 (56 O.S. Supp. 2000, Section 189a), is amended to read as follows:

Section 189a. A. 1. The board of county commissioners in each county shall furnish quarters for the local units of the Oklahoma Department of Human Services. Such quarters shall be located in the county courthouse or other suitable building in the county seat and shall be furnished with light, heat and water and adequate toilet facilities. The county excise board shall provide adequate appropriations to enable the county commissioners to comply with the provision of this subsection.

2. If no suitable quarters or adequate facilities are available in the county courthouse or in the county seat, facilities shall be furnished and supplied in the city or town in the county, but not the county seat thereof, having the greatest population.

3. The Department may enter into an agreement with the board of county commissioners for financial participation, by the Department, in the payment of rent on space leased for use by the Department, or in the cost of repairs of buildings or space used by the Department, or the cost of janitorial services and utility services, if the Oklahoma Commission for Human Services determines that such payment is necessary for adequate space for units of the Department and that monies for such purpose are available without detriment to programs administered by the Department.

B. 1. If the Commission for Human Services determines that adequate or suitable quarters, office space or facilities for the local units of the Department are not obtainable, the Department may enter into an agreement with the board of county commissioners of the county, or with any state agency or public trust, for the construction or renovation of a building or buildings where local units of the Department may have quarters, office space or facilities; or may enter into a lease agreement for the rental of space and facilities in a building or buildings constructed or renovated by the county, or a state agency, public trust or building authority, for the purpose of providing office space to the Department or any other public agency or agencies.

2. The Department shall not enter into any agreement under the provisions of this subsection unless federal financial participation is obtainable. All such agreements shall contain provisions as to financial participation therein by the parties to the agreement, payments to be made for the use or occupancy of the office space and facilities, and ownership of the building or buildings after payment of the cost of construction or renovation thereof has been completed, consistent with the requirements necessary for the Department to obtain or receive federal funds for such purpose.

C. If the Commission for Human Services determines that adequate or suitable quarters, office space or facilities for local units of the Department are not obtainable from the board of county commissioners of the county, or from any state agency or public trust or building authority pursuant to the provisions of subsection

B of this section, the Commission may enter into a lease agreement for the rental of space and facilities in a building or buildings owned or operated by a private vendor for the purpose of providing such quarters, office space or facilities.

D. The Commission for Human Services is authorized to enter into agreements necessary to establish and determine the location of a North Tulsa field office if the Commission determines that state office space available through the Department of Central Services in Tulsa County is not appropriate and adequate to offer accessible and comprehensive services to clients of the Department of Human Services from North Tulsa County and Southern Osage County communities.

E. If the Commission for Human Services determines that adequate or suitable quarters, office space or facilities for local units of the Department are not obtainable by lease agreement from the board of county commissioners of the county, from any state agency or public trust or building authority, or from a private vendor, the Commission for Human Services may acquire real property for such local units by lease-purchase agreement. Any such lease-purchase shall be explicitly authorized by the Legislature by concurrent resolution, or by legislation enacted for the purpose of authorizing the Commission for Human Services to enter into such lease-purchase agreements. Legislative authorization shall constitute legal authorization for this state to enter into such lease-purchase agreements.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Department of Human Services, subject to the availability of funds, is authorized to enter into lease-purchase agreements to construct, acquire or renovate adequate or suitable quarters, office space or facilities needed by the Department in the following counties in such priority as the Department deems appropriate:

1. Jefferson;
2. Cotton;
3. Blaine;
4. Cherokee;
5. Wagoner;
6. Delaware;
7. Washington;
8. Creek;
9. Ottawa;
10. Jackson;
11. Oklahoma;
12. Logan;

13. McClain;
14. Pawnee;
15. Custer;
16. Mayes;
17. Haskell;
18. Dewey;
19. Craig;
20. Harper;
21. Grant;
22. Pushmataha;
23. Atoka;
24. Seminole;
25. Cleveland;
26. Tulsa; and
27. Pontotoc.

The authorization provided by this section shall expire on June 30, 2006, for any project for which a lease-purchase agreement has not been entered into prior to June 30, 2006.

SECTION 4. 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.

Passed the House of Representatives the 18th day of May, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the 21st day of May, 2001.

Presiding Officer of the Senate