

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR ENGROSSED

5 SENATE BILL NO. 1046

By: Newberry of the Senate

and

McCullough of the House

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8  
9 SUBCOMMITTEE RECOMMENDATION

10 An Act relating to state employees; amending 74 O.S.  
11 2011, Section 840-3.1, which relates to supervisor  
12 training programs; requiring employees to complete  
13 certain training within certain time period;  
14 requiring certain employees to repeat training during  
15 certain time period; updating reference to certain  
16 agency; requiring notice to state agencies regarding  
17 compliance with certain training requirements;  
18 authorizing private entities to provide certain  
19 training; authorizing administrative fines for  
20 noncompliance; requiring report; amending 74 O.S.  
21 2011, Section 840-4.13, which relates to the Oklahoma  
22 Personnel Act; authorizing certain additional  
23 probationary period for certain classified employees;  
24 prohibiting certain appeal process; amending 74 O.S.  
2011, Section 841.30, which relates to the Oklahoma  
Compensation and Unclassified Positions Review Board;  
requiring Board to meet annually; requiring Board to  
consider increase in certain employee positions;  
requiring Board to review certain legislation;  
requiring certain legislation be referred to Board  
for review; providing for codification; and providing  
an effective date.

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

1 SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-3.1, is  
2 amended to read as follows:

3 Section 840-3.1 A. Each supervisor employed ~~as of January 1,~~  
4 ~~1993,~~ by a state agency, board or commission in the executive branch  
5 of state government, excluding those within The Oklahoma State  
6 System of Higher Education, shall attend, ~~prior to December 31,~~  
7 ~~1993,~~ a training program for supervisory personnel. The training  
8 program shall be established pursuant to subsection C of this  
9 section.

10 B. Employees appointed to supervisory positions ~~after January~~  
11 ~~1, 1993,~~ shall complete twenty-four (24) hours of training pursuant  
12 to subsection C of this section and training courses in State of  
13 Oklahoma management processes and progressive discipline as provided  
14 by or approved by the Office of State Finance within twelve (12)  
15 months of assuming such supervisory position. Thereafter,  
16 supervisors are required to complete twelve (12) hours of training  
17 pursuant to subsection C of this section each year and shall further  
18 complete training courses in State of Oklahoma management processes  
19 and progressive discipline each thirty-six (36) months. The  
20 appointing authority of each agency shall ensure each supervisory  
21 employee is notified and scheduled to attend such required training  
22 and shall make time available for each such employee to complete the  
23 training.

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1 C. 1. The ~~Administrator~~ Director of the Office of ~~Personnel~~  
2 ~~Management~~ State Finance shall promulgate any rules necessary to  
3 develop and implement training programs for supervisory personnel  
4 which shall include courses related to the effective performance of  
5 an agency manager or supervisor. ~~Rules authorized by this~~  
6 ~~subsection shall require supervisors to attend such training within~~  
7 ~~a reasonable period of time determined by the Administrator.~~

8 2. Training programs for supervisors under this section may be  
9 approved by the Office of ~~Personnel Management~~ State Finance;  
10 provided, however, such programs shall be subject to standards  
11 developed by the Office of ~~Personnel Management~~ State Finance. All  
12 state agencies, boards and commissions may participate in any such  
13 government employee training program established by a private entity  
14 or an institution that is a member of The Oklahoma State System of  
15 Higher Education and approved by the Office of ~~Personnel Management~~  
16 State Finance as provided for in this paragraph.

17 D. By January 1 of each year, the Office of State Finance shall  
18 notify agencies of the method for reporting their level of  
19 compliance with these requirements for the previous calendar year.  
20 The Office of State Finance may assess fines to agencies for not  
21 complying with subsections A through D of this section. Such fines  
22 shall not exceed One Hundred Dollars (\$100.00) per supervisor.  
23 Agencies may petition for the fine to be waived in extenuating  
24 circumstances. The Office of State Finance shall provide a summary

1 of the reports to the Governor, the President Pro Tempore of the  
2 Senate and Speaker of the House of Representatives.

3 SECTION 2. AMENDATORY 74 O.S. 2011, Section 840-4.13, is  
4 amended to read as follows:

5 Section 840-4.13 A. Based upon the results of competitive  
6 entrance examinations and registers, as provided by the Oklahoma  
7 Personnel Act, the ~~Administrator~~ Director of the Office of ~~Personnel~~  
8 ~~Management~~ State Finance shall certify to the appointing authority  
9 the names of the ten persons receiving the highest grade or score in  
10 said examinations plus all eligible applicants whose grade or score  
11 is tied with the lowest ranking of those so eligible.

12 B. In addition to establishing statewide registers pursuant to  
13 subsection A of this section, the ~~Administrator~~ Director is hereby  
14 authorized to promulgate rules creating a local register to fill a  
15 vacancy in a local office of an agency by providing a certificate of  
16 available names of eligible persons who are residents of the county  
17 where the local office is located or ~~said~~ the county and adjacent  
18 counties or a group of contiguous counties comprising a service area  
19 of an agency. Available eligible residents shall be certified ahead  
20 of other available eligible persons who reside outside the area of  
21 the local register. In filling vacant positions, the appointing  
22 authority shall select any one of the persons whose names have been  
23 so certified and may give preference in all cases to persons who  
24 have resided in this state for at least one (1) year prior to the

1 date of the examination. Provided, however, that any appointing  
2 authority authorized to employ persons who are not citizens of the  
3 United States, pursuant to Section 255 of this title, may request  
4 the Office to certify only the names of persons who are citizens of  
5 the United States in carrying out the provisions of this section;  
6 and such appointing authority may select any person so certified to  
7 the ~~Administrator~~ Director to fill such vacant positions even though  
8 a noncitizen may have received a higher grade on the examination.  
9 Provided, further, that any appointing authority may select special  
10 disabled veterans considered for employment pursuant to Sections 401  
11 through 404 of Title 72 of the Oklahoma Statutes. The Department of  
12 Public Safety, in filling vacancies for Highway Patrol Cadets, may  
13 disqualify any eligible whose name has been certified for Highway  
14 Patrol Cadet pursuant to subsection A of this section, if the  
15 Department of Public Safety considers the eligible in connection  
16 with the hiring of three other eligibles pursuant to subsection A of  
17 this section from that certificate. The name of such disqualified  
18 eligible shall be omitted from further certification to, and  
19 consideration by, the Department of Public Safety for appointment as  
20 a Highway Patrol Cadet to the Highway Patrol Academy for which  
21 vacancies are being filled. Such disqualification shall neither  
22 deprive any person of any preference pursuant to paragraph 3 of  
23 subsection A of Section 840-4.14 of this title nor deprive any  
24 person from certification to, and consideration by, the Department

1 of Public Safety for appointment as a Highway Patrol Cadet to a  
2 subsequent Highway Patrol Academy. The Department of Public Safety  
3 shall provide written notice of the disqualification to the Office  
4 of ~~Personnel Management~~ State Finance. The Department of  
5 Corrections, in filling vacancies for Correctional Officer Cadets  
6 and Probation and Parole Officers, may disqualify any eligible whose  
7 name has been certified for Correctional Officer Cadet or Probation  
8 and Parole Officer, pursuant to subsection A of this section, if the  
9 Department of Corrections considers the eligible in connection with  
10 the hiring of three other eligibles pursuant to subsection A of this  
11 section from that or any other certificate. The name of such  
12 disqualified eligible shall be omitted from future certification to,  
13 and consideration by, the Department of Corrections for appointment  
14 as a Correctional Officer Cadet or Probation and Parole Officer for  
15 a period of six (6) months, at which time the eligible may request  
16 restoration to the register by the Office of ~~Personnel Management~~  
17 State Finance. Such disqualification shall not deprive any person  
18 of any preference pursuant to paragraph 3 of subsection A of Section  
19 840-4.14 of this title. The Department of Corrections shall provide  
20 written notice of the disqualification to the Office of ~~Personnel~~  
21 ~~Management~~ State Finance.

22 C. Agencies may fill positions requiring professional practice  
23 licensure and hard-to-fill positions pursuant to authorization by  
24 the ~~Administrator~~ Director without regard to subsections A and B of

1 this section. The ~~Administrator~~ Director shall promulgate rules to  
2 authorize agencies to fill positions directly, pursuant to this  
3 subsection. Such rules shall include criteria for identifying  
4 professional practice licensure positions and hard-to-fill positions  
5 which shall not require establishment of an employment list of  
6 eligible persons or the application of veterans preference. The  
7 ~~Administrator~~ Director shall monitor appointments made by agencies  
8 pursuant to this subsection and shall establish recordkeeping and  
9 reporting procedures and the conditions under which the  
10 ~~Administrator~~ Director may withdraw authorization for agencies to  
11 directly hire persons into hard-to-fill positions. Nothing in this  
12 subsection shall be construed to waive any requirement for any job  
13 or position established by statute or the ~~Administrator~~ Director.

14 D. Every person, except as provided in ~~subsection~~ subsections E  
15 and F of this section, upon initial appointment under the classified  
16 service, shall be appointed for a probationary period of one (1)  
17 year, except that the appointing authority may waive in writing the  
18 remainder of the probationary period at any time after a  
19 probationary employee has served six (6) months; provided, however,  
20 that the employee and the ~~Administrator~~ Director of the Office of  
21 ~~Personnel Management~~ State Finance shall be notified in writing as  
22 to such action and the reason therefor. The probationary  
23 appointment of any person may be terminated at any time during the  
24 probationary period without the right of appeal. At the close of

1 the probationary period, as herein provided, ~~said~~ the person shall  
2 acquire a permanent status under the conditions prescribed in the  
3 Oklahoma Personnel Act.

4 E. At the end of the initial one-year probationary period as  
5 provided in subsection D of this section, if a classified employee  
6 is subject to a corrective action plan as provided by merit rule,  
7 the appointing authority may allow the employee an additional six-  
8 month probationary period and, at the end of this period if the  
9 employee is still subject to a corrective action plan, the  
10 appointing authority may allow a subsequent six-month probationary  
11 period for a total additional probationary period not to exceed  
12 twelve (12) months. During the extended probationary period the  
13 employee, if terminated by the appointing authority, may utilize the  
14 internal grievance process available at the agency level and shall  
15 not be authorized to appeal to the Merit Protection Commission.

16 F. Every person initially appointed under the classified  
17 service as an agent of the Alcoholic Beverage Laws Enforcement  
18 Commission shall be appointed for a probationary period of one (1)  
19 year.

20 ~~F.~~ G. In working with appointing authorities in determining  
21 minimum qualifications for a position, the ~~Administrator~~ Director of  
22 the Office of ~~Personnel Management~~ State Finance shall require an  
23 appointing authority to justify in writing any reasons for excluding  
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1 from consideration relevant public or private sector experience  
2 applicable to the position.

3 SECTION 3. AMENDATORY 74 O.S. 2011, Section 841.30, is  
4 amended to read as follows:

5 Section 841.30 A. There is hereby created the Oklahoma  
6 Compensation and Unclassified Positions Review Board.

7 B. The Oklahoma Compensation and Unclassified Positions Review  
8 Board shall be composed of the following seven (7) members:

9 1. Two members of the Oklahoma Senate appointed by the  
10 President Pro Tempore of the Senate;

11 2. Two members of the Oklahoma House of Representatives  
12 appointed by the Speaker of the House of Representatives;

13 3. Two members appointed by the Governor, one to be from a  
14 state agency with five hundred (500) or more employees and the other  
15 to be from a state agency with fewer than five hundred (500)  
16 employees; and

17 4. The chief executive officer of the largest organization in  
18 the state that represents state employees, or a designee.

19 C. After the initial appointments, the members shall serve  
20 four-year terms, and the appointing authorities may fill any  
21 vacancies as they occur. ~~The term of the members appointed by the~~  
22 ~~President Pro Tempore of the Senate shall expire July 1, 2004. The~~  
23 ~~term of the members appointed by the Speaker of the House of~~  
24 ~~Representatives shall expire July 1, 2005. The term of the members~~

1 ~~appointed by the Governor shall expire July 1, 2006. The term of~~  
2 ~~the members appointed by the largest organization in the state that~~  
3 ~~represents state employees shall expire July 1, 2007.~~

4 D. The Board shall elect one of its members as chair.

5 E. The Board shall review the study of the Office of ~~Personnel~~  
6 ~~Management~~ State Finance, as required by paragraph 19 of Section  
7 840-1.6A of this title, and make recommendations which may include  
8 compensation adjustments, pay band adjustments, targeted salary  
9 increases, and other recommendations related to turnover, fringe  
10 benefits and other compensation issues concerning state employees,  
11 but excluding retirement issues. The recommendations shall be made  
12 to the President Pro Tempore of the Senate, Speaker of the House of  
13 Representatives, and Governor on or before February 1 of the year  
14 following each biennial meeting.

15 F. The Board shall meet in December ~~2005 and in December of~~  
16 ~~every odd-numbered year thereafter~~ to consider compensation  
17 ~~recommendations. The Board shall meet every year to consider and~~  
18 unclassified positions recommendations. Any additional meetings  
19 shall be at the call of the chair.

20 G. The Board shall review and make recommendations concerning  
21 the unclassified service as follows:

22 1. State agencies subject to the provisions of the Merit System  
23 of Personnel Administration shall submit requests to the  
24 ~~Administrator~~ Director of the Office of ~~Personnel Management~~ State

1 Finance for authorizations for unclassified positions, any increase  
2 in unclassified positions, and employees that are in addition to  
3 unclassified positions already authorized by law. The ~~Administrator~~  
4 Director shall forward the requests to the Board. The ~~Administrator~~  
5 Director shall review, analyze, and provide recommendations to the  
6 Board regarding the requests. The Board shall meet in December of  
7 each year and shall review any agency proposals to add unclassified  
8 positions to the state service. A representative from each  
9 appointing authority of a state agency that desires to add  
10 unclassified positions shall attend the meeting and present the  
11 proposal of the agency. The Board shall also review positions  
12 currently in the unclassified service. The ~~Administrator~~ Director  
13 of the Office of ~~Personnel Management~~ State Finance shall review and  
14 analyze such positions and provide recommendations to the Board.  
15 The Board may request the presence of state agency representatives  
16 to provide information concerning such positions.

17 2. On or before February 1 of each year, the Board shall  
18 present any recommendations to the President Pro Tempore of the  
19 State Senate and the Speaker of the Oklahoma House of  
20 Representatives concerning current positions in the unclassified  
21 service and agency proposals to add unclassified positions.

22 3. The Board may also meet during the regular session of the  
23 Legislature to consider any additional requests to add unclassified  
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1 positions to the state service submitted pursuant to this  
2 subsection.

3 H. A majority of the members of the Board shall constitute a  
4 quorum for the transaction of business. Each Board member shall be  
5 entitled to one vote on the Board. Any official action of the Board  
6 must have a majority of the votes of the members present.

7 I. Each member of the Board shall serve without compensation  
8 except that each legislative member of the Board shall receive  
9 reimbursement for travel expenses in accordance with Section 456 of  
10 this title and each nonlegislative member of the Board shall receive  
11 reimbursement for travel expenses in accordance with the State  
12 Travel Reimbursement Act by the Office of ~~Personnel Management~~ State  
13 Finance.

14 J. Staffing for the Board shall be composed of the Office of  
15 ~~Personnel Management~~ State Finance, Oklahoma Senate staff, and  
16 Oklahoma House of Representatives staff as needed.

17 SECTION 4. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 841.31 of Title, unless there is  
19 created a duplication in numbering, reads as follows:

20 Any legislation authored by a member of the Senate or the House  
21 of Representatives amending the Oklahoma Personnel Act shall be  
22 referred to the Oklahoma Compensation and Unclassified Positions  
23 Review Board for review and analysis. The results of the analysis  
24 shall be sent to the author of the legislation, the President Pro

1 Tempore of the Oklahoma State Senate, the Speaker of the House of  
2 Representatives, and members of the House and Senate committee to  
3 which the legislation was initially assigned.

4 SECTION 5. This act shall become effective November 1, 2012.

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