

ENROLLED HOUSE
BILL NO. 1755

By: Miller (Doug) of the House

and

Nichols of the Senate

An Act relating to state government; amending 74 O.S. 2001, Sections 840-1.9 and 840-4.17, as last amended by Section 12, Chapter 312, O.S.L. 2004 (74 O.S. Supp. 2004, Section 840-4.17), which relate to the Oklahoma Personnel Act; modifying duties of the Oklahoma Merit Protection Commission; modifying criteria for employee performance management system; modifying evaluation requirements; expanding jurisdiction of the Oklahoma Merit Protection Commission; requiring certain written plans under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-1.9, is amended to read as follows:

Section 840-1.9 In addition to any other duties expressly set forth by law, the Oklahoma Merit Protection Commission shall:

1. Receive and act on complaints, counsel persons and groups on their rights and duties and take action designed to obtain voluntary compliance with the provisions of the Oklahoma Personnel Act;
2. Investigate allegations of violations of the provisions of the Oklahoma Personnel Act within ~~their~~ its jurisdiction;
3. Investigate allegations of abuses in the employment practices of the Administrator of the Office of Personnel Management or of any state agency;
4. Investigate allegations of violations of the rules of the Merit System of Personnel Administration and prohibited activities in the classified service;
5. Establish and maintain a statewide Alternative Dispute Resolution Program to provide dispute resolution services for state agencies and employees;
6. Establish rules ~~and regulations~~, pursuant to the Administrative Procedures Act as may be necessary to perform the duties and functions of the Commission including, but not limited to, rules to monitor state agency grievance processes to ensure full

compliance with the law. The Commission may also recommend any changes it deems necessary to improve such grievance processes to the appropriate state agency;

7. Establish guidelines for the qualifications, duties, responsibilities, authority, power, and continued employment of the Executive Director, Administrative Hearing Officers, mediators, and other resolution arbitrators or facilitators;

8. Prepare and preserve an audio tape of all proceedings of all hearings conducted by the Commission and furnish transcripts of such tapes upon payment of the costs of such transcripts by the party requesting the transcripts;

9. Submit quarterly, fiscal year reports on workload statistics to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate containing the following information:

- a. the number of cases, complaints, and requests for hearing filed, disposed of and pending with the Commission for each month of the quarter,
- b. a numerical breakdown of the methods of disposition of such cases, complaints, and requests for hearing,
- c. a numerical breakdown of mediations, prehearing conferences, and appellate hearings, conducted, and
- d. the date of the oldest pending case, complaint, and request for hearing.

~~The report for the first quarter of fiscal year 1989 shall be submitted on or before October 31, 1988. Quarterly reports thereafter shall be submitted within thirty (30) days following the last day of the month of the appropriate quarter; and~~

10. Make all records of the Commission, except those made confidential by law, available for public inspection, copying and mechanical reproduction, or either of them, in accordance with the Oklahoma Open Records Act and charge a fee not to exceed twenty-five cents (\$.25) per page as the direct costs of document copying or mechanical reproduction. All fees collected pursuant to the provisions of this paragraph shall be deposited in the Oklahoma Merit Protection Commission Revolving Fund.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-4.17, as last amended by Section 12, Chapter 312, O.S.L. 2004 (74 O.S. Supp. 2004, 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 that shall be used by all agencies for completing employee ~~service ratings~~ performance evaluations. 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. The evaluation shall contain the agency number, date of review, and employee identification number;

2. ~~The identification of the strengths and deficiencies of~~ by the immediate supervisor of accountabilities and behaviors upon which the employee will be evaluated;

3. ~~Corrective actions, if necessary, to correct deficiencies~~ A mid-term interview with the immediate supervisor for the purpose of discussing the progress of the employee in meeting the accountabilities and behaviors upon which the employee will be evaluated;

4. ~~An~~ Identification of performance strengths and performance areas for development;

5. A final interview with the employee by the immediate supervisor who shall provide the employee with a copy of the service ratings performance evaluation; and

~~5.~~ 6. ~~The opportunity for the employee to submit written comments regarding the service rating~~ performance evaluation.

C. Each employee shall be rated at least thirty (30) days prior to the end of the probationary period. ~~Thereafter~~ Except as may otherwise be provided by rules promulgated by the Administrator of the Office of Personnel Management, after the end of the probation period, each employee shall be ~~rated no less than once each year~~ evaluated at least annually on a twelve-month period.

D. Any permanent classified employee who disagrees with the employee's ~~individual service rating~~ performance evaluation may file a grievance pursuant to Section 840-6.2 of this title.

E. Any employee, regardless of status, who is required to be ~~rated~~ evaluated pursuant to this section and who ~~disagrees with the individual service rating of the employee~~ believes that the employing agency has not complied with the requirements of subsection B of this section may file a complaint through any ~~other~~ dispute resolution process made available through the employing agency or, if there is no internal agency dispute resolution process, through the Oklahoma Merit Protection Commission. The Oklahoma Merit Protection Commission shall ~~not~~ have jurisdiction to investigate or hear appeals of ~~individual service ratings~~ the failure of an agency to comply with the provisions of subsection B of this section.

~~E.~~ F. The agency shall use ~~available service ratings~~ employee evaluations 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.~~ G. The agency shall retain a copy of the ~~service rating~~ performance evaluation for each employee of the agency. A copy of the ~~service rating~~ performance evaluation shall be retained in the employee's personnel file.

~~G.~~ H. Each appointing authority shall annually report ~~their~~ its compliance with the provisions of this section in writing to the Administrator of the Office of Personnel Management. The Administrator shall prescribe a form for such reporting.

~~H.~~ I. The Administrator of the Office of Personnel Management shall conduct an annual random audit of state agencies to determine whether they are in compliance with this section. Any agency deemed to be out of compliance shall submit a written plan to the Administrator detailing the efforts the agency will make to come into compliance at the earliest possible date.

SECTION 3. This act shall become effective November 1, 2005.

Passed the House of Representatives the 25th day of May, 2005.

Presiding Officer of the House of
Representatives

Passed the Senate the 25th day of May, 2005.

Presiding Officer of the Senate