

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1659

By: Aldridge

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5
6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.
8 2001, Sections 840-2.15, as last amended by Section
9 1, Chapter 212, O.S.L. 2006, 840-2.22, as amended by
10 Section 9, Chapter 312, O.S.L. 2004, (74 O.S. Supp.
11 2009, Sections 840-2.15, and 840-2.22,)), which relate
12 to rights and benefits of state employees; clarifying
13 language; amending 74 O.S. 2001, Section 840-4.17, as
14 last amended by Section 2, Chapter 389, O.S.L. 2005
15 (74 O.S. Supp. 2009, Section 840-4.17), which relates
16 to merit system of personnel administration;
17 modifying agency retention procedure; and providing
18 an effective date.

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

20 SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-2.15, as
21 last amended by Section 1, Chapter 212, O.S.L. 2006 (74 O.S. Supp.
22 2009, Section 840-2.15), is amended to read as follows:

23 Section 840-2.15 A. The federal Fair Labor Standards Act, 29
24 U.S.C., Section 201, et seq., provides for minimum standards for
both wages and overtime entitlement, and spells out administrative
procedures by which covered work time must be compensated. This
section is not a comprehensive listing of the provisions of the Fair
Labor Standards Act and regulations promulgated thereunder, and is

1 not intended to conflict with either the Act or the regulations.
2 Nothing in this title or the federal Fair Labor Standards Act shall
3 be construed to prohibit an employer from paying an employee who is
4 required to work on a holiday, as defined in Section 82.1 of Title
5 25 of the Oklahoma Statutes, for such work at a rate of two times
6 the employee's regular hourly rate, or from rescheduling the holiday
7 at the discretion of the appointing authority; provided, however,
8 any state employee who is required to work on a holiday, as defined
9 in Section 82.1 of Title 25 of the Oklahoma Statutes, in the
10 performance of fire suppression duties shall receive holiday pay at
11 a rate of two times the employee's regular hourly rate.

12 B. Any employee receiving compensatory time consistent with the
13 provisions of the federal Fair Labor Standards Act shall exhaust
14 such compensatory time prior to the taking of annual leave, except
15 where the employee is subject to losing such annual leave due to the
16 application of the accumulation limits in Section 840-2.20 of this
17 title.

18 C. An employee receiving compensatory time under the provisions
19 of subsection A of this section shall be permitted to use accrued
20 compensatory time within one hundred eighty (180) days following the
21 ~~pay period in~~ day on which it was accrued, provided the taking of
22 compensatory time does not unduly impact agency operations or the
23 health, safety or welfare of the public, or endanger public
24 property. Agencies shall not be allowed to extend this one-hundred-

1 eighty-day time period for employees in an institutional setting.
2 The balance of any unused compensatory time received but not taken
3 during this time period shall be paid to the employee at the
4 employee's current regular hourly rate.

5 D. As used in this section, "institutional setting" shall mean
6 any agency or part of any agency where twenty-four-hour care,
7 monitoring or supervision is required for patients, clients or
8 inmates to protect public health, safety or property.

9 SECTION 2. AMENDATORY 74 O.S. 2001, Section 840-2.22, as
10 amended by Section 9, Chapter 312, O.S.L. 2004 (74 O.S. Supp. 2009,
11 Section 840-2.22), is amended to read as follows:

12 Section 840-2.22 The Administrator of the Office of Personnel
13 Management shall promulgate emergency and permanent leave rules as
14 necessary to implement the federal Family and Medical Leave Act of
15 1993 and rules thereto. Such leave rules shall permit an employee
16 to select any one or a combination of the following types of leave
17 to account for authorized absences covered by the Family and Medical
18 Leave Act of 1993: ~~leave without pay;~~ annual and sick leave
19 accumulated by the employee; ~~and annual and sick~~ leave donated by
20 other state employees; and compensatory time.

21 SECTION 3. AMENDATORY 74 O.S. 2001, Section 840-4.17, as
22 last amended by Section 2, Chapter 389, O.S.L. 2005 (74 O.S. Supp.
23 2009, Section 840-4.17), is amended to read as follows:

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1 Section 840-4.17 A. The Office of Personnel Management shall
2 make available one standard performance management system that shall
3 be used by all agencies for completing employee performance
4 evaluations. The purpose of this employee performance management
5 system is to evaluate the performance of each regular classified,
6 unclassified and exempt employee in the executive branch of state
7 government except those in the exempt unclassified service as
8 specified in paragraphs 1 and 2 of subsection A of Section 840-5.5
9 of this title and those employees employed by the institutions under
10 the administrative authority of The Oklahoma State System of Higher
11 Education.

12 B. The employee performance management system shall provide for
13 the following:

14 1. An objective evaluation by the immediate supervisor of the
15 performance of the employee within the assigned duties of the job.
16 The evaluation shall contain the agency number, date of review, and
17 employee identification number;

18 2. The identification by the immediate supervisor of
19 accountabilities and behaviors upon which the employee will be
20 evaluated;

21 3. A mid-term interview with the immediate supervisor for the
22 purpose of discussing the progress of the employee in meeting the
23 accountabilities and behaviors upon which the employee will be
24 evaluated;

1 4. Identification of performance strengths and performance
2 areas for development;

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

6 6. The opportunity for the employee to submit written comments
7 regarding the performance evaluation.

8 C. Each employee shall be rated at least thirty (30) days prior
9 to the end of the probationary period. Except as may otherwise be
10 provided by rules promulgated by the Administrator of the Office of
11 Personnel Management, after the end of the probation period, each
12 employee shall be evaluated at least annually on a twelve-month
13 period.

14 D. Any permanent classified employee who disagrees with the
15 employee's performance evaluation may file a grievance pursuant to
16 Section 840-6.2 of this title.

17 E. Any employee, regardless of status, who is required to be
18 evaluated pursuant to this section and who believes that the
19 employing agency has not complied with the requirements of
20 subsection B of this section may file a complaint through any
21 dispute resolution process made available through the employing
22 agency or, if there is no internal agency dispute resolution
23 process, through the Oklahoma Merit Protection Commission. The
24 Oklahoma Merit Protection Commission shall have jurisdiction to

1 investigate or hear appeals of the failure of an agency to comply
2 with the provisions of subsection B of this section.

3 F. The agency shall use employee evaluations of current or
4 former state employees in decisions regarding promotions,
5 appointments, demotions, performance pay increases and discharges.
6 Reductions-in-force shall not be considered discharges.

7 G. The agency shall retain a ~~copy~~ record of the performance
8 evaluation for each employee of the agency. ~~A copy of the~~
9 ~~performance evaluation shall be retained~~ in the employee's personnel
10 file.

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

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

21 SECTION 4. This act shall become effective November 1, 2010.

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