ENROLLED SENATE
BILL NO. 1385

By: Capps of the Senate

and

Braddock of the House

An Act relating to state employees; amending 74 O.S. 2001, Sections 840-1.6A, as last amended by Section 6, Chapter 212, O.S.L. 2003, 840-1.18, as amended by Section 8, Chapter 212, O.S.L. 2003, 840-2.3, 840-2.14, 840-2.17, as last amended by Section 1, Chapter 453, O.S.L. 2003, 840-2.18, as amended by Section 1, Chapter 380, O.S.L. 2003, 840-2.20, as amended by Section 1, Chapter 145, O.S.L. 2003, 840-2.21, as amended by Section 8, Chapter 347, O.S.L. 2002, 840-2.22, 840-2.23, as last amended by Section 9, Chapter 347, O.S.L. 2002, 840-2.27C, as last amended by Section 1, Chapter 353, O.S.L. 2003, and 840-4.17, as amended by Section 18, Chapter 212, O.S.L. 2003 (74 O.S. Supp. 2003, Sections 840-1.6A, 840-1.18, 840-2.17, 840-2.18, 840-2.20, 840-2.21, 840-2.23, 840-2.27C and 840-4.17), which relate to the Oklahoma Personnel Act; making certain information confidential and not subject to the Oklahoma Open Records Act; expanding Administrator's duties to include establishing a quality management function; providing gender neutral language; clarifying language; correcting language; modifying timing of longevity payment; deleting obsolete references to the University Hospitals Authority; moving language concerning skill-based adjustments; amending references; providing for discretionary leave accrual above limits; providing for treatment of excess accrual; clarifying use of leave provision; deleting obsolete language; clarifying condition upon which leave may be donated; clarifying references to leave; clarifying period to rate employees; clarifying procedure for reporting compliance with the performance management process; amending 74 O.S. 2001, Sections 7002, 7003, 7004, 7005, 7007, 7009, and 7010, which relate to the Oklahoma State Employee Charitable Contribution Act; correcting names and modifying references; exempting the Armed Forces Veterans Homes Foundation from certain eligibility requirements; 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. 2001, Section 840-1.6A, as last amended by Section 6, Chapter 212, O.S.L. 2003 (74 O.S. Supp. 2003, 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 December 1 of each year. Such analysis shall include all forms of compensation including fringe benefits. Information solicited by the Office of Personnel Management from public and private sector employers for such analysis, including but not limited to salaries, benefits, and compensation policies and procedures, shall be confidential and shall not be subject to disclosure under the Oklahoma Open Records Act;

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. As part of the recruitment program established by this section, the Administrator may identify positions or job family levels for expedited recruitment. Such expedited recruitment jobs may include only those jobs where education, experience or certification requirements substantially limit the pool of available applicants. Applicants who have been certified by the Office of Personnel Management as meeting the minimum qualifications for such jobs may be referred to agencies

with vacancies in such jobs without examination or ranking, and may be eligible for appointment upon referral. However, a referral may not occur until the register for the job has been publicly announced for at least fourteen (14) calendar days. The Administrator may remove positions or job family levels from expedited recruitment at any time. The Administrator shall adopt rules to implement expedited recruitment;

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. The Administrator is authorized to purchase awards for presentation to state employees as part of employee recognition activities sponsored by the Office of Personnel Management;

11. Establish rules for leave and pay including, but not limited to, rules for leave, furloughs, performance pay increases, rates for pay differentials, on-call pay, and other types of pay incentives and salary adjustments consistent with the Oklahoma Personnel Act;

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 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 and unclassified 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;

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;

19. Conduct a study identifying the following, by job family descriptor(s):

a. selected job family levels with a turnover rate in excess of ten percent (10%),

b. selected job family levels identified by the Administrator of the Office of Personnel Management with salaries and benefits that are ten percent (10%) or more below the market for such position(s), and

c. selected job family levels identified by the Administrator of the Office of Personnel Management in which recruitment efforts have yielded a low number of qualified applicants.

The initial study shall be conducted by December 1, 2001, and every two (2) years thereafter;

20. Issue orders directing agencies to:

a. conform and comply with the provisions of the Oklahoma Personnel Act, the Merit Rules of Personnel Administration, and all memoranda or other written communications issued to agencies explaining the Oklahoma Personnel Act, the Rules, and any other matter relating to the Merit System of Personnel Administration or under the jurisdiction of the Administrator of the Office of Personnel Management, and

b. take action pursuant to Section 840-6.9 of this title for failure to implement those orders; ~~and~~

21. Establish a workforce planning function within the Office of Personnel Management to assist state agencies in analyzing the current workforce, determining future workforce needs, and implementing solutions so that agencies may accomplish their missions; and

22. Establish a quality management function within the Office of Personnel Management to assist state agencies in fully integrating quality management concepts and models into their business practices for the purpose of improving the overall efficiency and effectiveness of state government.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-1.18, as amended by Section 8, Chapter 212, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-1.18), is amended to read as follows:

Section 840-1.18 A. The administrative expenses and costs of operating the Merit System shall be paid by the various divisions of the state government included within the Merit System, and each such agency shall be authorized to include in its budget estimates its pro rata share of such costs, and shall remit such shares quarterly from departmental or agency funds to the Office of Personnel Management who shall deposit such shares to the credit of the General Revenue Fund of the State Treasury.

B. The Administrator shall maintain accurate records reflecting the costs of administering its provisions, and at the close of each quarter-year period ~~he~~ shall summarize said costs, and shall bill each department or agency included within the terms of this act with a pro rata share of the administrative costs based on the relationship between the quarterly average number of employees in the classified service of such department or agency, and the quarterly average number of employees in the classified service ~~of all the departments or agencies included within the terms of this act by Executive Order for the appropriate calendar quarter~~ of the state.

C. The Administrator shall separately categorize and estimate expenditures and budget needs for other services performed which are not appropriately charged to state agencies on a pro rata basis.

D. No state disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the state classified service, brought under this act unless the payroll voucher or account of such pay bears the certification of the appointing authority or designee, that the persons named therein have been appointed and employed in accordance with the provisions of this act and the rules, regulations and orders promulgated hereunder. The appointing authority or designee may for proper cause withhold certification from an entire payroll or from any specific item or items thereon.

Any citizen may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of this act, rules or regulations promulgated hereunder. Any sum paid contrary to any provision of this act or any rule, regulation or order promulgated hereunder may be recovered in an action maintained by any citizen, from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All monies recovered in any such action shall be paid into the State Treasury.

Any person appointed or employed in contravention of any provision of this act or any rules, regulations or orders promulgated hereunder, whose employment is brought within the terms of this act, who performs service for which he is not paid, may maintain an action against the officer or officers who purported to appoint or employ him to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services.

If the appointing authority or designee wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain an action or proceeding in the courts to compel the appointing authority or designee to certify such payroll voucher or account.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 840-2.3, is amended to read as follows:

Section 840-2.3 The appointing authority in each agency of each branch of state government is responsible for affirmative action efforts and progress; provided, he or she may employ or assign a person to assist the agency in affirmative action and equal opportunity subject to the following provisions:

1. Any state agency with two hundred or more full-time-equivalent employees shall designate an individual as an affirmative action officer. This provision shall not require the hiring of additional employees.

2. The affirmative action officer shall report directly to the appointing authority. Nothing in this section shall prevent the appointment or ~~resignation~~ designation of assistants to affirmative action officers in agencies as the appointing authority deems appropriate for the implementation of agency affirmative action plans and objectives; and

3. The affirmative action officer shall be knowledgeable of federal and state civil rights and equal opportunity legislation and regulations, of current social and economic conditions and inter-relationships of majority and minority groups, of grievance investigation and interviewing techniques and of report writing. Any person designated as an affirmative action officer shall meet the minimum qualifications and pass all examination requirements as established by the Office of Personnel Management.

SECTION 4. AMENDATORY 74 O.S. 2001, Section 840-2.14, is amended to read as follows:

Section 840-2.14 A. The intent of the Legislature is to increase individual agency skill and accountability in managing the costs associated with personnel and in applying controls that will enhance the ability of the State of Oklahoma to manage the overall costs of human resources as efficiently as possible, while continuing to maintain fairness to employees.

B. All agencies, boards, and commissions shall report all reallocation decisions for both classified and unclassified positions and all adjustments to pay grades or salary assignments for classes in the unclassified service to the Office of Personnel Management on a semiannual basis. The Office of Personnel Management shall submit the semiannual reports to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, along with an analysis of statewide reallocation decisions.

C. All agencies, boards, and commissions shall report to the Office of Personnel Management on a semiannual basis all transactions in both the classified and unclassified service involving the establishment of new positions that have not been authorized specifically by legislative action. Agencies shall report the transactions for the six-month period ending June 30 or December 31. The Office of Personnel Management shall forward the semiannual reports to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives, accompanied by an analysis of agency decisions concerning such positions.

D. As a further control on human resource costs, the Governor may declare a financial emergency or implement a freeze in hiring, by declaring this section to be in effect~~, provided, however, the University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority, shall not be subject to the provisions of this subsection~~. ~~The State Insurance Fund~~ CompSource Oklahoma shall not be subject to the provisions of this subsection. During such periods, no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of an agency except at the direction of the Governor. The provisions of the Oklahoma Personnel Act relating to agency-requested audits may be suspended during such periods to the extent that they are in conflict with this section. Provided, an audit at the request of an employee who files a classification grievance shall be conducted during such periods in accordance with the provisions of Section 840-4.3 of this title.

E. The Office of Personnel Management shall establish due dates and specify the format for reports required by this section. Agencies that do not respond by the due dates shall be identified in a special section of the semiannual analysis reports forwarded to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives.

F. The provisions of this section shall not be construed to suspend the responsibility of any agency to ensure that the duties

and responsibilities assigned to an employee are consistent with the current classification of the employee.

SECTION 5. AMENDATORY 74 O.S. 2001, Section 840-2.17, as last amended by Section 1, Chapter 453, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-2.17), is amended to read as follows:

Section 840-2.17 A. Unless otherwise provided by the Oklahoma Constitution, language in law which authorizes the setting or fixing of compensation, pay or salary of state officers and employees shall not be construed to authorize any agency, board, commission, department, institution, bureau, executive officer or other entity of the executive branch of state government to award, grant, give, authorize, or promise any officer or employee of the State of Oklahoma a raise, including but not limited to, a cost-of-living raise or any other type of raise that would be given to state employees on an across-the-board basis, except as herein provided. Such raises are prohibited unless authorized by the Legislature and by Merit System of Personnel Administration Rules promulgated by the Administrator. This prohibition applies to all classified and unclassified officers and employees in the executive branch of state government, excluding institutions under the administrative authority of the Oklahoma State Regents for Higher Education~~, and all employees in the University Hospitals Authority Model Personnel System created pursuant to Section 3211 of Title 63 of the Oklahoma Statutes~~.

B. However, nothing in this section shall be construed to prohibit the following actions if the action is made in good faith and not for the purpose of circumventing subsection A of this section, and if the appointing authority certifies that the action can be implemented for the current fiscal year and the subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency:

1. Salary advancements on promotion or direct reclassification to a job family level or class with a higher salary band;

2. Salary adjustments resulting from a pay band change for a job family level or class adopted by the Office of Personnel Management;

3. Increases in longevity payments pursuant to Section 840-2.18 of this title;

4. Payment of overtime, special entrance rates, pay differentials;

5. Payment of wages, salaries, or rates of pay established and mandated by law;

6. Market adjustments for job family levels tied to market competitiveness;

7. Intra-agency lateral transfers, provided that the adjustment does not exceed five percent (5%) and the adjustment is based on the needs of the agency;

8. Skill-based adjustments. Such adjustments, other than lump-sum payments, shall become permanent after twenty-four (24) months from the date such salary adjustment is implemented and may not later be removed from an employee's base salary if a furlough or reduction-in-force is implemented by the appointing authority granting such salary adjustment;

9. Equity-based adjustments;

10. Performance-based adjustments for employees who received at least a "meets standards" rating on their most current performance rating;

11. Career progression increases as an employee advances through job family levels; or

12. Salary adjustments not to exceed five percent (5%) for probationary classified employees achieving permanent status following the initial probationary period and permanent classified employees successfully completing trial periods after intra-agency lateral transfer or promotion to a different job family level or following career progression to a different job family level.

~~However, skill-based salary adjustments, other than lump-sum payments, shall become permanent after twenty-four (24) months from the date such salary adjustment is implemented and may not later be removed from an employee's base salary if a furlough or reduction-in-force is implemented by the appointing authority granting such salary adjustment.~~

C. Provided, however, any reclassification for one of the purposes provided in subsection B of this section that would require additional funding by the Legislature shall not be implemented without approval of the Legislature.

D. The pay movement mechanisms described in paragraphs 6 through 11 in subsection B of this section shall be implemented pursuant to rules promulgated by the Administrator of the Office of Personnel Management for the classified service.

E. Appointing authorities may implement the pay movement mechanisms in paragraphs 6 through 12 in subsection B of this section subject to the availability of funds within the agency's budget for the current fiscal year and subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency. Failure by the appointing authority to follow the provisions of this subsection may cause the withdrawal of the use of the pay movement mechanisms provided in paragraphs 6, 7, 9, 10, and 11 of subsection B of this section within the agency during the next appropriations cycle.

F. All agencies, boards, and commissions shall report to the Office of Personnel Management on an annual basis the pay movement mechanisms utilized in paragraphs 6 through 12 in subsection B of this section. The report shall include the pay movement mechanisms type, frequency, amounts provided, affected classifications and job

families, and other information as prescribed by the Administrator of the Office of Personnel Management. Agencies shall report this information for the twelve-month period ending December 31 for classified and unclassified employees. Agencies must also report projected pay movement mechanisms and costs anticipated for the balance of the fiscal year. The Office of Personnel Management shall forward the report, which will include findings and recommendations, to the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives no later than February 1 of each year.

SECTION 6. AMENDATORY 74 O.S. 2001, Section 840-2.18, as amended by Section 1, Chapter 380, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-2.18), is amended to read as follows:

Section 840-2.18 A. A longevity pay plan is hereby adopted. This plan applies to all state classified, unclassified, and exempt employees, excluding members of boards and commissions, institutions under the administrative authority of the State Regents for Higher Education, employees of public school districts, and elected officials. The plan shall also apply to those employees of the Oklahoma School for the Blind and the Oklahoma School for the Deaf who qualify for longevity pay in accordance with subsection D of Section 1419 of Title 10 of the Oklahoma Statutes.

B. The Oklahoma Conservation Commission is hereby authorized to establish a longevity pay program for employees of the conservation districts employed under Section 3-3-103 of Title 27A of the Oklahoma Statutes. Such longevity pay program shall be consistent with the longevity pay program for state employees authorized under this title and payments shall be made in a manner consistent with procedures for reimbursement to conservation districts.

C. To be eligible for longevity pay, employees must have been continuously employed in the classified or unclassified service of the state for a minimum of two (2) years in full-time status or in part-time status working more than one thousand (1,000) hours a year.

For purposes of this section, a break in service of thirty (30) calendar days or less shall not be considered an interruption of continuous service; a break in service of more than thirty (30) calendar days shall mark an end to continuous service. The legislative session employees who have worked for two (2) years or more in part-time status and are eligible for state retirement benefits, but do not receive other longevity payments, shall be eligible and shall be considered to have been continuously employed for purposes of calculating longevity payments, notwithstanding the provisions of subsection E of this section.

D. 1. Longevity pay for the first twenty (20) years of service shall be determined pursuant to the following schedule:

Years of Service	Annual Longevity Payment
At least 2	

years but less than 4 years	$250.00
At least 4	
years but less than 6 years	$426.00
At least 6	
years but less than 8 years	$626.00
At least 8	
years but less than 10 years	$850.00
At least 10	
years but less than 12 years	$1,062.00
At least 12	
years but less than 14 years	$1,250.00
At least 14	
years but less than 16 years	$1,500.00
At least 16	
years but less than 18 years	$1,688.00
At least 18	
years but less than 20 years	$1,900.00
At least 20 years	$2,000.00

2. For each additional two (2) years of service after the first twenty (20) years an additional Two Hundred Dollars ($200.00) shall be added to the amount stated above for twenty (20) years of service.

The total amount of the annual longevity payment made to an employee by any and all state agencies in any year shall not exceed the amount shown on the table corresponding to that employee's years of service with the state, except as otherwise provided by Sections 840-2.27D and 840-2.28 of this title. Further, no employee shall receive duplicating longevity payments for the same periods of service with any and all agencies, except as otherwise provided by Sections 840-2.27D and 840-2.28 of this title.

E. To determine years of service, cumulative periods of full-time employment or part-time employment working more than one hundred fifty (150) hours per month with the state excluding service as specified in subsection A of this section are applicable. Part-time employment, working one hundred fifty (150) hours per month or less for the state, excluding service as specified in subsection A of this section, shall be counted only if:

1. The period of employment was continuous for at least five (5) months; and

2. The person worked more than two-fifths (2/5) time.

Other employment shall not be counted as service for purposes of longevity payments. Further, no period of employment with the state, whether with one or more than one agency, shall be counted as more than full-time service.

F. Years of service under the administrative authority of the State Regents for Higher Education or the administrative authority of the Oklahoma Department of Career and Technology Education of any employee who is now employed in a job classification which is eligible for longevity pay shall be included in years of service for purposes of determining longevity pay.

G. Years of service shall be certified through the current employing agency by the appointing authority on a form approved by the Office of Personnel Management. Said form shall be filed with the Office of Personnel Management by the current employing agency within sixty (60) calendar days before an employee becomes eligible for longevity payments and thereafter whenever the employee's anniversary date is changed.

H. Eligible employees, in full-time status or in part-time status working more than one hundred fifty (150) hours per month, shall receive one (1) lump-sum annual payment, in the amount provided on the preceding schedule, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. Upon implementation of the statewide information systems project, the lump-sum annual payment may be paid concurrent with the final payroll of the month of the employee's anniversary date. Eligible part-time employees who work one hundred fifty (150) hours per month or less shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during the month following the anniversary date of the employee's most recent enter-on-duty day with the state. To receive longevity pay an employee must be in pay status on or after his or her anniversary date.

Eligible employees who would not otherwise receive annual longevity payments because their employment includes regular periods of leave without pay in excess of thirty (30) calendar days shall receive one (1) lump-sum annual payment, based on the formula in subsection L of this section, during:

1. The month of August if the employee is in pay status on July 1; or

2. During the month following the employee's first return to duty that fiscal year if the employee is not in pay status on July 1.

Except as otherwise provided by Sections ~~7 and 12 of this act~~ 840-2.27D and 840-2.28 of this title, employees terminated as a

result of a reduction-in-force or retiring from state employment shall receive upon said termination or retirement the proportionate share of any longevity payment which may have accrued as of the date of termination or retirement. Provided further that, the proportionate share of any longevity payment which may have accrued as of the date of death of an employee shall be made to the surviving spouse of the employee or if there is no surviving spouse to the estate of the employee.

I. Periods of leave without pay taken in accordance with Section 840-2.21 of this title shall be counted as service. Other periods of nonpaid leave status in excess of thirty (30) calendar days shall not mark a break in service; however, they shall:

1. Not be used in calculating total months of service for longevity pay purposes; and

2. Extend the anniversary date for longevity pay by the total period of time on nonpaid leave status except as provided in subsection H of this section for employees whose conditions of employment include regular periods of leave without pay.

J. Employees currently receiving longevity pay who work for the judicial branch of state government or who work for the Oklahoma Department of Career and Technology Education shall not be eligible for the longevity pay plan provided for in this section.

K. A break in service with the state in excess of thirty (30) days but which does not exceed two (2) years which was caused by a reduction-in-force shall be treated as if it were a period of nonpaid leave status as provided for in subsection I of this section for the purpose of calculating total months of service for longevity pay. This subsection shall only apply to state employees laid off after June 30, 1982.

L. Eligible part-time employees working less than one hundred fifty (150) hours per month and other eligible employees with regular annual periods of leave without pay of more than thirty (30) calendar days will receive a prorated share of the "Annual Longevity Payment" authorized in subsection D of this section. The prorated amount of payment will be based on actual hours worked in the immediately preceding twelve (12) months.

M. An employee shall not be entitled to retroactive longevity payments as a result of amendments to this section unless specifically authorized by law.

N. The Administrator of the Office of Personnel Management is authorized to promulgate such Longevity Pay Plan Rules as he or she finds necessary to carry out the provisions of this section.

O. ~~The University Hospitals Authority Model Personnel System shall be exempt from the provisions of this section, except as provided by Section 7 of this act.~~

~~P.~~ As of ~~the effective date of this act~~ July 1, 1998, years of service with a city-county health department for employees who left

a city-county health department for employment with the Department of Environmental Quality or the State Department of Agriculture, between July 1, 1993 and July 1, 1998, and who are now employed in a job classification that is eligible for longevity pay pursuant to this section, shall be included in years of service for purposes of determining longevity pay subsequent to ~~the effective date of this act~~ July 1, 1998.

~~Q.~~ P. As of ~~the effective date of this act~~ July 1, 2003, years of service with a local conservation district shall be included in years of service for purposes of determining longevity pay for local conservation district employees transferred to the Oklahoma Conservation Commission pursuant to this act.

SECTION 7. AMENDATORY 74 O.S. 2001, Section 840-2.20, as amended by Section 1, Chapter 145, O.S.L. 2003 (74 O.S. Supp. 2003, 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 shall be accrued based upon hours worked, paid leave, and holidays, but excluding overtime, not to exceed the total possible work hours for the month. 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. At the discretion of the appointing authority, employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule below, provided that such excess is used during the same calendar year in which it accrues.

2. From ~~the effective date of this act~~ November 1, 2001, the following accrual rates and accumulation limits apply to eligible employees as follows:

		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

10-20 yrs	=	20 day/yr	15 days/yr	60 days
over 20 yrs	=	25 day/yr	15 days/yr	60 days

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. Leave earned during a month shall not be available for use until the beginning of the following month.

5. 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.~~ 6. 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.~~ 7. 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.

SECTION 8. AMENDATORY 74 O.S. 2001, Section 840-2.21, as amended by Section 8, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2003, Section 840-2.21), is amended to read as follows:

Section 840-2.21 A. If a state employee, whether in the classified or unclassified service, is absent because of an illness or injury arising out of and sustained in the course of his or her employment with the state, and for which workers' compensation benefits have been filed, the employing agency shall place the employee on leave without pay if the employee so requests; provided, leave without pay pursuant to this section shall not for any purpose be considered a break in service.

B. An employee who sustains an illness or injury arising out of and sustained in the course of employment with the State of Oklahoma shall not be required to use either accumulated sick or annual leave during such period prior to being placed on leave without pay pursuant to this section.

C. An employee placed on leave without pay pursuant to the provisions of this section shall continue receiving basic plan insurance coverage as defined in Section 1363 of this title and dependent insurance benefit allowance pursuant to paragraph 2 of subsection C of Section 1370 of this title paid by the agency during the leave without pay.

D. An employee on leave without pay pursuant to the provisions of this section shall have the right to be returned to his or her original position in accordance with rules promulgated by the Office of Personnel Management. If it is found necessary for the good of the state to fill the position during the period the employee is on leave without pay the employee filling the position shall vacate the position upon the return of the employee on leave without pay, subject to layoff, transfer or demotion rights earned under the Oklahoma Personnel Act~~, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes~~ and rules of the Office of Personnel Management. The right to return to the original position shall expire one (1) year from the date of the start of leave without pay. Notwithstanding the provisions of Section 1 et seq. of Title 85 of the Oklahoma Statutes, the employee may be separated in accordance with the Oklahoma Personnel Act and Merit Rules if the employee has not returned to the original position of the employee or some other position within the agency within one (1) year from the date of the start of leave without pay.

E. An employee on leave without pay pursuant to the provisions of this section shall provide a medical statement as to his or her ability to perform the duties of the position to the appointing authority at least every three (3) months.

F. If the employee becomes medically able with reasonable accommodation to perform the duties of his or her original position, the employee shall be returned to such position. If the employee is unable to perform the duties of the original position with reasonable accommodation, but is medically able with reasonable accommodation to perform the duties of any other position within the

agency for which the employee is qualified, and appointment to such other position does not constitute a promotion, the employee shall have first preference for any such position which becomes vacant within the agency, notwithstanding any other preference provisions of the Oklahoma Personnel Act or of other laws of the State of Oklahoma. An employee accepting another position pursuant to this subsection shall not forfeit his or her right to be returned to the original position within twelve (12) months after the start of leave without pay pursuant to the provisions of subsection D of this section.

G. An ill or injured employee shall be eligible to participate in the Disability Insurance Program established pursuant to the provisions of Section 1331 et seq. of ~~Title 74 of the Oklahoma Statutes~~ this title in accordance with rules promulgated by the State and Education Employees Group Insurance Board.

H. All benefits, rights, and obligations contained in this section shall continue during the time the employee remains on leave without pay status, for a continuous period not to exceed twelve (12) months. However, if a workers' compensation claim based on such illness or injury is denied during the twelve-month period, all benefits, rights and obligations conferred upon an employee pursuant to this section shall cease and be discontinued immediately.

I. A classified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to employment with any state agency for twelve (12) months after the date of separation whether in the classified or unclassified service in accordance with rules adopted by the Administrator of the Office of Personnel Management provided the employee is qualified for the position to which reinstated. An unclassified employee who is separated pursuant to subsection D of this section shall be eligible for reinstatement to unclassified employment with any state agency for twelve (12) months after the date of separation in accordance with rules promulgated by the Administrator of the Office of Personnel Management provided the employee is qualified for the position to which reinstated. Nothing in this subsection shall be construed to compel or require any agency of the state to reinstate a former employee who is separated pursuant to subsection D of this section. Further, nothing in this subsection shall be construed as limiting or reducing a former employee's eligibility for reinstatement pursuant to other general reinstatement or reemployment provisions in rules promulgated by the Administrator.

~~J. The University Hospitals Authority Model Personnel System shall be exempt from the provisions of this section.~~

SECTION 9. AMENDATORY 74 O.S. 2001, Section 840-2.22, is amended to read as follows:

Section 840-2.22 ~~A.~~ The Administrator of the Office of Personnel Management shall promulgate emergency and permanent leave rules as necessary to implement the federal Family and Medical Leave Act of 1993 and rules thereto. Such leave rules shall permit an employee to select any one or a combination of the following types of leave to account for authorized absences covered by the Family

and Medical Leave Act of 1993: leave without pay; annual and sick leave accumulated by the employee; and annual and sick leave donated by other state employees; and compensatory time.

~~B. The State of Oklahoma reserves absolute constitutional immunity with regard to the application to state employees of the federal Family and Medical Leave Act of 1993.~~

~~C. If the federal Family and Medical Leave Act of 1993 is repealed or its application to state employees is terminated, the Administrator of the Office of Personnel Management shall promulgate emergency and permanent rules to provide for a family leave program for state employees. The family leave program shall include, but not be limited to, the following provisions:~~

~~1. Family leave rules shall be applicable to all permanent classified and regular unclassified and exempt state employees with over six (6) months of continuous service who request a leave of absence due to:~~

~~a. childbirth,~~

~~b. receiving custody of a child through adoption, or~~

~~c. the care of a terminally or critically dependent child or dependent adult;~~

~~2. Family leave shall include use of annual leave, enforced leave, leave without pay, and sick leave due to pregnancy as provided in the rules promulgated by the Office of Personnel Management, or any one or a combination of these or other types of leave taken in family situations. Family leave shall not be accrued or accumulated;~~

~~3. Family leave rules must specify that:~~

~~a. family leave must be taken within one (1) year of the birth or placement of a child or as required to provide care to a dependent adult,~~

~~b. employees must be required to provide reasonable notice if possible, and~~

~~c. whenever possible, employees must schedule their leave to accommodate the needs of the employer, if the need for leave is foreseeable and it is medically feasible to do so;~~

~~4. Upon returning to work from family leave, the employee shall have the right to be restored to the original position of the employee; and~~

~~5. While on leave without pay, the employee shall be eligible to continue the state employee group health and life insurance coverage of the employee upon proper application and payment of premiums.~~

SECTION 10. AMENDATORY 74 O.S. 2001, Section 840-2.23, as last amended by Section 9, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2003, Section 840-2.23), is amended to read as follows:

Section 840-2.23 A. There is hereby created the state leave sharing program. The purpose of the state leave sharing program is to permit state employees to donate annual or sick leave to a fellow state employee who has exhausted, or will exhaust, all types of paid leave and:

1. Who is eligible for and requires family leave or who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate employment, if:

a. the receiving employee has exhausted, or will exhaust, all ~~annual leave and sick~~ types of paid leave due to an extraordinary or severe illness, injury, impairment, or physical or mental condition, which involves the employee, a relative of the employee or household member, and

b. the condition has caused, or is likely to cause, the employee to go on leave without pay or terminate employment; or

2. Immediately after the death of a relative or household member, provided that the total leave received for this purpose shall not exceed five (5) days in any calendar year; or

3. Who is affected by a presidentially declared national disaster in Oklahoma after May 1, 1999, for a period of eighteen (18) months after the date of the presidentially declared national disaster if:

a. the employee suffered a physical injury as a result of the disaster,

b. the spouse, relative, or household member of the employee suffered a physical injury or died as a result of the disaster, or

c. the domicile of the employee or the home of a relative of the employee was damaged or destroyed as a result of the disaster.

B. As used in this section:

1. "Relative of the employee" shall be limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of the employee;

2. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term

does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune;

3. "Severe" or "extraordinary" means extreme or life threatening;

4. "State employee" means a permanent classified employee or a regular unclassified employee with one (1) year or more continuous service with the state. The term "state employee" does not include classified employees in probationary status or unclassified employees on temporary or other limited term appointments, except that those employees are eligible to receive shared leave as provided in subsection A of this section and the leave with pay authorized by Section 840-2.23A of this title related to a presidentially declared national disaster; and

5. "Terminal" means likely to result in death within two (2) calendar years.

C. An employee may be eligible to receive shared leave pursuant to the following conditions:

1. The chief administrative officer of the employee determines that the employee meets the criteria described in this section; and

2. The employee has abided by state policies regarding the use of leave.

D. An employee may not donate annual or sick leave to an eligible employee without the permission of the chief administrative officer of the donating employee's agency.

E. An employee may donate annual or sick leave to another employee provided the donation does not cause the annual leave balance of the employee to fall below eighty (80) hours and provided the donation does not cause the sick leave balance of the employee to fall below eighty (80) hours.

F. Except as otherwise provided for in this subsection, the chief administrative officer of the employee shall determine the amount of donated leave an employee may receive and may authorize an employee to use up to a maximum of two hundred sixty-one (261) days of donated leave during total state employment. An employee may receive and use up to a maximum of three hundred sixty-five (365) days of donated leave during total state employment, if the employee is suffering from an illness which has been certified in writing by a licensed physician or health care practitioner as being terminal. However, upon written request by the employee who either has reached or shall reach in the near future a maximum amount as set out in this subsection, the chief administrative officer of the employee may approve additional donated leave as requested by the employee.

G. The chief administrative officer of the employee shall require the employee to submit, prior to approval or disapproval <u>of shared leave pursuant to paragraph 1 of subsection A of this section</u>, a medical certificate from a licensed physician or health care practitioner verifying the need for the leave and expected

duration of the illness, injury, impairment, or physical or mental condition for which the leave is donated.

H. Donated annual or sick leave is transferable between employees in different state entities with the agreement of both chief administrative officers of the entities.

I. The receiving employee shall be paid his or her regular rate of pay; therefore, one hour of donated leave may cover more or less than one hour of the salary of the recipient. The calculation of the leave value of the recipient shall be in accordance with Office of Personnel Management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received will be designated as donated leave and be maintained separately from all other leave balances.

J. Any donated leave may only be used by the recipient for the purposes specified in this section.

K. All forms of paid leave available for use by the recipient must be used prior to using donated leave.

L. Any donated leave not used by the recipient during each occurrence as determined by the chief administrative officer of the employee shall be returned to the donor. The donated leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to the original leave balance of each donor.

M. All donated leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating annual or sick leave for purposes of the leave sharing program.

N. Employees may not donate excess annual or sick leave that the donor would not be able to otherwise take.

SECTION 11. AMENDATORY 74 O.S. 2001, Section 840-2.27C, as last amended by Section 1, Chapter 353, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-2.27C), is amended to read as follows:

Section 840-2.27C A. At least sixty (60) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force notice that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit rules. The notice shall not be posted unless approved by the cabinet secretary for the agency conducting the reduction-in-force. If there is no incumbent cabinet secretary for the agency, the cabinet-secretary-notice-approval requirement shall not be applicable. The approved notice shall be posted in each office affected by the proposed plan for five (5) days. The appointing authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action.

B. The reduction-in-force implementation plan and subsequent personnel transactions directly related to the reduction-in-force in executive branch agencies shall be in compliance with rules adopted by the Administrator. The reduction-in-force implementation plan, including the description of and reasons for displacement limits and protections from displacement actions, and severance benefits that will be offered pursuant to Section 840-2.27D of this title shall be posted in each office affected by the plan within five (5) business days after posting of the reduction-in-force notice. The reduction-in-force implementation 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 type of appointment;

3. Require the separation of probationary classified affected employees in affected 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 job family level;

4. Provide for retention of permanent classified affected employees in affected 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;

5. 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

6. 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 Director of the Office of State Finance shall review the fiscal components of the reduction-in-force implementation plan and within five (5) business days of receipt reject any plan that does not:

1. Demonstrate that funds are available to cover projected costs;

2. 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

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

If the reduction-in-force is conducted pursuant to a reorganization, the fiscal components of the reduction-in-force implementation 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.

D. 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.

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.

2. If the affected employee has not held within the last five (5) years a position in the job family level or predecessor class 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.

4. 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.

E. 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.

F. 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 job family level by taking a position in another job family level through displacement or separated after foregoing severance benefits shall be recalled by the agency to the job family level from which removed in inverse order of removal before the agency may appoint other persons to the 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 job family level from which removed or eighteen (18) months after the date of removal from the job family level, whichever is first, this right to be recalled shall expire.

G. The names of permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in 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 job family level having the same or higher pay band than 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.

H. 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 G 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.

I. 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.

J. 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.

K. 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.

L. 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.

~~M. 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 12. AMENDATORY 74 O.S. 2001, Section 840-4.17, as amended by Section 18, Chapter 212, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-4.17), is amended to read as follows:

Section 840-4.17 A. The Office of Personnel Management shall make available one standard performance management system ~~to~~ that shall 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 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.

B. 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 at least 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 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 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.

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 retained in the employee's personnel file.

G. Each appointing authority shall ~~confirm~~ annually report their compliance with the provisions of this section in writing to the Administrator of the Office of Personnel Management ~~on or before January 1 of each year that the appointing authority's agency is in compliance with the provisions of this section~~. The Administrator shall prescribe a form for such ~~confirmation~~ reporting.

H. The Administrator of the Office of Personnel Management shall conduct an annual random audit of state agencies in compliance with this section.

SECTION 13. AMENDATORY 74 O.S. 2001, Section 7002, is amended to read as follows:

Section 7002. In an effort to provide the employees of the State of Oklahoma with a convenient and responsible system which will allow them to contribute through payroll deduction to several fully accountable private nonprofit social, health and welfare organizations on a voluntary basis, there is hereby created a combined charitable solicitation to be called the "~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign".

SECTION 14. AMENDATORY 74 O.S. 2001, Section 7003, is amended to read as follows:

Section 7003. As used in the Oklahoma State Employee Charitable Contribution Act~~, Section 7001 et seq. of this title~~:

1. "Federation" means a legally constituted grouping of at least five health and social service agencies that are bound together to raise and distribute charitable contributions;

2. "State presence" means a test to determine whether the agency actually provides service to people in the State of Oklahoma;

3. "Local advisory review committee" means a group of state employees in a facility or agency assisting in the local involvement of state employees in the campaign;

4. "Principal combined fund raising organization" means the organization in the State of Oklahoma responsible for the charitable contribution campaign; and

5. "State Agency Review Committee" means a group of state employees responsible for overseeing at the state level the conducting of the ~~Oklahoma~~ State ~~Employees~~ Charitable ~~Contribution~~ Campaign.

SECTION 15. AMENDATORY 74 O.S. 2001, Section 7004, is amended to read as follows:

Section 7004. The ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign shall be administered in accordance with the provisions of the Oklahoma State Employee Charitable Contribution Act~~, Section 7001 et seq. of this title,~~ and shall comply with all applicable federal, state and local statutes and ordinances.

SECTION 16. AMENDATORY 74 O.S. 2001, Section 7005, is amended to read as follows:

Section 7005. A. The State Agency Review Committee shall be composed of the Administrator of the Office of Personnel Management, or designee and six (6) state employees, of which two shall be appointed by the Governor, two shall be appointed by the President Pro Tempore of the Senate and two shall be appointed by the Speaker of the House of Representatives. Members shall serve at the pleasure of their appointing authorities. The provisions of Section 6 of Title 51 of the Oklahoma Statutes shall not apply to appointments to the Committee. The Committee is created to continue until July 1, 2006, in accordance with the provisions of the Oklahoma Sunset Law~~, Section 3901 et seq. of this title~~.

B. The Committee annually shall elect a chairman from its membership. The Administrator of the Office of Personnel Management shall serve as chairman until the first such election.

C. The State Agency Review Committee shall have the following duties and responsibilities:

1. Arrange for publication of information about the application process;

2. Review applications of federations electing to participate in the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign and certify that a federation and each of its member agencies meet the eligibility criteria set forth in Sections 7009 and 7010 of this title;

3. Notify in writing each of the applying federations of its acceptance or rejection. Provided, if a federation is rejected, the Committee shall provide the reason for rejection of each of the member agencies of the federation;

4. Hear appeals of rejected agencies;

5. Delegate to the principal combined fund raising organization the primary responsibility for the staffing of and the financial obligations necessary to comply with the provisions of this subsection;

6. Develop a pledge card to be used throughout the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign;

7. Select a principal combined fund raising organization to assist the Committee in gathering and accumulating the applications; and

8. Promulgate rules to implement the provisions of ~~this act, Section 7001 et seq. of this title~~ the Oklahoma State Employee Charitable Contribution Act.

D. The Office of Personnel Management shall provide such staff support as is required by the Committee.

E. The State Agency Review Committee is authorized to appoint such advisory councils and task forces as it deems necessary for counsel, advice and review concerning the formulation and administration of the rules, application review process and the

implementation of ~~this act, Section 7001 et seq. of this title~~ the Oklahoma State Employee Charitable Contribution Act.

SECTION 17. AMENDATORY 74 O.S. 2001, Section 7007, is amended to read as follows:

Section 7007. A. The state principal combined fund raising organization shall be a local federation in the State of Oklahoma that provides, through one specific annual public solicitation for funds, substantial voluntary financial support for charitable agencies that depend on public subscription for support in the state and that has the necessary staff and volunteer support to administer the charitable contribution campaign.

B. The state principal combined fund raising organization shall have the following duties and responsibilities:

1. Work with the State Agency Review Committee to develop the charitable contribution campaign plan for the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign;

2. Develop the charitable contribution campaign materials and publicity for the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign;

3. Recruit and train the volunteers, departmental coordinators and solicitors in a bipartisan manner; develop and keep records on all the accounts to be solicited; and cultivate the accounts to encourage participation in the charitable contribution campaign;

4. Keep all fiscal and financial records of the activities and submit to the State Agency Review Committee a separate accounting of all proceeds of the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign;

5. Submit to the participating federations a detailed accounting of the amount of money designated to the federation and to each of its member agencies; and

6. Disperse the allocation checks to the participating agencies.

C. Each state employee shall receive from the state principal combined fund raising organization general information material with each federation listed and each of its member agencies listed under the federation. Each agency and federation shall be identified by a code number. If descriptions of each agency are used in the general information material, they shall be provided to the state principal combined fund raising organization by the federations.

D. Each state employee shall be given the option to designate his or her gifts. Undesignated gifts shall be allocated pursuant to the provisions of subsection E of this section.

E. Undesignated money shall be distributed in the same proportion as designated dollars within the State of Oklahoma.

F. Allocations shall be distributed quarterly; provided, for campaigns of One Hundred Thousand Dollars ($100,000.00) or less, allocations shall be distributed semiannually. Any interest earned from funds held prior to distribution will be distributed proportionally to the distribution of undesignated funds.

SECTION 18. AMENDATORY 74 O.S. 2001, Section 7009, is amended to read as follows:

Section 7009. A. Participation in the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign shall be limited to voluntary, charitable, health and welfare agencies that provide or support direct health and welfare services to individuals or their families and meet the criteria set out in this section. The health and welfare services shall be available to state employees, unless they are rendered to needy persons overseas. The services shall directly benefit human beings, whether children, youth, adults, the aged, the

ill and infirm, or the mentally or physically handicapped. The services shall consist of care, research, or education in the fields of human health or social adjustment and rehabilitation; relief for victims of natural disasters and other emergencies; or assistance to those who are impoverished and, therefore, in need of food, shelter, clothing, and basic human welfare services.

B. For the purposes of the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign, basic human welfare service shall not include:

1. Organizations whose primary purpose is the direct or indirect support of institutions of higher education;

2. Lobbying; and

3. Religious activities.

C. To be included in the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign, a voluntary charitable agency, in addition to meeting the other requirements set forth in this section, shall:

1. Be a nonprofit, tax-exempt charitable organization and submit to the participating federation a 501(c)(3) exemption from the Internal Revenue Service;

2. Be incorporated or authorized to do business in this state as a private, nonprofit organization;

3. Register, annually, with the ~~Oklahoma~~ Secretary of State to solicit or accept contributions in this state;

4. Submit to the participating federation an audit of the agency, conducted by an accounting firm or individual holding a permit to practice public accounting in this state according to the generally accepted standards of accounting for nonprofit organizations; and

5. Submit to the participating federation a copy of the annual form 990.

D. Applications to the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign shall be submitted to the State Agency Review Committee from local federations which shall include United Ways, United Funds, Combined Health Appeals, International Social Service Agencies and any other local federation consisting of at least five local agencies which meet the requirements of this section. Each federation shall certify the application for its member agencies and shall give state charitable agencies precedence over national agencies if both qualify for the charitable contribution campaign. Applications from individual agencies shall not be accepted.

SECTION 19. AMENDATORY 74 O.S. 2001, Section 7010, is amended to read as follows:

Section 7010. A. A charitable agency wishing to be admitted to the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign shall

be required to demonstrate state presence. The agency must comply with all of the following criteria in order to meet the state presence test:

1. The agency must provide or procure direct human care services for persons residing in the state in which the charitable contribution campaign will be conducted;

2. The agency shall have a board of directors that serves without compensation;

3. A majority of the members of the board of directors shall be residents of the state;

4. Consumers of service from the state shall be represented within the membership of the board of directors; and

5. A substantial portion of the agency's annual budget shall be derived from public solicitations in the State of Oklahoma.

B. Agencies whose primary focus is the providing of services to the needy overseas and Combined Health Agencies operating in this state shall be exempt from complying with the criteria set out in subsection A of this section and need not demonstrate state presence.

C. The Armed Forces Veterans Homes Foundation shall be exempt from the provisions of this section and shall be authorized to participate in the State Charitable Campaign.

SECTION 20. This act shall become effective July 1, 2004.

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.

Passed the Senate the 11th day of May, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 1st day of April, 2004.

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Presiding Officer of the House
of Representatives