

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1027

By: Wright (John)

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5  
6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.  
8 2001, Section 840-2.16, as amended by Section 1,  
Chapter 207, O.S.L. 2007 (74 O.S. Supp. 2008, Section  
9 840-2.16), which relates to the Oklahoma Personnel  
Act; modifying grade or salary adjustment; creating  
10 the Oklahoma State Employee Recruitment and Retention  
Act; stating purpose; creating the Competitive Market  
11 Pay Revolving Fund; providing for expenditure of  
funds; directing the Office of Personnel Management  
12 to adopt rules to administer fund; creating the Pay  
for Performance Revolving Fund; providing for  
13 expenditure of funds; providing for agency  
certification to access fund; directing the Office of  
14 Personnel Management to adopt rules to administer  
fund; providing certain annual salary increase to  
15 certain persons; defining terms; providing  
exceptions; prohibiting certain expenditures;  
16 providing for codification; and providing an  
effective date.

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

20 SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-2.16, as  
21 amended by Section 1, Chapter 207, O.S.L. 2007 (74 O.S. Supp. 2008,  
22 Section 840-2.16), is amended to read as follows:

23 Section 840-2.16 Except as otherwise provided by law, any  
24 classified, unclassified or exempt employee of the state, excluding

1 members of boards and commissions, institutions under the  
2 administrative authority of the Oklahoma State Regents for Higher  
3 Education, employees of public school districts and elected  
4 officials, ~~on July 1 of each year, earning less than the amount~~  
5 ~~established in the Federal Poverty Guidelines for a three person~~  
6 ~~household, issued each year in the Federal Register by the United~~  
7 ~~States Department of Health and Human Services,~~ shall receive the  
8 necessary grade or a salary adjustment to provide for a minimum  
9 annualized salary equal to the amount established in the Federal  
10 Poverty Guidelines for a three person household, issued each year in  
11 the Federal Register by the United States Department of Health and  
12 Human Services of at least Seventeen Thousand Six Hundred Dollars  
13 (\$17,600.00). Any classified, unclassified or exempt employee of  
14 the state, excluding members of boards and commissions, institutions  
15 under the administrative authority of the Oklahoma State Regents for  
16 Higher Education, employees of public school districts and elected  
17 officials, employed after July 1, 2007, shall receive a minimum  
18 annualized salary equal to the amount established in the Federal  
19 Poverty Guidelines for a three person household, issued each year in  
20 the Federal Register by the United States Department of Health and  
21 Human Services. This section shall not apply to those persons  
22 employed pursuant to ~~paragraph~~ paragraphs 8 and 12 of subsection A  
23 of Section 840-5.5 and Section 2241 of this title or those persons  
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1 employed pursuant to Section 1.6a of Title 53 of the Oklahoma  
2 Statutes.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 840-10 of Title 74, unless there  
5 is created a duplication in numbering, reads as follows:

6 Sections 2 through 6 of this act shall be known and may be cited  
7 as the "Oklahoma State Employee Recruitment and Retention Act". The  
8 purpose of the Oklahoma State Employee Recruitment and Retention Act  
9 is to provide appropriated state agencies in the executive branch  
10 with the flexibility to recruit and retain exemplary employees by  
11 providing state agencies with separate funding to reward job  
12 performance.

13 SECTION 3. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 840-11 of Title 74, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. There is hereby created in the State Treasury a revolving  
17 fund for state agencies to be designated the "Competitive Market Pay  
18 Revolving Fund". The fund shall be a continuing fund, not subject  
19 to fiscal year limitations. The amount appropriated to the fund  
20 shall be based upon an annual calculation of at least one percent  
21 (1%) of the total of appropriated state agencies' payroll budgets.  
22 All monies accruing to the credit of the fund are hereby  
23 appropriated and may be budgeted and expended by a state agency for  
24 up to the percent appropriated of its annual payroll budget.

1 Expenditures from the fund shall be made upon warrants issued by the  
2 State Treasurer against claims filed as prescribed by law with the  
3 Director of State Finance for approval and payment.

4 B. Monies from the fund shall only be expended for market  
5 adjustments as authorized under paragraph 6 of subsection B of  
6 Section 840-2.17 of Title 74 of the Oklahoma Statutes.

7 C. Monies available to a state agency from this fund are in  
8 addition to any money allocated to the agency through its individual  
9 budget appropriation.

10 D. The Administrator of the Office of Personnel Management  
11 shall adopt rules establishing policies and procedures for  
12 administering the Competitive Market Pay Revolving Fund.

13 SECTION 4. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 840-12 of Title 74, unless there  
15 is created a duplication in numbering, reads as follows:

16 A. There is hereby created in the State Treasury a revolving  
17 fund for state agencies to be designated the "Pay for Performance  
18 Revolving Fund". The fund shall be a continuing fund, not subject  
19 to fiscal year limitations. The amount appropriated to the fund  
20 shall be based upon an annual calculation of at least one percent  
21 (1%) of the total of appropriated state agencies' payroll budgets.  
22 All monies accruing to the credit of the fund are hereby  
23 appropriated and may be budgeted and expended by a state agency for  
24 up to the percent appropriated for fund of its annual payroll

1 budget. Expenditures from the fund shall be made upon warrants  
2 issued by the State Treasurer against claims filed as prescribed by  
3 law with the Director of State Finance for approval and payment.

4 B. Monies from the fund shall only be expended for the employee  
5 pay for performance mechanism as authorized under paragraph 10 of  
6 subsection B of Section 840-2.17 of Title 74 of the Oklahoma  
7 Statutes.

8 C. An agency must be certified each year as compliant with  
9 Section 840-4.17 of Title 74 of the Oklahoma Statutes by the Office  
10 of Personnel Management in order to access the Pay for Performance  
11 Revolving Fund.

12 D. Monies available to a state agency from this fund are in  
13 addition to any money allocated to the agency through its individual  
14 budget appropriation.

15 E. The Administrator of the Office of Personnel Management  
16 shall adopt rules establishing policies and procedures for  
17 administering the Pay for Performance Revolving Fund.

18 SECTION 5. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 840-13 of Title 74, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. Effective January 1, 2010, all full-time and part-time  
22 officers and employees, excluding temporary and other limited-term  
23 employees, of the state who were employed by the state on the last  
24 working day of June 2009 and who received a rating of "meets

1 standards" or higher on their most current performance rating shall  
2 be awarded a three-percent increase in annual salary.

3 B. As used in this section, "temporary and other limited-term  
4 employees" are those persons who:

5 1. Are not full-time or permanent employees;

6 2. Are not otherwise excluded by subsection F of this section;

7 and

8 3. Are compensated by an agency, board, commission or

9 department or other employing entity for a limited duration and

10 without any subjective expectation by either the employer or the

11 employee that the employment will become permanent.

12 C. Except for those personnel specifically excluded from

13 eligibility for any increase or advancement in salary pursuant to

14 this section, the salary increase provided by this section shall be

15 applicable to:

16 1. Employees of county health departments;

17 2. Employees of a conservation district; and

18 3. Employees of the George Nigh Rehabilitation Institute.

19 D. Part-time employees shall receive a prorated annualized

20 salary increase pursuant to this section.

21 E. Employees eligible for the increase provided for in

22 subsection A of this section who are on leave without pay on July 1,

23 2009, shall receive an annualized increase, effective upon their

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1 return to work, but shall not receive any increase for a period of  
2 time prior to their return to work.

3 F. Employees who leave the state service before July 1, 2009,  
4 and who are reinstated or reemployed in the state service during  
5 July 2009, without a break in service, who are otherwise eligible  
6 for the pay increase provided for in this section shall be granted  
7 such raise effective immediately upon such reinstatement or  
8 reemployment. As used in this subsection, "break in service" is  
9 defined as a period of time in excess of thirty (30) calendar days  
10 between two periods of state employment.

11 G. The following officers and employees shall be ineligible for  
12 a pay increase pursuant to this section and nothing, except as  
13 otherwise provided by Section 840-2.17 of Title 74 of the Oklahoma  
14 Statutes, shall be construed to authorize any increase or  
15 advancement of the salaries of:

16 1. Any elected official;

17 2. Any cabinet secretary whose salary is governed by Section  
18 10.5 of Title 74 of the Oklahoma Statutes;

19 3. Any agency director who is also a cabinet secretary pursuant  
20 to Section 10.3 of Title 74 of the Oklahoma Statutes;

21 4. Any justice or judge whose salary is governed by Section 1.2  
22 or 1.2A of Title 85 of the Oklahoma Statutes or whose compensation  
23 is set by the Board on Judicial Compensation pursuant to Section 3.4  
24 of Title 20 of the Oklahoma Statutes;

1           5. Any district attorney whose salary is governed by Section  
2 215.30 of Title 19 of the Oklahoma Statutes;

3           6. Officers and employees of institutions under the  
4 administrative authority of the Oklahoma State Regents for Higher  
5 Education, except for officers and employees of the George Nigh  
6 Rehabilitation Institute;

7           7. Persons employed pursuant to Section 2241 of Title 74 of the  
8 Oklahoma Statutes;

9           8. Persons employed pursuant to Section 1.6a of Title 53 of the  
10 Oklahoma Statutes;

11           9. Persons who are employed or under contract pursuant to  
12 subsection B of Section 1419 of Title 10 of the Oklahoma Statutes;

13           10. The Adjutant General and Assistant Adjutants General  
14 pursuant to Section 27 of Title 44 of the Oklahoma Statutes; and

15           11. Employees in those positions listed in the salary schedules  
16 in subsection F of Section 2-106 of Title 47 of the Oklahoma  
17 Statutes, Section 2-103a of Title 63 of the Oklahoma Statutes, and  
18 Section 150.6a of Title 74 of the Oklahoma Statutes.

19           H. No salary increase pursuant to this section shall be made  
20 that exceeds a salary limitation provided in an agency's annual  
21 appropriation bill or salary limits set by statute. Classified  
22 employees eligible for the salary increase provided for in this  
23 section shall receive such increase even though it causes the  
24 employee's salary to exceed the maximum for the employee's pay band.

1           SECTION 6.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 840-14 of Title 74, unless there  
3 is created a duplication in numbering, reads as follows:

4           No funds appropriated for the purpose of implementing the pay  
5 increase provided in Section 5 of this act shall be expended by any  
6 employing public agency, board, commission or other public employing  
7 entity in order to increase compensation for persons employed by a  
8 private business entity that has entered into a contract with the  
9 public employing entity to provide personnel services or temporary  
10 services to the public employing entity in order for the public  
11 employing entity to perform duties imposed upon it by law or  
12 functions which the public employing entity is authorized to perform  
13 by law. The provisions of this section shall not be construed to  
14 prohibit increases in compensation to a vendor performing other  
15 types of services pursuant to a sole source contract or contract  
16 awarded pursuant to The Oklahoma Central Purchasing Act.

17           SECTION 7. This act shall become effective November 1, 2009.

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19           52-1-5258           LRB           12/11/08

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