

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1016

By: Mitchell

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2001, Sections 85.42, as amended by Section 2, Chapter 343, O.S.L. 2002 and 840-1.3, as amended by Section 3, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2002, Sections 85.42 and 840-1.3), which relate to state employees; clarifying language; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 85.42, as amended by Section 2, Chapter 343, O.S.L. 2002 (74 O.S. Supp. 2002, Section 85.42), is amended to read as follows:

Section 85.42 A. Except as otherwise provided for in this section, any agency, whether or not such agency is subject to the Oklahoma Central Purchasing Act, ~~Section 85.1 et seq. of this title,~~ is prohibited from entering into a sole source contract or a contract for professional services with or for the services of any person, who has terminated employment with or who has been terminated by that agency for one (1) year after the termination date of the employee from the agency. The provisions of this subsection shall not prohibit an agency from hiring or rehiring such person as a state employee.

B. Each contract entered into by any person or firm with the State of Oklahoma shall include an affidavit certifying that no person who has been involved in any manner in the development of that contract while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under said

contract. This subsection shall not preclude faculty and staff of the institutions within The State System of Higher Education from negotiating and participating in research grants and educational contracts. Nor shall this subsection apply to personnel of the Capital Resources Division of the Oklahoma Department of Commerce who contract to provide services to the Oklahoma Capital Investment Board.

C. As used in this section, person is defined as any state official or employee of a department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, school district, fair board, court, executive office, advisory group, task force, study group, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof, judges, justices, and state legislators.

D. An agency may enter into a sole source contract or a contract for professional services at any time with a person who is a qualified interpreter for the deaf.

E. The Department of Transportation, Oklahoma Water Resources Board, Department of Environmental Quality, Oklahoma Tourism and Recreation Department, the Oklahoma Transportation Authority and the Oklahoma Department of Agriculture, Food, and Forestry may enter into a contract for professional services at any time with a person who has retired from state service, provided the provisions specified in subsection B of this section are satisfied.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-1.3, as amended by Section 3, Chapter 347, O.S.L. 2002 (74 O.S. Supp. 2002, Section 840-1.3), is amended to read as follows:

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

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

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

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

4. "Classification" means:

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

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

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

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

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

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

9. "Job family" means:

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

b. a logical progression of roles in a specific type of occupation in which the differences between roles are related to the depth and breadth of experience at

various levels within the job family and which are sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills and abilities required, and education and experience requirements;

10. "Job family level" means a role in a job family having distinguishable characteristics such as knowledge, skills, abilities, education, and experience;

11. "Job family descriptor" means a written document that:

- a. describes a job family, including, but not limited to, the basic purpose, typical functions performed, various levels within the job family, and the knowledge, skills, abilities, education, and experience required for each level, and
- b. identifies the pay band assigned for each level;

12. "Promotional examination" means any employment test designated by the Office of Personnel Management to determine further the qualifications of a permanent classified employee of a state agency for employment in a different job for which the employee possesses the minimum qualifications of education, experience, or licensure within that agency;

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

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

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

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

16. "Lateral transfer" means the reassignment of an employee to another state job with the same pay band assignment as the job family level in which the employee was classified prior to the lateral transfer;

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

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

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

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

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

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

23. "Reclassification" means the process of changing a classified employee from one job family to another job family or from one job family level to another job family level in the same

job family, resulting in a change in the employee's assigned job code;

24. "Regular and consistent" means, in connection with the work assignments of an employee, the usual and normal work assignments of the employee, excluding incidental, casual, or occasional tasks and activities the employee assumes without direction to do so.

Temporary work assignments of less than sixty (60) days in any twelve (12) consecutive months period shall not be considered regular and consistent;

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

26. "Supervisor" means a classified or unclassified officer or employee who has been assigned authority and responsibility for evaluating the performance of subordinates;

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

28. "Merit System" means the Oklahoma Merit System of Personnel Administration;

29. "Administrator" means the appointing authority of the Office of Personnel Management;

30. "Executive Director" means the appointing authority of the Oklahoma Merit Protection Commission;

31. "Office" means the Office of Personnel Management;

32. "Commission" means the Oklahoma Merit Protection Commission;

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

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

SECTION 3. 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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