

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 315

By: Leftwich of the Senate

and

Terrill of the House

COMMITTEE SUBSTITUTE

(state government - OSBI attorneys - use of leave
benefits - providing use of benefits within
specified time period - military service -
effective date -

emergency)

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 150.21, as amended by Section 3, Chapter 42, O.S.L. 2002 (74 O.S. Supp. 2004, Section 150.21), is amended to read as follows:

Section 150.21 The Oklahoma State Bureau of Investigation shall establish or provide for a legal division and the Director may employ ~~two~~ three attorneys as needed, which attorneys, in addition to advising the Director, the Commission and employees of the Bureau on legal matters, may appear for and represent the Director, the Commission and employees of the Bureau in administrative hearings and other legal actions and proceedings. No Bureau attorney shall enter an appearance in a criminal action nor engage in private practice of the law while in the employment of the Oklahoma State Bureau of Investigation, except for the purpose of representing the agency in motions to quash subpoenas, other discovery matters,

expungement applications, evidentiary hearings, and forfeiture proceedings. It shall continue to be the duty of the Attorney General to give official opinions to and to prosecute and defend actions for the Director, Commission and employees of the Bureau, if requested to do so.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-2.20, as last amended by Section 1, Chapter 401, O.S.L. 2004 (74 O.S. Supp. 2004, 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~~ 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 year in which it accrues or within twelve (12) months of the date on which it accrues, the manner of application to be at the discretion of the appointing authority.

2. From November 1, 2001, the following accrual rates and accumulation limits apply to eligible employees as follows:

ACCRUAL RATES	ACCUMULATION
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LIMITS

Cumulative		Annual	Sick	Annual
Years of	Service	Leave	Leave	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.

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.

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.

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 3. AMENDATORY 44 O.S. 2001, Section 209, as last amended by Section 1, Chapter 212, O.S.L. 2003 (44 O.S. Supp. 2004, Section 209), is amended to read as follows:

Section 209. All officers and employees of the state or a political subdivision thereof who are members of the National Guard, shall, when ordered by proper authority to active or inactive service, be entitled to a leave of absence from ~~such~~ civil employment for the period of ~~such~~ active service, without loss of status or efficiency rating. During the first ~~twenty (20)~~ thirty (30) calendar days for employees of political subdivisions or the first ~~twenty (20)~~ thirty (30) regular scheduled work days for state employees of ~~such~~ the leave of absence in any federal fiscal year, the officers or employees shall receive their full regular pay from the employing state agency or political subdivision. During the remainder of ~~such~~ the leave of absence in any federal fiscal year, the employing state agency or political subdivision may elect to pay them an amount equal to the difference between the officers' or

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

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

SECTION 4. This act shall become effective July 1, 2005.

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

50-1-15430 JB 04/20/05