STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1728

By: Newberry and Eason McIntyre of the Senate

and

Denney of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to discriminatory practices; amending 22 O.S. 2011, Section 34.4 and 34.5, which relate to racial profiling; transferring certain responsibilities of Oklahoma Human Rights Commission to the Attorney General; creating the Oklahoma Anti-Discrimination Act; providing short title; amending 25 O.S. 2011, Sections 1101, 1201, 1301, 1302, 1310, 1350, 1401, 1451, 1452, 1453, 1501, 1502, 1502.1, 1502.6, 1502.15, 1505.1, 1506.1, 1506.2, 1506.3, 1506.4, 1506.6, 1506.7, 1601, 1704, 1705 and 1706, which relate to discrimination in employment, discrimination in public accommodations, discrimination in housing, the Human Rights Commission, other discriminatory practices and local commissions; specifying applicability of act for remedies for certain discrimination or retaliation; modifying definitions; prohibiting retaliation for certain actions; transferring certain responsibilities of Oklahoma Human Rights Commission to the Attorney General; conforming language; modifying certain complaint procedures; clarifying statutory references; modifying definitions; construing provisions; updating statutory outline; modifying certain powers and duties of Attorney General; transferring certain responsibilities of Oklahoma Human Rights Commission to the Attorney General; conforming language; modifying certain complaint procedures; modifying procedures for certain agreements; modifying procedures for filing

certain actions; modifying certain statute of limitations; conforming language; modifying eligibility for certain damages; updating statutory references; modifying certain enforcement powers; modifying certain definition; conforming language; amending 73 O.S. 2011, Section 163.2, which relates to deposit of funds; removing Human Rights Commission from certain requirement; amending 74 O.S. 2011, Sections 840-2.1, 840-5.5 and 954, which relate to affirmative action, unclassified service and discrimination in state employment; conforming language; repealing 25 O.S. 2011, Sections 1502.2, 1502.3, 1502.4, 1502.5, 1502.7, 1502.8, 1502.9, 1502.10, 1502.11, 1502.12, 1502.13, 1502.14, 1503, 1504, 1505, 1506, 1506.5, 1506.8, 1507, 1508 and 1604, which relate to the Oklahoma Human Rights Commission; repealing 74 O.S. 2011, Sections 952, 953 and 955, which relate to the Oklahoma Human Rights Commission; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 34.4, is amended to read as follows:

Section 34.4. Whenever a person who is stopped or arrested believes the stop or arrest was in violation of Section ~~1~~ 34.3 of this ~~act~~ title, that person may file a complaint with the ~~Oklahoma Human Rights Commission~~ Attorney General and may also file a complaint with the district attorney for the county in which the stop or arrest occurred. A copy of the complaint shall be forwarded to the arresting officer's employer by the ~~Commission~~ Attorney General. The employer shall investigate the complaint for purposes of disciplinary action and/or criminal prosecution.

SECTION 2. AMENDATORY 22 O.S. 2011, Section 34.5, is amended to read as follows:

Section 34.5. A. The ~~Oklahoma Human Rights Commission~~ Attorney General shall promulgate rules establishing procedures for filing a racial profiling complaint with the ~~Oklahoma Human Rights Commission~~ Attorney General and the district attorney and the process for delivering a copy of the complaint by the ~~Commission~~ Attorney General to the employing agency. The ~~Commission~~ Attorney General, in consultation with the Governor's Cabinet Secretary for Safety and Security, shall promulgate forms for complaints of racial profiling.

B. The ~~Commission~~ Attorney General shall compile an annual report of all complaints received for racial profiling and submit the report on or before January 31 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100 of Title 25, unless there is created a duplication in numbering, reads as follows:

Sections 1101 through 1706 of Title 25 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Anti-Discrimination Act".

SECTION 4. AMENDATORY 25 O.S. 2011, Section 1101, is amended to read as follows:

Section 1101. A. This act provides for exclusive remedies within the state ~~of the policies~~ for ~~individuals alleging~~ discrimination in employment, housing and public accommodations on the basis of race, color, national origin, sex, religion, creed, age, disability or genetic information; and for retaliation against employees who have opposed or reported discrimination or participated in provisions available pursuant to the Oklahoma Anti-Discrimination Act.

B. This act shall be construed according to the fair import of its terms to further the general purposes stated in this section and the special purposes of the particular provision involved.

SECTION 5. AMENDATORY 25 O.S. 2011, Section 1201, is amended to read as follows:

Section 1201. ~~In this act, unless the context otherwise requires,~~ As used in the Oklahoma Anti-Discrimination Act:

~~(1) "Commission" means the Human Rights Commission created by 74 Oklahoma Statutes, Section 952~~

1. "Attorney General" means the Oklahoma Attorney General's Office of Civil Rights Enforcement;

~~(2) "Commissioner" means a member of the Commission~~

2. "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of the complaint through informal negotiations involving the aggrieved person, the alleged discriminating party and the Attorney General;

~~(3)~~ 3. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation;

4. "Discriminatory practice" means a practice designated as discriminatory or retaliatory under the terms of this act;

~~(4)~~ 5. "National origin" includes the national origin of an ancestor; and

~~(5)~~ 6. "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, any other legal or commercial entity, the state, or any governmental entity or agency.

SECTION 6. AMENDATORY 25 O.S. 2011, Section 1301, is amended to read as follows:

Section 1301. As used in ~~Section 1101 et seq.~~ Sections 1301 through 1350 of this title:

1. "Employer" means:

a. a legal entity, institution or organization that pays one or more individuals a salary or wages for work performance, or

b. a legal entity, institution or organization which contracts or subcontracts with the state, a governmental entity or a state agency to furnish material or perform work.

Employer does not include a Native American tribe or a bona fide membership club, other than a labor organization, that is exempt from taxation under Title 26, Section 501(c) of the United States Code;

2. "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person;

3. "Labor organization" means:

a. an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment,

b. a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, or

c. an agent of a labor organization;

4. "Individual with a disability" means a person who has a physical or mental impairment which substantially limits one or more

of such person's major life activities, has a record of such an impairment or is regarded as having such an impairment;

5. "Age discrimination in employment" means discrimination in employment of persons who are at least forty (40) years of age;

6. "Sex", "because of sex" or "based on sex" includes, but is not limited to, pregnancy, childbirth or related medical conditions; women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes as other persons not so affected but similar in their ability or inability to work;

7. "Genetic information" means information derived from the results of a genetic test. "Genetic information" shall not include family history, the results of a routine physical examination or test, the results of a chemical, blood or urine analysis, the results of a test to determine drug use, the results of a test for the presence of the human immunodeficiency virus, or the results of any other test commonly accepted in clinical practice at the time it is ordered; ~~and~~

8. "Employee" means an individual who receives a salary or wages from an employer. Employee shall not include independent contractors; and

9. "Employment-based retaliation" means any adverse employment action an employer takes against an employee because the employee has opposed discriminatory practice or participates in the

provisions of Sections 1301 through 1350 of this title. Such adverse employment actions include, but are not limited to, disciplinary action, demotion or termination.

SECTION 7. AMENDATORY 25 O.S. 2011, Section 1302, is amended to read as follows:

Section 1302. A. It is a discriminatory or retaliatory practice for an employer:

1. To fail or refuse to hire, to discharge, or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, privileges or responsibilities of employment, because of race, color, religion, sex, national origin, age, genetic information or disability, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such employer; or

2. To limit, segregate, or classify an employee or applicant for employment in a way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee, because of race, color, religion, sex, national origin, age, genetic information or disability, unless the employer can demonstrate that accommodation for the disability would impose an undue hardship on the operation of the business of such employer; or

3. To engage in employment-based retaliation against an employee because he or she has opposed or reported a discriminatory

practice, or because he or she has made a charge, filed a complaint, testified, assisted or in any manner participated in an investigation, proceeding or hearing pursuant to Sections 1301 through 1350 of this title or pursuant to federal law.

B. This section does not apply to the employment of an individual by his or her parents, spouse, or child or to employment in the domestic service of the employer.

SECTION 8. AMENDATORY 25 O.S. 2011, Section 1310, is amended to read as follows:

Section 1310. Nothing contained in ~~Section 1101 et seq. of this title~~ the Oklahoma Anti-Discrimination Act requires an employer, employment agency, labor organization, or joint labor-management committee subject to ~~Section 1101 et seq. of this title~~ the Oklahoma Anti-Discrimination Act to grant preferential treatment to an individual or to a group because of race, color, religion, sex, national origin, age, disability, or genetic information of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, national origin, age, disability, or genetic information employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship, or other training or retraining program, in comparison with the total number or percentage of

persons of the race, color, religion, sex, national origin, age, disability, or genetic information in the state or a community, section, or other area, or in the available work force in the state or a community, section, or other area. However, it is not a discriminatory practice for a person subject to ~~Section 1101 et seq. of this title~~ the Oklahoma Anti-Discrimination Act to voluntarily adopt and carry out a plan to eliminate or reduce imbalance with respect to race, color, religion, sex, national origin, age, disability, or genetic information if the plan has been filed with, and not disapproved by, the ~~Oklahoma Human Rights Commission under regulations of the Commission and the Commission has not disapproved the plan~~ Attorney General.

SECTION 9. AMENDATORY 25 O.S. 2011, Section 1350, is amended to read as follows:

Section 1350. A. A cause of action for employment-based discrimination and employment-based retaliation is hereby created and any common law remedies are hereby abolished.

B. In order to have standing in a court of law to allege discrimination arising from an employment-related matter, in a cause of action against an employer for discrimination based on race, color, religion, sex, national origin, age, disability, genetic information with respect to the employee, or employment-based retaliation, an aggrieved party first must, within one hundred eighty (180) days from the last date of alleged discrimination, file

a ~~charge of discrimination in employment with the Oklahoma Human Rights Commission or the Equal Employment Opportunity Commission~~ complaint with the Attorney General alleging the basis of discrimination believed to have been perpetrated on the aggrieved party. ~~Upon completion of any investigation, the Oklahoma Human Rights Commission shall transmit the results of any administrative hearing and determination to the Equal Employment Opportunity Commission or issue the complaining party a Notice of a Right to Sue~~ A complaint filed with the Attorney General shall conform to the requirements set forth in Section 1502 of this title.

C. Should a ~~charge of~~ discrimination or employment-based retaliation complaint be filed with the ~~Oklahoma Human Rights Commission~~ Attorney General pursuant to this section and not be resolved to the satisfaction of the ~~charging party within one hundred eighty (180) days from the date of filing of such charge~~ complainant, the ~~Commission~~ Attorney General, upon request of any party shall issue a Notice of a Right to Sue, which must be first obtained ~~in order to~~ before a complainant may commence a civil action under this section.

D. All civil actions brought pursuant to ~~a Notice of a Right to Sue from the Oklahoma Human Rights Commission for redress against any person who is alleged to have discriminated against the charging party and against any person named as respondent in the charge~~ subsection C of this section shall be commenced in the district

court of this state for the county in which the unlawful employment practice is alleged to have been committed.

E. Either party in any such action shall be entitled to a jury trial of any facts in dispute in the action if otherwise entitled to a jury trial under state law.

F. The defending party may allege any defense that is available under federal law, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Pregnancy Discrimination Act, the ~~Rehibilitation~~ Rehabilitation Act, the Americans with Disabilities Act, or the Genetic Information Nondiscrimination Act.

G. If it is determined in such action that the defendant or defendants in such action have discriminated against the ~~charging party~~ plaintiff as charged in the petition, the court may enjoin the defendant or defendants from engaging in such unlawful employment practice charged in the petition~~, the court may enjoin respondent from engaging in such unlawful practice~~ and order such affirmative action as ~~reinstatment~~ reinstatement or hiring of employees. A prevailing ~~aggrieved party~~ plaintiff shall also be entitled to backpay and an additional amount as liquidated damages. Interim earnings or amounts earnable with reasonable diligence by the person discriminated against shall operate to reduce the backpay otherwise allowable. If an individual was refused employment or advancement, was suspended ~~and/or~~ or was discharged for legitimate reasons other

than discrimination as provided by this act, then no order of the court shall require the hiring, reinstatement or promotion of that individual as an employee, nor shall it order payment of any backpay.

H. In any action or proceeding under this section, the court may allow a prevailing plaintiff or defendant a reasonable attorney fee.

I. No action may be filed in district court as provided in this section more than ninety (90) days after receiving a Notice of a Right to Sue from the ~~Oklahoma Human Rights Commission~~ Attorney General.

SECTION 10. AMENDATORY 25 O.S. 2011, Section 1401, is amended to read as follows:

As used in ~~this act unless the context requires otherwise~~ Sections 1401 and 1402 of this title:

~~(1)~~ 1. "Place of public accommodation" includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds~~:~~; except that, ~~(i)~~ a private club is not a place of public accommodation, if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; and

~~(2)~~ 2. "Place of public accommodation" does not include barber shops or beauty shops or privately-owned resort or amusement establishments or an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of the establishment as his residence.

SECTION 11. AMENDATORY 25 O.S. 2011, Section 1451, is amended to read as follows:

Section 1451. A. As used in Sections 1451 through 1453 of this title:

1. "Elderly person" means any natural person fifty-five (55) years of age or older;

2. "Dwelling" means:

a. any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families, or

b. any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure described in subparagraph a of this paragraph;

3. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts,

unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries, the state, and all political subdivisions and agencies thereof;

4. "Restrictive covenants" means any specification limiting the transfer, rental, or lease of any dwelling because of race, color, religion, sex, national origin, age, disability, or familial status;

5. ~~"Discriminatory housing practices" means an act that is prohibited pursuant to Section 1452 of this title;~~

~~6.~~ "Disability" means a mental or physical impairment that substantially limits at least one major life activity, when there is a record of such an impairment, or the individual is regarded as having such an impairment. The term does not include current illegal use of or addiction to any drug or illegal or federally controlled substance. For purposes of Sections 1451 through 1453 of this title, "an individual with a disability" or "disability" does not apply to an individual because of sexual orientation or the sexual preference of the individual or because that individual is a transvestite;

~~7.~~ 6. "Unlawful discriminatory practice because of age" means an act prohibited pursuant to Section 1452 of this title against a person at least eighteen (18) years of age or older solely on that basis;

~~8.~~ 7. "Aggrieved person" means any person who:

a. claims to have been injured by a discriminatory housing practice, or

b. believes that he or she will be injured by a discriminatory housing practice that is about to occur;

~~9.~~ 8. "Complainant" means a person, ~~the Commission, or~~ including but not limited to the Attorney General, who files a complaint pursuant to Section 1452 of this title;

~~10. "Commission" means the Oklahoma Human Rights Commission;~~

~~11. "Conciliation" means the attempted resolution of issues raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent, and the Commission;~~

~~12. "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation;~~

~~13.~~ 9. "Discriminatory housing practice" means an act prohibited by Section 1452 of this title;

~~14.~~ 10. "Family" includes a single individual;

~~15.~~ 11. "Respondent" means~~:~~

~~a.~~ the person accused of a violation of Sections 1451 through 1453 of this title in a complaint of a discriminatory housing practice~~, or~~

~~b. any person identified as an additional or substitute respondent pursuant to Section 1502.5 of this title or~~

~~an agent of an additional or substitute respondent~~;

and

~~16.~~ 12. "To rent" means to lease, to sublease, to let, or to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

B. For purposes of Sections 1451 through 1453 of this title, a discriminatory act is committed because of familial status only if the act is committed because the person who is the subject of discrimination is:

1. Pregnant;

2. Domiciled with an individual less than eighteen (18) years of age in regard to whom the person:

a. is the parent or legal custodian, or

b. has the written permission of the parent or legal custodian for domicile with that person; or

3. In the process of obtaining legal custody of an individual less than eighteen (18) years of age.

SECTION 12. AMENDATORY 25 O.S. 2011, Section 1452, is amended to read as follows:

Section 1452. A. It shall be an unlawful discriminatory housing practice for any person, or any agent or employee of such person:

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of any

housing, or otherwise make unavailable or deny any housing because of race, color, religion, gender, national origin, age, familial status, or disability;

2. To discriminate against any person in the terms, conditions, or privileges of sale or rental of housing, or in the provision of services or facilities in connection with any housing because of race, color, religion, gender, national origin, age, familial status, or disability;

3. To ~~make, print, publish, or~~ cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of housing that indicates any preference, limitation, discrimination, or intention to make any such preference, limitation, or discrimination because of race, color, religion, gender, national origin, age, familial status, or disability; <u>nothing herein shall be construed to mean that printing or publishing such matter for a third party is an unlawful discriminatory housing practice.</u>

4. To represent to any person, for reasons of discrimination, that any housing is not available for inspection, sale, or rental when such housing is in fact so available because of race, color, religion, gender, national origin, age, familial status, or disability;

5. To deny any person access to, or membership or participation in, a multiple-listing service, real estate brokers' organization or

other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, gender, national origin, age, familial status, or disability;

6. To include in any transfer, sale, rental, or lease of housing any restrictive covenant that discriminates, or for any person to honor or exercise, or attempt to honor or exercise, any discriminatory covenant pertaining to housing because of race, color, religion, gender, national origin, age, familial status, or disability;

7. To refuse to consider the income of both applicants when both applicants seek to buy or lease housing because of race, color, religion, gender, national origin, age, familial status, or disability;

8. To refuse to consider as a valid source of income any public assistance, alimony, or child support, awarded by a court, when that source can be verified as to its amount, length of time received, regularity, or receipt because of race, color, religion, gender, national origin, age, familial status, or disability;

9. To discriminate against a person in the terms, conditions, or privileges relating to the obtaining or use of financial assistance for the acquisition, construction, rehabilitation,

repair, or maintenance of any housing because of race, color, religion, gender, national origin, age, familial status, or disability;

10. To discharge, demote, or discriminate in matters of compensation or working conditions against any employee or agent because of the obedience of the employee or agent to the provisions of this section;

11. To solicit or attempt to solicit the listing of housing for sale or lease, by door to door solicitation, in person, or by telephone, or by distribution of circulars, if one of the purposes is to change the racial composition of the neighborhood;

12. To knowingly induce or attempt to induce another person to transfer an interest in real property, or to discourage another person from purchasing real property, by representations regarding the existing or potential proximity of real property owned, used, or occupied by persons of any particular race, color, religion, gender, national origin, age, familial status or disability, or to represent that such existing or potential proximity shall or may result in:

a. the lowering of property values,

b. a change in the racial, religious, or ethnic character of the block, neighborhood, or area in which the property is located,

c. an increase in criminal or antisocial behavior in the area, or

d. a decline in quality of the schools serving the area;

13. To refuse to rent or lease housing to a blind, deaf, or disabled person on the basis of the person's use or possession of a bona fide, properly trained guide, signal, or service dog;

14. To demand the payment of an additional nonrefundable fee or an unreasonable deposit for rent from a blind, deaf, or disabled person for such dog. Such blind, deaf, or disabled person may be liable for any damage done to the dwelling by such dog; <u>and</u>

15. a. to discriminate in the sale or rental or otherwise make available or deny a dwelling to any buyer or renter because of a disability of:

(1) that buyer or renter,

(2) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or

(3) any person associated with that buyer or renter, or

b. to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

(1) that person,

(2) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available, or

(3) any person associated with that person~~;~~.

~~16.~~ B. 1. For purposes of disability discrimination in housing pursuant to Sections 1451 through 1453 of this title, discrimination includes:

a. a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, provided that such person also provides a surety bond guaranteeing restoration of the premises to their prior condition, if necessary to make the premises suitable for nondisabled tenants,

b. a refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling, or

c. in connection with the design and construction of covered multifamily dwellings for first occupancy thirty (30) months after the date of enactment of the federal Fair Housing Amendments Act of 1988 (Public

Law 100-430), a failure to design and construct those dwellings in a manner that:

(1) the public use and common use portions of the dwellings are readily accessible to and usable by disabled persons,

(2) all the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs, and

(3) all premises within the dwellings contain the following features of adaptive design:

(a) an accessible route into and through the dwelling,

(b) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations,

(c) reinforcements in bathroom walls to allow later installation of grab bars, and

(d) usable kitchen and bathrooms so that an individual in a wheelchair can maneuver about the space~~,~~.

~~(4) compliance~~

Compliance with the appropriate requirements of the American National Standard for buildings and

facilities providing accessibility and usability for physically disabled people, commonly cited as "ANSI A 117.1", suffices to satisfy the requirements of this division ~~(3) of this subparagraph,~~.

~~(5) as~~

2. As used in this subsection, the term "covered multifamily dwellings" means:

~~(a)~~

a. buildings consisting of four or more units if the buildings have one or more elevators, and

~~(b)~~

b. ground floor units in other buildings consisting of four or more units~~,~~.

~~(6) nothing~~

3. Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others~~; or~~.

~~17. a.~~

C. 1. A person whose business includes engaging in residential real estate related transactions may not discriminate against a person in making a real estate related transaction available or in

the terms or conditions of a real estate related transaction because of race, color, religion, gender, disability, familial status, national origin or age.

~~b.~~

2. In this section, "residential real estate related transaction" means:

~~(1)~~

a. making or purchasing loans or providing other financial assistance:

~~(a)~~

(1) to purchase, construct, improve, repair, or maintain a dwelling, or

~~(b)~~

(2) to secure residential real estate, or

~~(2)~~

b. selling, brokering, or appraising residential real property.

~~B.~~ D. This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

~~C.~~ E. No other categories or classes of persons are protected pursuant to Sections 1451 through 1453 of this title. The ~~Oklahoma Human Rights Commission~~ Attorney General shall have no authority or

jurisdiction to act on complaints based on any kind of discrimination other than those kinds of discrimination prohibited pursuant to ~~Section 1101 et seq. of this title~~ the Oklahoma Anti-Discrimination Act or any other specifically authorized by law.

SECTION 13. AMENDATORY 25 O.S. 2011, Section 1453, is amended to read as follows:

Section 1453. A. Nothing provided for in Sections 1451 through 1453 of this title shall:

1. Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preferences to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in Sections 1451, 1452, 1453, 1501~~, 1505~~ and 1505.1 of this title apply to a private membership club which is a bona fide club and which is exempt from taxation pursuant to Section 501(c) of the Internal Revenue Code of 1954;

2. Prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from:

a. limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, or

b. giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin; or

3. Prohibit a private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members~~,~~.

~~4.~~ B. Nothing provided for in Sections 1451 through 1453 of this title relating to familial status applies to housing for older persons. As used in this section, "housing for older persons" means housing:

~~a. that the Oklahoma Human Rights Commission determines~~

1. That is specifically designed and operated to assist elderly persons pursuant to a federal or state program~~,~~;

~~b. intended~~

2. Intended for, and solely occupied by, persons sixty-two (62) years of age or older~~,~~; or

~~c. intended~~

3. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit ~~as determined by Commission rules;~~.

~~5. a.~~

C. 1. Subject to ~~subdivision (b)~~ division (2) of ~~division (1)~~ subparagraph a of this ~~subparagraph~~ paragraph, Sections 1451 through 1453 of this title do not apply to:

~~(1)~~

a. the sale or rental of a single-family house sold or rented by an owner if:

~~(a)~~

(1) the owner does not:

~~(i)~~

(a) own more than three ~~(3)~~ single-family houses at any one time, or

~~(ii)~~

(b) own any interest in, or is there owned or reserved on his or her behalf, pursuant to any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three ~~(3)~~ single-family houses at any one time, and

~~(b)~~

(2) the house was sold or rented without:

~~(i)~~

(a) the use of the sales or rental facilities or services of a real estate broker, agent, or salesman licensed pursuant to the Oklahoma Real Estate License Code, or of an employee or agent of a licensed broker, agent, or salesman, or the facilities or services of the owner of a dwelling designed or intended for occupancy by five ~~(5)~~ or more families, or

~~(ii)~~

(b) the publication, posting, or mailing of a notice, statement, or advertisement prohibited by Section 1452 of this title, or

~~(2)~~

b. the sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four ~~(4)~~ families living independently of each other, if the owner maintains and occupies one of the living quarters as the owner's residence~~,~~.

~~b.~~

2. The exemption in ~~division (1) of~~ subparagraph a of ~~this~~ paragraph 1 of this subsection applies to only one sale or rental in a twenty-four-month period, if the owner was not the most recent resident of the house at the time of the sale or rental~~;~~.

~~6.~~ D. Nothing provided for in Sections 1451 through 1453 of this title shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, age, religion, gender, disability, familial status, or national origin~~;~~.

~~7.~~ E. Nothing provided for in Sections 1451 through 1453 of this title shall affect a reasonable local or state restriction on the maximum number of occupants permitted to occupy a dwelling or restriction relating to health or safety standards~~;~~.

~~8.~~ F. Nothing provided for in Sections 1451 through 1453 of this title shall prevent or restrict the sale, lease, rental, transfer, or development of housing designed or intended for the use of the disabled~~;~~.

~~9.~~ G. Nothing provided for in Sections 1451 through 1453 of this title shall affect a requirement of nondiscrimination in any other state or federal law~~;~~.

~~10.~~ H. Nothing provided for in Sections 1451 through 1453 of this title shall prohibit the transfer of property by will, intestate succession, or by gift.

SECTION 14. AMENDATORY 25 O.S. 2011, Section 1501, is amended to read as follows:

Section 1501. A. ~~Within the limitations provided by law, the Human Rights Commission~~ To enforce the provisions of this act, and in addition to any other powers provided by the laws of this state, the Attorney General has the following ~~additional~~ powers:

1. ~~to promote the creation of local commissions on human rights, and to contract with individuals and state, local and other agencies, both public and private, including agencies of the federal government and of other states;~~

~~2. to accept public grants or private gifts, bequests, or other payments;~~

~~3.~~ To receive, investigate, seek to conciliate, ~~hold hearings on, and pass~~ and, where conciliation is unsuccessful, initiate enforcement actions based upon complaints alleging violations of this act;

~~4.~~ 2. To furnish technical assistance requested by persons subject to this act to further compliance with the act or an order issued thereunder;

~~5. to make provisions for technical and clerical assistance to an advisory committee or committees appointed in accordance with subsection (b) of Section 953 of Title 74 of the Oklahoma Statutes;~~

~~6.~~ 3. To require answers to interrogatories, under the procedures established by Section ~~3210~~ 3233 of Title 12 of the

Oklahoma Statutes, issue subpoenas, compel the attendance of witnesses, examine witnesses under oath or affirmation, and require the production of documents in connection with the investigation of complaints filed under this act, said powers to be exercised only in relation to areas directly and materially related to the complaint. ~~The Commission may make rules authorizing any member or hearing examiner designated by order to pass upon a complaint after a hearing under Section 1503 of this title, and such decision must be approved in writing by a majority of the membership of the Commission~~ The Attorney General shall have access at any reasonable time to premises, records and documents relevant to the complaint and the right to examine, photograph and copy evidence, in accordance with Section 3234 of Title 12 of the Oklahoma Statutes;

~~7. to hear, and issue orders on, complaints involving state government agencies and departments on the same basis as complaints involving private employers;~~ and

~~8.~~ 4. To provide technical assistance and public information to assist in preventing and eliminating discriminatory ~~housing~~ practices in housing, employment or public accommodations within this state.

B. The ~~Commission~~ Attorney General shall:

1. At least annually, publish a written report recommending legislative or other action to carry out the purposes of this act as it relates to housing discrimination;

~~2. make studies relating to the nature and extent of discriminatory housing practices in this state;~~ and

~~3.~~ 2. Cooperate with and, as appropriate, may provide technical and other assistance to federal, state, local, and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory ~~housing~~ practices in housing, employment or public accommodations within this state.

SECTION 15. AMENDATORY 25 O.S. 2011, Section 1502, is amended to read as follows:

Section 1502. A. A person claiming to be aggrieved by a discriminatory practice~~, his~~ prohibited by the Oklahoma Anti-Discrimination Act or the person's attorney~~, the Attorney General, a nonprofit organization chartered for the purpose of combatting discrimination or a member of the Commission,~~ may file with the ~~Commission~~ Attorney General a written sworn complaint stating that a discriminatory practice has been committed, and setting forth the facts upon which the complaint is based~~, and setting forth facts sufficient to enable the Commission to identify the person charged, hereinafter called the respondent~~. The ~~Commission or a member of the Commission or the staff~~ Attorney General shall promptly ~~furnish the respondent with a copy of the~~ review each complaint ~~and shall promptly investigate the allegations of discriminatory practice set forth in the~~ to determine if the complaint contains a sufficient factual basis to warrant further investigation. ~~The~~ Any complaint

~~must be~~ filed pursuant to this section shall be filed within one hundred eighty (180) days after the final instance of the alleged discriminatory practice occurs.

B. ~~If within sixty (60) days after the complaint is filed it is determined by the Commission or a member of the Commission or the staff that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General and such other public officers and persons as the Commission deems proper.~~

~~C. The complainant, within thirty (30) days after receiving a copy of an order dismissing the complaint, may file with the Commission an application for reconsideration of the order. Upon such application, the Commission or a designated member of the Commission shall make a new determination whether there is a reasonable cause to believe that the respondent has engaged in a discriminatory practice. If it is determined within thirty (30) days after the application is filed that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall issue an order dismissing the complaint and furnish a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the Commission deems proper.~~

~~D. This section does not apply to persons claiming to be aggrieved by a discriminatory housing practice to the extent that it is inconsistent with specific provisions of this act relating to a discriminatory housing complaint~~ Complaints filed with the Attorney General pursuant to this section shall be in writing, under oath, and substantially in the form prescribed by the Attorney General. Complaints shall include sufficient detail to enable the Attorney General to identify and locate the party alleged to have committed the discriminatory practice. Upon receiving a complaint, the Attorney General shall promptly notify the complainant of receipt and advise the complainant of the relevant time limits and choice of forums available to the complainant pursuant to this act.

C. If the Attorney General determines upon preliminary review of the complaint and any accompanying materials that a sufficient factual basis exists to warrant further investigation of the discriminatory practice alleged in the complaint, the Attorney General shall notify the complainant and shall notify the party against whom the allegations are made, hereafter termed the "respondent", as set forth in subsection D of this section, and shall promptly investigate those allegations of discriminatory practice set forth in the complaint. If, after the preliminary review, the Attorney General concludes that the complaint does not set forth a sufficient factual basis to warrant further investigation, the Attorney General shall notify the complainant of

this conclusion and advise the complainant as to other options available to him or her pursuant to this act.

D. If a complaint filed with the Attorney General pursuant to this section sets forth a sufficient factual basis to warrant further investigation, the Attorney General shall transmit to the respondent a notice identifying the alleged discriminatory practice and advising the respondent of the procedural rights and obligations of a respondent pursuant to this act, and a copy of the complaint. No later than thirty (30) days following receipt of the notice and copy of the complaint, the respondent shall file with the Attorney General an answer to the allegations set forth in the complaint. The respondent's answer shall be in writing and signed by the respondent.

SECTION 16. AMENDATORY 25 O.S. 2011, Section 1502.1, is amended to read as follows:

Section 1502.1. If, at any time after the ~~filing~~ receipt of a ~~verified charge~~ complaint, the ~~Commission~~ Attorney General has reason to believe that a respondent has engaged in any unlawful discriminatory practice, the ~~Commission~~ Attorney General may file a petition in the district court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or transacts business, seeking appropriate temporary injunctive relief against the respondent pending final determination of proceedings pursuant to this act~~, including an order or decree~~

~~restraining him from doing an act tending to render ineffectual an order the Commission may enter with respect to the complaint~~. The court shall have power to grant injunctive relief or a restraining order as it deems just and proper, but no relief or order shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice. ~~Except as modified by this section, the Oklahoma rules of civil procedure shall apply to an application, and the district court shall have authority to grant or deny the relief sought on conditions as it deems just and equitable. This section is subject to the provisions of Section 13 of this act.~~

SECTION 17. AMENDATORY 25 O.S. 2011, Section 1502.6, is amended to read as follows:

Section 1502.6. A. The ~~Commission~~ Attorney General shall, ~~during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the Commission, to the extent feasible~~ before filing any court action or issuing a cease and desist order, engage with the parties in a conciliation process with respect to the complaint. If the parties, through the conciliation process, are successful in resolving their dispute, the terms of resolution shall be memorialized in a written conciliation agreement, subject to approval by the Attorney General. Upon such approval, the Attorney General shall close the complaint file.

B. ~~A conciliation agreement is an agreement between a respondent and the complainant and is subject to Commission approval.~~

~~C.~~ A conciliation agreement may provide for binding arbitration or other method of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

~~D. A conciliation agreement shall be made public unless the complainant and respondent agree otherwise, and the Commission determines that disclosure is not necessary to further the purpose of this act.~~

~~E.~~ C. The Attorney General shall not make public, without the written consent of both the complainant and the respondent, information concerning the agreement or efforts in a particular case to eliminate a discriminatory practice by conciliation; provided however, consent shall not be required to make public that a conciliation agreement has been reached. At any time in its discretion, the Attorney General shall periodically investigate whether the terms of the conciliation agreement are being complied with by the respondent, and shall take appropriate action as authorized by this act to assure compliance.

D. Nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding pursuant to this act without the written consent of the persons concerned.

~~F.~~ E. After completion of the Commission's investigation, the Commission shall make available to the aggrieved person and the respondent, at any time, information derived from the investigation and the final investigation report relating to that investigation.

SECTION 18. AMENDATORY 25 O.S. 2011, Section 1502.15, is amended to read as follows:

Section 1502.15. A. If ~~a timely election is made pursuant to Section 20 of this act, the Commission shall authorize, and not later than the 30th day after the election is made~~, following its investigation, the Attorney General determines that reasonable cause exists to believe that the respondent engaged in a discriminatory practice in violation of this act, the Attorney General ~~shall~~ may file~~,~~ a civil enforcement action on behalf of the aggrieved person in a district court seeking relief ~~pursuant to this section~~ for such violations.

B. Venue for an action filed pursuant to this section is in the county in which the alleged discriminatory ~~housing~~ practice occurred, or in a county where the respondent resides or transacts business.

C. An aggrieved person may intervene in the action.

D. If the court finds that a discriminatory ~~housing~~ practice has occurred or is about to occur, the court may grant as relief any relief ~~that a court may grant in a civil action pursuant to Section 26 of this act~~ that is available pursuant to Sections 1301 through

1350 of this title, Sections 1401 and 1402 of this title, or Sections 1451 through 1453 of this title.

E. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the monetary relief if that aggrieved person has not complied with discovery orders entered by the court.

SECTION 19. AMENDATORY 25 O.S. 2011, Section 1505.1, is amended to read as follows:

Section 1505.1. If the ~~Commission upon final determination finds~~ Attorney General determines that an act of housing discrimination pursuant to Section ~~2~~ 1452 of this ~~act~~ title has been committed by a person holding a real estate license pursuant to state law, the ~~Commission~~ Attorney General will certify its determination to the licensing agency. Unless such determination of discriminatory practice is reversed in the course of judicial review, a final determination is binding on the licensing agency. Such agency shall take appropriate administrative action, including suspension or revocation of the license of the respondent.

SECTION 20. AMENDATORY 25 O.S. 2011, Section 1506.1, is amended to read as follows:

Section 1506.1. A. An aggrieved person may file a civil action in district court for alleged violations of Sections 1401 and 1402 of this title or Sections 1451 through 1453 of this title not later than ~~the second year~~ two (2) years after the ~~occurrence~~ last date of

the ~~termination of an~~ alleged ~~discriminatory housing practice, or the breach of a conciliation agreement entered into pursuant to this act, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach~~ violation.

B. ~~The two-year period does not include any time during which an administrative hearing pursuant to this act is pending with respect to a complaint or charge pursuant to this act based on the discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement.~~

~~C.~~ An aggrieved person may file an action pursuant to this section whether or not a complaint has been filed pursuant to ~~Section 8 of~~ this act and without regard to the status of any such complaint ~~filed pursuant to this section~~.

~~D.~~ C. If the ~~Commission~~ Attorney General has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action pursuant to this section with respect to the alleged discriminatory ~~housing~~ practice that forms the basis for the complaint except to enforce the terms of the agreement. Such actions shall not be filed later than two (2) years after the last date of the alleged violation of the conciliation agreement.

~~E.~~ D. An aggrieved person may not file an action pursuant to this section with respect to an alleged discriminatory ~~housing~~ practice that forms the basis of a ~~charge issued by the Commission~~

~~if the Commission has begun a hearing on the record pursuant to this act with respect to the charge~~ civil enforcement action initiated by the Attorney General for violations of this act.

SECTION 21. AMENDATORY 25 O.S. 2011, Section 1506.2, is amended to read as follows:

Section 1506.2. On application by a person alleging a discriminatory ~~housing~~ practice or by a person against whom such a practice is alleged, the court may appoint an attorney for the person.

SECTION 22. AMENDATORY 25 O.S. 2011, Section 1506.3, is amended to read as follows:

Section 1506.3. In an action pursuant to ~~Section 24~~ Sections 1502.15 or 1506.1 of this ~~act~~ title, if the court finds that a discriminatory ~~housing~~ practice has occurred or is about to occur, the court may award to the prevailing plaintiff or aggrieved person:

1. Actual ~~and punitive~~ damages;

2. Reasonable ~~attorneys~~ attorney fees;

3. Court costs; and

4. Subject to Section ~~27~~ 1506.4 of this ~~act~~ title, ~~any~~ a permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.

SECTION 23. AMENDATORY 25 O.S. 2011, Section 1506.4, is amended to read as follows:

Section 1506.4. Relief granted pursuant to Section ~~26~~ 1506.3 of this ~~act~~ title, does not affect a contract, sale, encumbrance, or lease that:

1. Was consummated before the granting of the relief; and

2. Involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint pursuant to this act or a civil action pursuant to Section 1506.1 of this ~~section~~ title.

SECTION 24. AMENDATORY 25 O.S. 2011, Section 1506.6, is amended to read as follows:

Section 1506.6. A. ~~On request of the Commission, the~~ The Attorney General may file a civil action in district court for appropriate relief if the ~~Commission~~ Attorney General has reasonable cause to believe that:

1. A person is engaged in pattern or practice of resistance to the full enjoyment of any right granted by this act; or

2. A person has been denied any right granted by this act and that denial raises an issue of general public importance.

B. In an action pursuant to this section the court may:

1. Award preventive relief, including a permanent or temporary ~~injunctive~~ injunction, restraining order, or other order against the person responsible for a violation of this act as necessary to assure the full enjoyment of the rights granted by this act;

2. Award other appropriate relief, including monetary damages, reasonable ~~attorneys~~ attorney fees, and court costs; and

3. To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed:

a. Fifty Thousand Dollars ($50,000.00), for a first violation, and

b. One Hundred Thousand Dollars ($100,000.00), for a second or subsequent violation.

C. A person may intervene in an action pursuant to this section if the person is:

1. An aggrieved person to the discriminatory ~~housing~~ practice; or

2. A party to a conciliation agreement concerning the discriminatory ~~housing~~ practice.

SECTION 25. AMENDATORY 25 O.S. 2011, Section 1506.7, is amended to read as follows:

Section 1506.7. The Attorney General ~~on behalf of the Commission or other party at whose request a subpoena is issued pursuant to this act,~~ may enforce ~~the~~ compliance with a subpoena or seek to compel answers to interrogatories issued pursuant to Section 1501 of this title in appropriate proceedings in district court.

SECTION 26. AMENDATORY 25 O.S. 2011, Section 1601, is amended to read as follows:

Section 1601. It is a discriminatory practice for a person~~, or for two or more persons to conspire,~~:

~~(1) to retaliate or discriminate against a person because he has opposed a discriminatory practice, or because he has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act;~~

~~(2) to aid, abet, incite, or coerce a person to engage in a discriminatory practice;~~

~~(3)~~ 1. To willfully ~~to~~ interfere with the performance of a duty or the exercise of a power by the ~~Commission or one of its members or representatives~~ Attorney General; or

~~(4)~~ 2. To willfully ~~to~~ obstruct or prevent a person from complying with the provisions of ~~this act or~~ an order issued ~~thereunder~~ pursuant to this act, or with the provisions of a conciliation agreement approved by the Attorney General pursuant to this act.

SECTION 27. AMENDATORY 25 O.S. 2011, Section 1704, is amended to read as follows:

Section 1704. A local commission may have the following powers in addition to powers authorized by other laws:

1. To employ an executive director and other employees and agents and fix their compensation;

2. To cooperate with individuals and state, local, and other agencies, both public and private, including agencies of the federal government and other states and municipalities;

3. To accept gifts, bequests, grants, or other payments, public or private, to help finance its activities;

4. To receive, initiate, investigate, and seek to conciliate complaints alleging violations of ~~Section 1101 et seq. of this title~~ the Oklahoma Anti-Discrimination Act or of an ordinance prohibiting discrimination because of race, color, religion, sex, national origin, age, disability, or genetic information or legislation establishing the commission;

5. To make studies appropriate to effectuate its purposes and policies and to make the results thereof available to the public; and

6. To render at least annually a report, a copy of which shall be furnished to the ~~Oklahoma Human Rights Commission~~ Attorney General.

SECTION 28. AMENDATORY 25 O.S. 2011, Section 1705, is amended to read as follows:

Section 1705. A. The ~~Oklahoma Human Rights Commission~~ Attorney General:

1. Whether or not a complaint has been filed under the provisions ~~of Section 1502 or 1704~~ of this ~~title~~ act, may refer a matter involving discrimination because of race, color, religion,

sex, national origin, age, disability, or genetic information to a local commission for investigation, study, and report; and

2. May refer a complaint alleging a violation of ~~Section 1101 et seq. of this title~~ the Oklahoma Anti-Discrimination Act to a local commission for:

a. investigation,

b. determination whether there is reasonable cause to believe that the respondent has engaged in a discriminatory practice, or

c. assistance in eliminating a discriminatory practice by conference, conciliation, or persuasion.

B. Upon referral by the ~~Commission~~ Attorney General, the local commission shall make a report and may make recommendations to the ~~Commission~~ Attorney General and take other appropriate action within the scope of its powers.

SECTION 29. AMENDATORY 25 O.S. 2011, Section 1706, is amended to read as follows:

Section 1706. ~~(a)~~ A. A local commission may refer a matter under its jurisdiction to the ~~State Commission~~ Attorney General.

~~(b)~~ B. At any time after a complaint under this ~~Act~~ act is filed, the ~~State Commission~~ Attorney General may require a local commission to transfer any related proceeding to the ~~State Commission~~ Attorney General. After the local commission is requested to transfer a proceeding, the local commission has no

further jurisdiction over the proceeding except to take appropriate action to implement the transfer to the ~~State Commission~~ Attorney General.

SECTION 30. AMENDATORY 73 O.S. 2011, Section 163.2, is amended to read as follows:

Section 163.2. Monies collected from private tenants in the State Office Building in Tulsa, Oklahoma, through June 30, 1976, or monies collected from lease agreement with state agencies entered into subsequent to the date of this act, except the State Department of Agriculture, the Supreme Court, the Commissioner of Narcotics and Dangerous Drugs Control, ~~the Human Rights Commission,~~ the Indian Affairs Commission, the Water Resources Board, the Oklahoma Educational Television Authority, the Oklahoma Department of Commerce, the Department of Mental Health and Substance Abuse Services, the Department of Labor, the University of Oklahoma and the board of county commissioners of Tulsa County, shall be paid to the State Treasurer for deposit to the General Revenue Fund. Monies collected from any agency or institution of the government of the United States are exempted from payment to the State Treasurer for deposit to the General Revenue Fund.

SECTION 31. AMENDATORY 74 O.S. 2011, Section 840-2.1, is amended to read as follows:

Section 840-2.1. A. All agencies, boards, commissions, departments, and offices of each branch of state government, except

institutions within The Oklahoma State System of Higher Education, shall submit an affirmative action plan to the Office of Personnel Management annually by September 1 following the end of the fiscal year ending June 30. Institutions within The Oklahoma State System of Higher Education shall submit an affirmative action plan to the Oklahoma State Regents for Higher Education in accordance with standards established by the Oklahoma State Regents for Higher Education.

B. Said plan for agencies of the executive branch, except institutions within The Oklahoma State System of Higher Education, is subject to the approval of the Administrator of the Office of Personnel Management.

C. The Administrator of the Office of Personnel Management shall analyze the affirmative action plans of executive branch agencies and Equal Employment Opportunity Commission reports prepared by such agencies, except institutions within The Oklahoma State System of Higher Education, and, on or before March 1 of each year, shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. Said report shall state the efforts and progress made by governmental entities in the area of affirmative action, including the status of recruitment, hiring, and promotion of women, men and minorities within job categories.

D. The provisions of this section shall not require an agency, board, commission, department, or office of state government to grant preferential treatment to an individual or group because of race, color, religion, sex, national origin, age, or handicap because of an imbalance which may exist in comparison with the employment statistics of the area involved.

E. It is not a discriminatory practice for the appointing authority of an entity subject to the provisions of this title to adopt and implement an affirmative action plan to eliminate or reduce imbalances with respect to women and minorities if the plan has been approved by the Office of Personnel Management in accordance with rules and guidelines adopted by the Office of Personnel Management. For affirmative action purposes, any person who lists American Indian as his race or national origin shall, within thirty (30) days of his appointment, verify his tribal affiliation by providing a certificate of Degree of Indian Blood from the U.S. Department of Interior, Bureau of Indian Affairs, or by providing the name and address of tribal officials who can verify his tribal affiliation.

F. 1. The Administrator of the Office of Personnel Management shall establish qualification requirements for personnel serving as agency civil rights or affirmative action administrators, officers, coordinators and other personnel responsible for civil rights compliance or affirmative action for executive branch agencies.

Such qualification requirements shall include, but not be limited to, knowledge of federal and state civil rights, affirmative action, and equal employment laws and regulations. Such personnel shall be subject to the training requirements specified by the Office of Personnel Management. The Administrator shall be authorized to bill agencies for the training of personnel professionals pursuant to this paragraph to recover reasonable costs associated with the training. Monies received for such training shall be deposited in the Office of Personnel Management Revolving Fund. Expenditure of such funds collected for the training shall be exempt from any expenditure limit for the Office of Personnel Management established by law. Effective December 1, 1995, complaints of alleged illegal discrimination shall be investigated only by personnel trained pursuant to the requirements of the Administrator, unless otherwise provided by federal or state law. This paragraph shall not apply to such personnel of the Oklahoma Merit Protection Commission ~~or the Oklahoma Human Rights Commission~~.

2. If, after notice, administrative hearing and determination, pursuant to Article II of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes, the Administrator finds that an appointing authority of any executive branch agency has failed to make significant progress toward affirmative action goals, or has failed to appoint a civil rights administrator without justifiable reasons, the Administrator may begin requiring remedies

as allowed by subsection G of this section and rules promulgated thereto and appropriate to making progress toward affirmative action goals. Such action shall remain in effect until the Administrator determines that significant progress toward affirmative action goals is being made. The provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the Administrator the authority provided for in this paragraph, unless the agency is specifically excluded by law from the provisions of this paragraph.

G. 1. The Administrator of the Office of Personnel Management shall develop rules for the imposition of appropriate remedies for agencies in the executive branch of state government, excluding The Oklahoma State System of Higher Education, when an agency has failed to make significant progress toward affirmative action goals or has been found to have a pattern of noncompliance with affirmative action goals. If, pursuant to Article II of the Administrative Procedures Act, the Administrator finds that an agency has failed to make significant progress toward affirmative action goals or is found to have a pattern of noncompliance with affirmative action goals, remedies that the Administrator may impose shall include:

a. requiring noncomplying appointing authorities to participate in programs for special recruiting efforts,

b. development of training programs to enhance promotability of minorities within agencies and supervisory training in equal opportunity employment, affirmative action, managing workplace diversity, and

c. mandatory review and approval of all hiring and promotion decisions by an appointing authority by the Administrator if the Administrator can document a pattern of noncompliance in previous remedial actions pursuant to this subsection or appointment of a full-time affirmative action officer to any agency in noncompliance with affirmative action remedies.

2. Effective July 1, 1995, if the Administrator determines that a pattern of noncompliance with affirmative action goals exists at an agency and that none of the remedies provided by paragraph 1 of this subsection are appropriate and the Administrator determines the Office of Personnel Management has sufficient resources, the Administrator shall be empowered to remove personnel function(s) relating to recruitment, hiring or promotion from the appointing authority and to place that function with the Administrator of the Office of Personnel Management as provided by this paragraph. Removal of personnel function(s) shall occur only when a pattern of noncompliance with the affirmative action plan can be documented and a vote by two-thirds (2/3) of the Affirmative Action Council recommends to the Administrator to remove personnel function(s).

Removal of personnel function(s) shall terminate one (1) calendar year after the Administrator removes such function(s) unless the Administrator is able to demonstrate that the restoration of personnel function(s) to the appointing authority will result in further noncompliance with this section. A vote of two-thirds (2/3) of the Council shall be necessary to continue the removal of personnel function(s) by the Administrator for each additional year. The Administrator must receive approval from the Director of the Office of State Finance to develop recruitment, hiring and promotion actions within budgetary constraints for the affected agencies. The Administrator shall consult with the appointing authority about personnel plans and actions, but the Administrator shall retain final authority for personnel decisions within the scope of the Administrator's authority for the period an agency is operating under removal of the personnel function(s). Nothing in this section shall prohibit the removal of a personnel function(s) remedy at any time if the Administrator determines the appointing authority and agency have the capability of reassuming the authority that was removed. The provisions of law pertaining to the duties and powers of any agency shall not be construed to deny the Administrator the authority provided for in this paragraph, unless the agency is specifically excluded by law from the provisions of this paragraph. Upon removal of an agency's personnel function(s), the Administrator

may employ employees at the Office of Personnel Management to assume the personnel function(s) of the agency as provided by this section.

H. 1. There is hereby created the Affirmative Action Review Council to assist in the implementation of the state's equal employment opportunity and affirmative action efforts mandated by this section. The Administrator of the Office of Personnel Management shall consult with and request the assistance of the Council in developing standards that executive branch agencies shall follow in adopting their affirmative action plans. The Council shall review agency affirmative action plans and assist the Administrator in preparing the annual status report for agencies on equal employment opportunity and affirmative action required by this section. Staff for the Council shall be provided by the Office of Personnel Management.

2. The Affirmative Action Review Council shall consist of six (6) members. The individuals making the appointment shall consider experience in the field, theory, and application of human resources management and affirmative action in making their appointments. Members of the Council shall serve at the pleasure of the respective individuals making the appointments. Two members of the Council shall be appointed by the Governor, two members shall be appointed by the Speaker of the House of Representatives, and two members shall be appointed by the President Pro Tempore of the Senate. Nothing shall preclude the appointment of members of the

Legislature. Each individual making appointments shall give consideration to the diversity of the Council's membership when making the appointments and shall not appoint more than one individual who is an employee of the executive branch, excluding The Oklahoma State System of Higher Education. The Governor shall appoint the initial chair from among the Council's membership to serve a two-year term. Thereafter, the chair shall be selected by the Council from among its membership. The Council shall select a vice-chair from among its membership. All members shall serve two-year terms, unless removed prior to the expiration of a term by the respective individual making the appointment. Any vacancy on the Council shall be filled by the individual who made the original appointment.

Except as provided in subparagraph b of paragraph 4 of this subsection, a majority of the members of the Council shall constitute a quorum to transact business, but no vacancy shall impair the right of the remaining members to exercise all of the powers of the Council and every act of a majority of the members present shall be deemed the act of the Council.

3. Members of the Council shall receive no compensation for serving on the Council, but shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act. Any member who is employed in state government shall receive the reimbursement from

their employing entity. Any member who is not an employee of state government shall receive the reimbursement from the Office of Personnel Management.

4. a. The Council shall make any recommendations to the Administrator, the Governor, the Speaker of the House of Representatives or the President Pro Tempore of the Senate the Council deems will assist in the attaining of affirmative action goals for state government.

b. The Council shall review agency affirmative action plans for compliance with the standards adopted by the Administrator. The Council shall recommend that the Administrator reject any agency plans which it finds in noncompliance.

c. The Council shall request the Administrator to investigate any agency that the Council believes has violated equal employment opportunity or affirmative action provisions of this section and to conduct hearings to determine if such violations have occurred. If the Administrator finds that an agency is not in compliance with such law and the Council believes that the noncompliance indicates a pattern of noncompliance, the Council, upon a two-thirds vote of its members, may recommend to the Administrator to act in accordance with this section to compel the agency

to comply with equal employment opportunity and affirmative action laws. If the Administrator decides not to act on the Council's recommendation, the Administrator shall respond in writing within thirty (30) days of the Council's recommendation setting forth the reasons why the Administrator has decided not to act in accordance with said recommendation.

d. Any member who is an employee of an agency that is subject to investigation pursuant to subparagraph b of this paragraph shall disqualify himself or herself from voting on the matter.

e. This paragraph applies to review of issues related to affirmative action. This paragraph does not apply to prohibited discrimination that is within the jurisdiction of the Oklahoma Merit Protection Commission or the ~~Oklahoma Human Rights Commission~~ Attorney General.

5. The Council shall not have authority to adopt rules pursuant to the Administrative Procedures Act.

I. Affirmative action plans for the judicial branch of government, except the Court of Criminal Appeals and the Workers' Compensation Court, shall be prepared by the Administrative Director of the Courts. The Court of Criminal Appeals shall prepare affirmative action plans for the Court of Criminal Appeals. The

Administrator of the Workers' Compensation Court shall prepare affirmative action plans for the Workers' Compensation Court.

J. The Administrator of the Office of Personnel Management is hereby directed to adopt rules necessary to implement the provisions of this section. Such rules regarding affirmative action plans shall include, but not be limited to, a set of specific and result-oriented programs to which an appointing authority commits himself or herself to apply every good faith effort to achieve prompt and full utilization of women and minorities at all levels and in all segments of the work force where deficiencies exist. Such rules shall also include separate provisions for affirmative plans for agencies with fewer than fifteen full-time-equivalent employees.

SECTION 32. AMENDATORY 74 O.S. 2011, Section 840-5.5, is amended to read as follows:

Section 840-5.5. A. The following offices, positions, and personnel shall be in the unclassified service and shall not be placed under the classified service:

1. Persons chosen by popular vote or appointment to fill an elective office, and their employees, except the employees of the Corporation Commission, the State Department of Education and the Department of Labor;

2. Members of boards and commissions, and heads of agencies; also one principal assistant or deputy and one executive secretary for each state agency;

3. All judges, elected or appointed, and their employees;

4. Persons employed with one-time, limited duration, federal or other grant funding that is not continuing or indefinitely renewable. The length of the unclassified employment shall not exceed the period of time for which that specific federal funding is provided;

5. All officers and employees of The Oklahoma State System of Higher Education, State Board of Education and Oklahoma Department of Career and Technology Education;

6. Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a committee thereof or by authority of the Governor. These appointments and authorizations shall terminate on the first day of the regular legislative session immediately following the appointment, if not terminated earlier. However, nothing in this paragraph shall prevent the reauthorization and reappointment of any such person. Any such appointment shall be funded from the budget of the appointing authority;

7. Election officials and employees;

8. Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period, and seasonal employees employed by the Oklahoma Tourism and Recreation Department pursuant to Section 2241 of this title who work less than one thousand six hundred (1,600) hours in any twelve-month period;

9. Department of Public Safety employees occupying the following offices or positions:

a. administrative aides to the Commissioner,

b. executive secretaries to the Commissioner,

c. the Governor's representative of the Oklahoma Highway Safety Office who shall be appointed by the Governor,

d. Highway Patrol Colonel,

e. Highway Patrol Lieutenant Colonel,

f. Director of Finance,

g. noncommissioned pilots,

h. Information Systems Administrator,

i. Law Enforcement Telecommunications System Specialist,

j. Director of Driver Compliance,

k. Director of Transportation Division,

l. Director of the Oklahoma Highway Safety Office,

m. Civil Rights Administrator,

n. Budget Analyst,

o. Comptroller,

p. Chaplain,

q. Helicopter Mechanic,

r. Director of Safety Compliance,

s. Human Resources Director,

t. Administrator of Department Services, and

u. a maximum of seven (7) positions for the purpose of administering programs in the Oklahoma Highway Safety Office, within full-time employee limitations of the Department, employed with federal funding that is continuing or indefinitely renewable. The authorization for such positions shall be terminated if the federal funding for positions is discontinued;

provided, any person appointed to a position prescribed in subparagraph d or e of this paragraph shall have a right of return to the classified commissioned position without any loss of rights, privileges or benefits immediately upon completion of the duties in the unclassified commissioned position;

10. Professional trainees only during the prescribed length of their course of training or extension study;

11. Students who are employed on a part-time basis, which shall be seventy-five percent (75%) of a normal forty-hour work week or thirty (30) hours per week, or less, or on a full-time basis if the employment is pursuant to a cooperative education program such as that provided for under Title I IV-D of the Higher Education Act of 1965 (20 U.S.C. 1087a-1087c), as amended, and who are regularly enrolled in:

a. an institution of higher learning within The Oklahoma State System of Higher Education,

b. an institution of higher learning qualified to become coordinated with The Oklahoma State System of Higher Education. For purposes of this section, a student shall be considered a regularly enrolled student if the student is enrolled in a minimum of five (5) hours of accredited graduate courses or a minimum of ten (10) hours of accredited undergraduate courses, provided, however, the student shall only be required to be enrolled in a minimum of six (6) hours of accredited undergraduate courses during the summer, or

c. high school students regularly enrolled in a high school in Oklahoma and regularly attending classes during such time of enrollment;

12. The spouses of personnel who are employed on a part-time basis to assist or work as a relief for their spouses in the Oklahoma Tourism and Recreation Department;

13. Service substitute attendants who are needed to replace museum and site attendants who are unavoidably absent. Service substitutes may work as part-time or full-time relief for absentees for a period of not more than four (4) weeks per year in the Oklahoma Historical Society sites and museums; such substitutes will not count towards the agency's full-time-equivalent (FTE) employee limit;

14. Employees of the Oklahoma House of Representatives, the State Senate, or the Legislative Service Bureau;

15. Corporation Commission personnel occupying the following offices and positions:

a. Administrative aides, and executive secretaries to the Commissioners,

b. Directors of all the divisions, personnel managers and comptrollers,

c. General Counsel,

d. Public Utility Division Chief Engineer,

e. Public Utility Division Chief Accountant,

f. Public Utility Division Chief Economist,

g. Public Utility Division Deputy Director,

h. Secretary of the Commission,

i. Deputy Conservation Director,

j. Manager of Pollution Abatement,

k. Manager of Field Operations,

l. Manager of Technical Services,

m. Public Utility Division Chief of Telecommunications,

n. Director of Information Services,

o. All Data Processing employees hired on or after September 1, 2005,

p. All Public Utilities employees hired on or after September 1, 2007,

q. All Regulatory Program Managers hired on or after September 1, 2007, and

r. All Pipeline Safety Department employees hired on or after September 1, 2008;

16. At the option of the employing agency, the Supervisor, Director, or Educational Coordinator in any other state agency having a primary responsibility to coordinate educational programs operated for children in state institutions;

17. Department of Mental Health and Substance Abuse Services personnel occupying the following offices and positions at each facility:

a. Director of Facility,

b. Deputy Director for Administration,

c. Clinical Services Director,

d. Executive Secretary to Director, and

e. Directors or Heads of Departments or Services;

18. Office of State Finance personnel occupying the following offices and positions:

a. State Comptroller,

b. Administrative Officers,

c. Alternator Claims Auditor,

d. Employees hired to fulfill state compliance agency requirements under Model Tribal Gaming Compacts,

e. Employees of the Budget Division,

f. Employees of the Fiscal and Research Division,

g. Employees hired to work on the CORE Systems Project; and

h. The following employees of the Information Services Division:

(1) Information Services Division Manager,

(2) Network Manager,

(3) Network Technicians,

(4) Security Manager,

(5) Contracts/Purchasing Manager,

(6) Operating and Applications Manager,

(7) Project Manager,

(8) Help Desk Manager,

(9) Help Desk Technicians,

(10) Quality Assurance Manager,

(11) ISD Analysts,

(12) CORE Manager,

(13) Enterprise System/Database Software Manager,

(14) Data Center Operations and Production Manager,

(15) Voice Communications Manager,

(16) Applications Development Manager,

(17) Projects Manager,

(18) PC's Manager,

(19) Servers Manager,

(20) Portal Manager,

(21) Procurement Specialists,

(22) Security Technicians,

(23) Enterprise Communications and Network Administrator,

(24) Server Support Specialists,

(25) Senior Server Support Specialists,

(26) Systems Support Specialists,

(27) Senior Systems Support Specialists,

(28) Chief Technology Officer,

(29) Facility Manager,

(30) Application Development Specialists,

(31) Senior Application Development Specialists,

(32) Workstation Specialists,

(33) Senior Workstation Specialists,

(34) Cabling Infrastructure Administration,

(35) Planning Specialists,

(36) Senior Planning Specialists,

(37) Network Specialists,

(38) Senior Network Specialists,

(39) Voice Communication Specialists, and

(40) Senior Voice Communication Specialists;

19. Employees of the Oklahoma Industrial Finance Authority;

20. Those positions so specified in the annual business plan of the Oklahoma Department of Commerce;

21. Those positions so specified in the annual business plan of the Oklahoma Center for the Advancement of Science and Technology;

22. The following positions and employees of the Oklahoma School of Science and Mathematics:

a. positions for which the annual salary is Twenty-four Thousand One Hundred Ninety-three Dollars ($24,193.00) or more, as determined by the Office of Personnel Management, provided no position shall become unclassified because of any change in salary or grade while it is occupied by a classified employee,

b. positions requiring certification by the State Department of Education, and

c. positions and employees authorized to be in the unclassified service of the state elsewhere in this section or in subsection B of this section;

23. Office of Personnel Management employees occupying the following positions:

a. the Carl Albert Internship Program Coordinator,

b. one Administrative Assistant,

c. one Workforce Planning Manager,

d. Assistant Administrators,

e. one Associate Administrator, and

f. Division Directors;

24. Department of Labor personnel occupying the following offices and positions:

a. two Deputy Commissioners,

b. two Executive Secretaries to the Commissioner,

c. Chief of Staff,

d. two Administrative Assistants,

e. Information Systems Administrator,

f. three Safety and Health Directors,

g. Research Director,

h. Employment Standards Director,

i. Asbestos Director,

j. General Counsel,

k. one Legal Secretary,

l. one Docket Clerk, and

m. two Information Systems Application Specialists;

25. The State Bond Advisor and his or her employees;

26. The Oklahoma Employment Security Commission employees occupying the following positions:

a. Associate Director,

b. Secretary to the Associate Director, and

c. Assistant to the Executive Director;

27. ~~Oklahoma Human Rights Commission personnel occupying the position of Administrative Assistant;~~

~~28.~~ Officers and employees of the State Banking Department;

~~29.~~ 28. Officers and employees of the University Hospitals Authority except personnel in the state classified service pursuant to Section 3211 of Title 63 of the Oklahoma Statutes and members of the University Hospitals Authority Model Personnel System created pursuant to subsection E of Section 3211 of Title 63 of the Oklahoma Statutes or as otherwise provided for in Section 3213.2 of Title 63 of the Oklahoma Statutes;

~~30.~~ 29. Alcoholic Beverage Laws Enforcement Commission employees occupying the following positions:

a. three Administrative Service Assistant positions, however, employees in such positions who are in the unclassified service on June 4, 2003, may make an election to be in the classified service without a loss in salary by September 1, 2003, and

b. the Deputy Director position in addition to the one authorized by paragraph 2 of this subsection;

~~31.~~ 30. The Oklahoma State Bureau of Investigation employees occupying the following positions:

a. five assistant directors,

b. six special investigators,

c. one information representative,

d. one federally funded physical evidence technician,

e. four federally funded laboratory analysts,

f. a maximum of fourteen positions employed for the purpose of managing the automated information systems of the agency,

g. one executive secretary in addition to the one executive secretary authorized pursuant to paragraph 2 of this subsection,

h. Child Abuse Response Team (CART) investigator,

i. Child Abuse Response Team (CART) forensic interviewer, and

j. nine administration and research positions and five data processing and information technology positions transferred from the Criminal Justice Resource Center pursuant to Section 150.17a of this title;

~~32.~~ 31. The Department of Transportation, the following positions:

a. Director of the Oklahoma Aeronautics Commission,

b. five Department of Transportation Assistant Director positions,

c. eight field division engineer positions,

d. one pilot position,

e. five Project Manager Positions, and

f. five Transportation Coordinators;

~~33.~~ 32. Commissioners of the Land Office employees occupying the following positions:

a. Director of the Investments Division,

b. Assistant Director of the Investments Division,

c. one Administrative Assistant,

d. one Audit Tech position,

e. one Auditor I position,

f. two Accounting Tech I positions,

g. two Administrative Assistant I positions,

h. two Imaging Specialist positions,

i. one Information Systems Specialist position,

j. Director of Communications,

k. Director of Royalty Compliance,

l. Director of Mineral Management,

m. Director of Accounting,

n. Chief of Staff,

o. First Assistant Secretary,

p. Director of Real Estate Management,

q. one executive secretary,

r. one legal secretary, and

s. one legal assistant;

~~34.~~ 33. Within the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Commission, the following positions:

a. six Narcotics Agent positions and three Typist Clerk/Spanish transcriptionists, including a Typist Clerk Supervisor/Spanish transcriptionist, provided,

authorization for such positions shall be terminated if the federal funding for the positions is discontinued,

b. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection,

c. one fiscal officer,

d. one full-time Programmer, and

e. one full-time Network Engineer;

~~35.~~ 34. The Military Department of the State of Oklahoma is authorized such unclassified employees within full-time employee limitations to work in any of the Department of Defense directed youth programs, the State of Oklahoma Juvenile Justice youth programs, those persons reimbursed from Armory Board or Billeting Fund accounts, and skilled trade positions;

~~36.~~ 35. Within the Oklahoma Commission on Children and Youth the following unclassified positions:

a. one Oversight Specialist and one Community Development Planner,

b. one State Plan Grant Coordinator, provided authorization for the position shall be terminated when federal support for the position by the United States Department of Education Early Intervention Program is discontinued,

c. one executive secretary in addition to the one authorized pursuant to paragraph 2 of this subsection, and

d. one Programs Manager;

~~37.~~ 36. The following positions and employees of the Department of Central Services:

a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection,

b. the Director of Central Purchasing,

c. one Alternate Fuels Administrator,

d. one Director of Special Projects,

e. three postauditors,

f. four high-technology contracting officers,

g. one Executive Assistant to the Purchasing Director,

h. four Contracts Managers,

i. one Associate Director,

j. one specialized HiTech/Food Contracting Officer,

k. one State Use Contracting Officer,

l. one Property Distribution Administrator,

m. three licensed architects assigned to the Construction and Properties Division,

n. three licensed engineers assigned to the Construction and Properties Division,

o. eight construction consultants assigned to the Construction and Properties Division,

p. one attorney assigned to the Construction and Properties Division,

q. three positions assigned to the Information Services Division, which shall include one Information Technology Manager, one Applications Specialist and one Data Planning Specialist,

r. four positions assigned to Fleet Management, which shall include one Deputy Fleet Manager and three Management Analysts,

s. one Chief Auditor,

t. one Assistant Director of Central Purchasing Division,

u. one Professional Errors and Omissions Liability Adjuster,

v. three Strategic Sourcing Managers,

w. three Strategic Sourcing Assistant Managers, and

x. two Printing Services Brokers;

~~38.~~ 37. Oklahoma Water Resources Board personnel occupying the following offices and positions:

a. four Water Quality Assistant Division Chiefs,

b. four Water Resources Division Chiefs, and

c. Director of Water Planning;

~~39.~~ 38. J.D. McCarty Center for Children with Developmental Disabilities personnel occupying the following offices and positions:

a. Physical Therapists,

b. Physical Therapist Assistants,

c. Occupational Therapists,

d. Certified Occupational Therapist Aides, and

e. Speech Pathologists;

~~40.~~ 39. The Development Officer, the Director of the State Museum of History and the Cherokee Strip Regional Heritage Center Director within the Oklahoma Historical Society;

~~41.~~ 40. Oklahoma Department of Agriculture, Food, and Forestry personnel occupying the following positions:

a. one Executive Secretary in addition to the Executive Secretary authorized by paragraph 2 of this subsection and one Executive Assistant,

b. nineteen Agricultural Marketing Coordinator III positions,

c. temporary fire suppression personnel, regardless of the number of hours worked, who are employed by the Oklahoma Department of Agriculture, Food, and Forestry; provided, however, notwithstanding the provisions of any other section of law, the hours worked by such employees shall not entitle such

employees to any benefits received by full-time employees,

d. one Information Technology Specialist,

e. one Director of Administrative Services,

f. one Water Quality Consumer Complaint Coordinator,

g. one hydrologist position,

h. Public Information Office Director,

i. one Information Technology Technician,

j. Legal Services Director,

k. Animal Industry Services Director,

l. Agricultural Environmental Management Services Director,

m. Forestry Services Director,

n. Plant Industry and Consumer Services Director,

o. one Grants Administrator position,

p. Director of Laboratory Services,

q. Chief of Communications,

r. Public Information Manager,

s. Inventory/Supply Officer,

t. five Agriculture Field Inspector positions assigned the responsibility for conducting inspections and audits of agricultural grain storage warehouses. All other Agriculture Field Inspector positions and employees of the Oklahoma Department of Agriculture,

Food, and Forestry shall be classified and subject to the provisions of the Merit System of Personnel Administration. On November 1, 2002, all other unclassified Agriculture Field Inspectors shall be given status in the classified service as provided in Section 840-4.2 of this title,

u. Rural Fire Coordinator,

v. one Agricultural Marketing Coordinator I,

w. Food Safety Division Director,

x. two Environmental Program Specialists,

y. two Scale Technicians,

z. two Plant Protection Specialists, and

aa. Chief Agent;

~~42.~~ 41. The Contracts Administrator within the Oklahoma State Employees Benefits Council;

~~43.~~ 42. The Development Officer within the Oklahoma Department of Libraries;

~~44.~~ 43. Oklahoma Real Estate Commission personnel occupying the following offices and positions:

a. Educational Program Director, and

b. Data Processing Manager;

~~45.~~ 44. A Chief Consumer Credit Examiner for the Department of Consumer Credit;

~~46.~~ 45. All officers and employees of the Oklahoma Capitol Complex and Centennial Commemoration Commission;

~~47.~~ 46. All officers and employees of the Oklahoma Motor Vehicle Commission;

~~48.~~ 47. One Museum Archivist of The Will Rogers Memorial Commission;

~~49.~~ 48. One Fire Protection Engineer of the Office of the State Fire Marshal;

~~50.~~ 49. Acting incumbents employed pursuant to Section 209 of Title 44 or Section 48 of Title 72 of the Oklahoma Statutes who shall not be included in any limitation on full-time equivalency imposed by law on an agency. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation as an acting incumbent with the same agency; provided, the leave shall expire no later than two (2) years from the date of the acting incumbent appointment. An appointing authority may establish unclassified positions and appoint unclassified employees to perform the duties of a permanent classified employee who is on leave of absence from a classified position to serve as an acting incumbent. All unclassified appointments created pursuant to this paragraph shall expire no later than two (2) years from the date of appointment. Classified employees accepting unclassified appointments and compensation pursuant to this paragraph shall be entitled to participate without

interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this paragraph, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence;

~~51.~~ 50. The Oklahoma Homeland Security Director and all other positions assigned the responsibilities of working in the Oklahoma Office of Homeland Security;

~~52.~~ 51. The following eighteen (18) positions in the State Department of Health:

a. one surveillance supervisor,

b. one surveillance project monitor,

c. two bilingual interviewers,

d. eight senior interviewers, and

e. six interviewers;

~~53.~~ 52. State Board of Licensure for Professional Engineers and Land Surveyors personnel occupying the following offices and positions:

a. one Director of Enforcement, and

b. two Board Investigators;

~~54.~~ 53. One Information Systems Data Management Analyst of the State and Education Employees Group Insurance Board;

~~55.~~ 54. Two Management Information Systems positions of the Office of Juvenile Affairs; and

~~56.~~ 55. Heads of agencies, principal assistants or deputies and executive secretaries of an agency that is consolidated into another agency.

B. If an agency has the authority to employ personnel in the following offices and positions, the appointing authority shall have the discretion to appoint personnel to the unclassified service:

1. Licensed medical doctors, osteopathic physicians, dentists, psychologists, and nurses;

2. Certified public accountants;

3. Licensed attorneys;

4. Licensed veterinarians; and

5. Licensed pharmacists.

C. Effective July 1, 1996, authorization for unclassified offices, positions, or personnel contained in a bill or joint resolution shall terminate June 30 of the ensuing fiscal year after the authorization unless the authorization is codified in the Oklahoma Statutes or the termination is otherwise provided in the legislation.

D. The appointing authority of agencies participating in the statewide information systems project may establish unclassified

positions and appoint unclassified employees to the project as needed. Additional unclassified positions may be established, if required, to appoint an unclassified employee to perform the duties of a permanent classified employee who is temporarily absent from a classified position as a result of assignment to this project. All unclassified appointments under this authority shall expire no later than December 31, 2007, and all unclassified positions established to support the project shall be abolished. Both the positions and appointments resulting from this authority shall be exempt from any agency FTE limitations and any limits imposed on the number of unclassified positions authorized. Permanent classified employees may request a leave of absence from classified status and accept an unclassified appointment and compensation with the same agency under the provisions of this subsection; provided, the leave shall expire no later than December 31, 2007. Employees accepting the appointment and compensation shall be entitled to participate without interruption in any benefit programs available to classified employees, including retirement and insurance programs. Immediately upon termination of an unclassified appointment pursuant to this subsection, an employee on assignment from the classified service shall have a right to be restored to the classified service and reinstated to the former job family level and compensation plus any adjustments and increases in salary or benefits which the employee would have received but for the leave of absence.

SECTION 33. AMENDATORY 74 O.S. 2011, Section 954, is amended to read as follows:

Section 954. It is hereby prohibited for any department or agency of the State of Oklahoma, or any official or employee of the same for and on behalf of the State of Oklahoma: to refuse to employ or to discharge any person, otherwise qualified, on account of race, color, creed, national origin, age, handicap, or ancestry; to discriminate for the same reasons in regard to tenure, terms, or conditions of employment; to deny promotion or increase in compensation solely for these reasons; to publish an offer of employment based on such discrimination; to adopt or enforce any rule or employment policy which so discriminates as to any employee; or to seek such information as to any applicant or employee or to discriminate in the selection of personnel for training solely on such basis. These provisions shall be cumulative and in addition to existing laws relating to discrimination in the classified service.

It shall be the duty of the Oklahoma Merit Protection Commission to investigate, upon its own initiative~~,~~ or upon complaint filed by any aggrieved person, ~~or upon complaint filed by the Human Rights Commission,~~ any violation of this section and to enforce compliance with the same, both in the classified and the nonclassified service. ~~The Human Rights Commission shall investigate, upon its own initiative or on complaint filed with it, any such violation and may file a formal complaint with the Oklahoma Merit Protection~~

~~Commission. When any complaint is filed by the Human Rights Commission with the Oklahoma Merit Protection Commission, the Oklahoma Merit Protection Commission shall set a hearing on the same, at which hearing the Director of the Human Rights Commission, or his representative, may appear and present the finding of the Commission in regard to such violation. In the enforcement of this section, the Oklahoma Merit Protection Commission shall follow the provisions of existing laws relating to hearings, procedures, and notices, and shall have power to enforce its orders pertaining to violations of this section as is provided by law in regard to the classified service.~~

SECTION 34. REPEALER 25 O.S. 2011, Sections 1502.2, 1502.3, 1502.4, 1502.5, 1502.7, 1502.8, 1502.9, 1502.10, 1502.11, 1502.12, 1502.13, 1502.14, 1503, 1504, 1505, 1506, 1506.5, 1506.8, 1507, 1508 and 1604, are hereby repealed.

SECTION 35. REPEALER 74 O.S. 2011, Sections 952, 953 and 955, are hereby repealed.

SECTION 36. This act shall become effective July 1, 2012.

SECTION 37. 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.

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