

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 576

By: Herbert

AS INTRODUCED

An Act relating to state employees; amending 74 O.S. 1991, Sections 840.7a, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1, Chapter 21, O.S.L. 1999, 841.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 8, Chapter 336, O.S.L. 2000, Section 840.8b, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 2000, Sections 840-2.20, 840-4.15, and 840-5.6), which relates to the Oklahoma Personnel Act; allowing employees to be paid for excess annual leave; promulgating rules; requiring appointing authorities to fill certain posted positions; placing certain unclassified positions in the Corporation Commission in the classified service; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 840.7a, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 1, Chapter 21, O.S.L. 1999 (74 O.S. Supp. 2000, Section 840-2.20), is amended to read as follows:

Section 840-2.20 A. The Administrator of the Office of Personnel Management shall promulgate such emergency and permanent rules regarding leave and holiday leave as are necessary to assist the state and its agencies.

The Administrator of the Office of Personnel Management, in adopting new rules, amending rules and repealing rules, shall ensure that the following provisions are incorporated:

1. Eligible employees who enter on duty or who are reinstated after a break in service shall receive leave benefits in accordance with the schedule outlined below. Leave will be accrued on a monthly basis and prorated, as appropriate, for less than full-time

service. Years of service shall be based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes pursuant to Section 840-2.18 of this title.

2. a. The following accrual rates and accumulation limits apply to eligible employees who initially enter into the state service prior to July 1, 1996, and who have less than ten (10) years' cumulative service:

ACCRUAL RATES			ACCUMULATION LIMITS
Cumulative			
Years of Service	Annual Leave	Sick Leave	Annual Leave
Persons employed 0-5 yrs =	15 day/yr	15 days/yr	30 days
5-10 yrs =	18 day/yr	15 days/yr	60 days

- b. The following accrual rates and accumulation limits apply to eligible employees who either:
- (i) initially enter into the state service prior to July 1, 1996, and who have ten (10) years or more cumulative service, or
 - (ii) initially enter into the state service on or after July 1, 1996:

ACCRUAL RATES			ACCUMULATION LIMITS
Cumulative			
Years of Service	Annual Leave	Sick Leave	Annual Leave
Persons employed 0-5 yrs =	10 day/yr	15 days/yr	30 days
5-10 yrs =	15 day/yr	15 days/yr	60 days
10-20 yrs =	20 day/yr	15 days/yr	60 days
over 20 yrs =	25 day/yr	15 days/yr	60 days

All accrued annual leave and all leave eligibility under O.A.C. 530:10-15-11(b) (5) which is in excess of annual leave limits shall not be reduced or eliminated as a result of these rule changes.

3. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority.

4. Employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section. Effective September 1, 1994, employees shall be eligible to accrue leave pursuant to paragraph 1 of this subsection.

5. The Administrator of the Office of Personnel Management and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Administrator of the Office of Personnel Management is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations.

6. State employees who terminated their employment in the state service on or after October 1, 1992, may be eligible to have sick leave accrued at the time of termination of employment restored if they return to state employment, provided that the state employees' enter-on-duty dates for reemployment occur on or before two (2) years after their termination of employment and they are eligible to accrue sick leave before the two (2) years expire.

7. Persons subject to the University Hospitals Authority Model Personnel System shall be exempt from the provisions of this section.

8. Employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act and who are called to fight a

fire shall not have to use any accrued leave or need to make up any time due to the performance of their volunteer firefighter duties.

B. Nothing in the Oklahoma Personnel Act is intended to prevent or discourage an appointing authority from disciplining or terminating an employee due to abuse of leave benefits or absenteeism. Appointing authorities are encouraged to consider attendance of employees in making decisions regarding promotions, pay increases, and discipline.

C. Upon the transfer of a function in state government to an entity outside state government, employees may, with the agreement of the outside entity, waive any payment for leave accumulations to which the employee is entitled and authorize the transfer of the leave accumulations or a portion thereof to the outside entity.

D. At the end of each calendar year, after an employee reaches the maximum accumulation limit for annual leave, such employee may sell back to the appointing authority at the employee's ending salary level at the end of the calendar year any excess annual leave that would have been accumulated by the employee notwithstanding the accumulation limitation. The Office of Personnel Management shall promulgate such rules and procedures as necessary to implement the provisions of this subsection.

SECTION 2. AMENDATORY 74 O.S. 1991, Section 841.19, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as last amended by Section 8, Chapter 336, O.S.L. 2000 (74 O.S. Supp. 2000, Section 840-4.15), is amended to read as follows:

Section 840-4.15 A. The appointing authority shall post announcements of a vacancy or vacancies in accordance with a promotional plan filed by the agency with the Office of Personnel Management. In order to give qualified employees an opportunity to apply for and be considered for possible promotions, the vacancy notices shall be posted conspicuously in transparent, secured enclosures situated in prominent locations throughout the agency, at

least five (5) working days prior to the closing date for the receipt of applications by the appointing authority. Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any supervisory position or level. Each agency's promotional posting plan shall describe where promotional notices will be posted and require that all vacancy or promotional notices be posted conspicuously in transparent, secured enclosures. Notices must be posted throughout the agency. However, an agency's plan may limit the posting of notices for a vacancy in a work unit, local office or administrative area to within that location, if the vacancy is to be filled by an employee from the same location. The posting shall include:

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

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

will remain available for active consideration by the appointing authority.

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

D. Once an appointing authority has posted a vacancy notice it shall fill that position unless emergency budgetary reasons prohibit the filling of the position.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 840.8b, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 2000, Section 840-5.6), is amended to read as follows:

Section 840-5.6 The unclassified service of the state shall include personnel employed by the Corporation Commission in positions which do not require registration with the Board of Professional Engineers and Land Surveyors but which have been employed in accordance with subparagraph 8 of paragraph 22 of Section 840.8 of Title 74 of the Oklahoma Statutes, which provides for engineer positions and employees of the Corporation Commission to be unclassified. From and after the effective date of this act, the titles of such positions and employees shall be changed to reflect the specialized nature of the positions and the intent of the Legislature that such positions be part of the unclassified service. However, on the effective date of this act, the Project Environmental Analyst positions of the Storage Tank Division within the Corporation Commission shall be in the classified service.

This provision is not intended to change the current status, whether classified or unclassified, of any employee or position of

the Corporation Commission. Furthermore, it is not intended to authorize any increase in classified or unclassified full-time-equivalent employee positions or funding limitations.

SECTION 4. This act shall become effective July 1, 2001.

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.

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