

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1046, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

Senator Newberry

Newberry-MJM-FS-Req#3283
3/13/2012 1:44 PM

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1046

By: Newberry of the Senate

and

McCullough of the House

7
8
9 FLOOR SUBSTITUTE

10 [state employees - employment status - grievances,
11 dispute resolution and termination procedures -
12 codification - effective date]

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

17 Section 840-3.1 A. Each supervisor employed ~~as of January 1,~~
18 ~~1993,~~ by a state agency, board or commission in the executive branch
19 of state government, excluding those within The Oklahoma State
20 System of Higher Education, shall attend, ~~prior to December 31,~~
21 ~~1993,~~ a training program for supervisory personnel. The training
22 program shall be established pursuant to subsection C of this
23 section.

1 B. Employees appointed to supervisory positions ~~after January~~
2 ~~1, 1993,~~ shall complete twenty-four (24) hours of training pursuant
3 to subsection C of this section and training courses in State of
4 Oklahoma management processes and progressive discipline as provided
5 by or approved by the Office of State Finance within twelve (12)
6 months of assuming such supervisory position. Thereafter,
7 supervisors are required to complete twelve (12) hours of training
8 pursuant to subsection C of this section each year and shall further
9 complete training courses in State of Oklahoma management processes
10 and progressive discipline each thirty-six (36) months. The
11 appointing authority of each agency shall ensure each supervisory
12 employee is notified and scheduled to attend such required training
13 and shall make time available for each such employee to complete the
14 training.

15 C. 1. The Administrator of the Office of ~~Personnel Management~~
16 State Finance shall promulgate any rules necessary to develop and
17 implement training programs for supervisory personnel which shall
18 include courses related to the effective performance of an agency
19 manager or supervisor. ~~Rules authorized by this subsection shall~~
20 ~~require supervisors to attend such training within a reasonable~~
21 ~~period of time determined by the Administrator.~~

22 2. Training programs for supervisors under this section may be
23 approved by the Office of ~~Personnel Management~~ State Finance;
24 provided, however, such programs shall be subject to standards

1 developed by the Office of ~~Personnel Management~~ State Finance. All
2 state agencies, boards and commissions may participate in any such
3 government employee training program established by a private entity
4 or an institution that is a member of The Oklahoma State System of
5 Higher Education and approved by the Office of ~~Personnel Management~~
6 State Finance as provided for in this paragraph.

7 D. By January 1 of each year, the Office of State Finance shall
8 notify agencies of the method for reporting their level of
9 compliance with these requirements for the previous calendar year.

10 The Office of State Finance may assess fines to agencies for not
11 complying with subsections A through D of this section. Such fines
12 shall not exceed One Hundred Dollars (\$100.00) per supervisor.
13 Agencies may petition for the fine to be waived in extenuating
14 circumstances. The Office of State Finance shall provide a summary
15 of the reports to the Governor, the President Pro Tempore of the
16 Senate and Speaker of the House of Representatives.

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

19 Section 840-4.13. A. Based upon the results of competitive
20 entrance examinations and registers, as provided by the Oklahoma
21 Personnel Act, the Administrator of the Office of ~~Personnel~~
22 ~~Management~~ State Finance shall certify to the appointing authority
23 the names of the ten persons receiving the highest grade or score in
24

1 said examinations plus all eligible applicants whose grade or score
2 is tied with the lowest ranking of those so eligible.

3 B. In addition to establishing statewide registers pursuant to
4 subsection A of this section, the Administrator is hereby authorized
5 to promulgate rules creating a local register to fill a vacancy in a
6 local office of an agency by providing a certificate of available
7 names of eligible persons who are residents of the county where the
8 local office is located or ~~said~~ the county and adjacent counties or
9 a group of contiguous counties comprising a service area of an
10 agency. Available eligible residents shall be certified ahead of
11 other available eligible persons who reside outside the area of the
12 local register. In filling vacant positions, the appointing
13 authority shall select any one of the persons whose names have been
14 so certified and may give preference in all cases to persons who
15 have resided in this state for at least one (1) year prior to the
16 date of the examination. Provided, however, that any appointing
17 authority authorized to employ persons who are not citizens of the
18 United States, pursuant to Section 255 of this title, may request
19 the Office to certify only the names of persons who are citizens of
20 the United States in carrying out the provisions of this section;
21 and such appointing authority may select any person so certified to
22 the Administrator to fill such vacant positions even though a
23 noncitizen may have received a higher grade on the examination.
24 Provided, further, that any appointing authority may select special

1 disabled veterans considered for employment pursuant to Sections 401
2 through 404 of Title 72 of the Oklahoma Statutes. The Department of
3 Public Safety, in filling vacancies for Highway Patrol Cadets, may
4 disqualify any eligible whose name has been certified for Highway
5 Patrol Cadet pursuant to subsection A of this section, if the
6 Department of Public Safety considers the eligible in connection
7 with the hiring of three other eligibles pursuant to subsection A of
8 this section from that certificate. The name of such disqualified
9 eligible shall be omitted from further certification to, and
10 consideration by, the Department of Public Safety for appointment as
11 a Highway Patrol Cadet to the Highway Patrol Academy for which
12 vacancies are being filled. Such disqualification shall neither
13 deprive any person of any preference pursuant to paragraph 3 of
14 subsection A of Section 840-4.14 of this title nor deprive any
15 person from certification to, and consideration by, the Department
16 of Public Safety for appointment as a Highway Patrol Cadet to a
17 subsequent Highway Patrol Academy. The Department of Public Safety
18 shall provide written notice of the disqualification to the Office
19 of ~~Personnel Management~~ State Finance. The Department of
20 Corrections, in filling vacancies for Correctional Officer Cadets
21 and Probation and Parole Officers, may disqualify any eligible whose
22 name has been certified for Correctional Officer Cadet or Probation
23 and Parole Officer, pursuant to subsection A of this section, if the
24 Department of Corrections considers the eligible in connection with

1 the hiring of three other eligibles pursuant to subsection A of this
2 section from that or any other certificate. The name of such
3 disqualified eligible shall be omitted from future certification to,
4 and consideration by, the Department of Corrections for appointment
5 as a Correctional Officer Cadet or Probation and Parole Officer for
6 a period of six (6) months, at which time the eligible may request
7 restoration to the register by the Office of ~~Personnel Management~~
8 State Finance. Such disqualification shall not deprive any person
9 of any preference pursuant to paragraph 3 of subsection A of Section
10 840-4.14 of this title. The Department of Corrections shall provide
11 written notice of the disqualification to the Office of ~~Personnel~~
12 ~~Management~~ State Finance.

13 C. Agencies may fill positions requiring professional practice
14 licensure and hard-to-fill positions pursuant to authorization by
15 the Administrator without regard to subsections A and B of this
16 section. The Administrator shall promulgate rules to authorize
17 agencies to fill positions directly, pursuant to this subsection.
18 Such rules shall include criteria for identifying professional
19 practice licensure positions and hard-to-fill positions which shall
20 not require establishment of an employment list of eligible persons
21 or the application of veterans preference. The Administrator shall
22 monitor appointments made by agencies pursuant to this subsection
23 and shall establish recordkeeping and reporting procedures and the
24 conditions under which the Administrator may withdraw authorization

1 for agencies to directly hire persons into hard-to-fill positions.
2 Nothing in this subsection shall be construed to waive any
3 requirement for any job or position established by statute or the
4 Administrator.

5 D. Every person, except as provided in subsection E and F of
6 this section, upon initial appointment under the classified service,
7 shall be appointed for a probationary period of one (1) year, except
8 that the appointing authority may waive in writing the remainder of
9 the probationary period at any time after a probationary employee
10 has served six (6) months; provided, however, that the employee and
11 the Administrator of the Office of ~~Personnel Management~~ State
12 Finance shall be notified in writing as to such action and the
13 reason therefor. The probationary appointment of any person may be
14 terminated at any time during the probationary period without the
15 right of appeal. At the close of the probationary period, as herein
16 provided, ~~said~~ the person shall acquire a permanent status under the
17 conditions prescribed in the Oklahoma Personnel Act.

18 E. At the end of the initial one-year probationary period as
19 provided in subsection D of this section, if a classified employee
20 is subject to a corrective action plan as provided by merit rule,
21 the appointing authority may allow the employee an additional six-
22 month probationary period and, at the end of this period if the
23 employee is still subject to a corrective action plan, the
24 appointing authority may allow a subsequent six-month probationary

1 period for a total additional probationary period not to exceed
2 twelve (12) months. During the extended probationary period the
3 employee, if terminated by the appointing authority, may exercise
4 their right of appeal only at the agency level and shall not be
5 authorized to appeal to the Merit Protection Commission.

6 F. Every person initially appointed under the classified
7 service as an agent of the Alcoholic Beverage Laws Enforcement
8 Commission shall be appointed for a probationary period of one (1)
9 year.

10 ~~F.~~ G. In working with appointing authorities in determining
11 minimum qualifications for a position, the Administrator of the
12 Office of Personnel Management shall require an appointing authority
13 to justify in writing any reasons for excluding from consideration
14 relevant public or private sector experience applicable to the
15 position.

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

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

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

22 1. Two members of the Oklahoma Senate appointed by the
23 President Pro Tempore of the Senate;

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

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

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

9 C. After the initial appointments, the members shall serve
10 four-year terms, and the appointing authorities may fill any
11 vacancies as they occur. ~~The term of the members appointed by the~~
12 ~~President Pro Tempore of the Senate shall expire July 1, 2004. The~~
13 ~~term of the members appointed by the Speaker of the House of~~
14 ~~Representatives shall expire July 1, 2005. The term of the members~~
15 ~~appointed by the Governor shall expire July 1, 2006. The term of~~
16 ~~the members appointed by the largest organization in the state that~~
17 ~~represents state employees shall expire July 1, 2007.~~

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

19 E. The Board shall review the study of the Office of Personnel
20 ~~Management~~ State Finance, as required by paragraph 19 of Section
21 840-1.6A of this title, and make recommendations which may include
22 compensation adjustments, pay band adjustments, targeted salary
23 increases, and other recommendations related to turnover, fringe
24 benefits and other compensation issues concerning state employees,

1 but excluding retirement issues. The recommendations shall be made
2 to the President Pro Tempore of the Senate, Speaker of the House of
3 Representatives, and Governor on or before February 1 of the year
4 following each biennial meeting.

5 F. The Board shall meet in December ~~2005 and in December of~~
6 ~~every odd-numbered year thereafter~~ to consider compensation
7 ~~recommendations. The Board shall meet every year to consider and~~
8 unclassified positions recommendations. Any additional meetings
9 shall be at the call of the chair.

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

12 1. State agencies subject to the provisions of the Merit System
13 of Personnel Administration shall submit requests to the
14 Administrator of the Office of ~~Personnel Management~~ State Finance
15 for authorizations for unclassified positions, any increase in
16 unclassified positions, and employees that are in addition to
17 unclassified positions already authorized by law. The Administrator
18 shall forward the requests to the Board. The Administrator shall
19 review, analyze, and provide recommendations to the Board regarding
20 the requests. The Board shall meet in December of each year and
21 shall review any agency proposals to add unclassified positions to
22 the state service. A representative from each appointing authority
23 of a state agency that desires to add unclassified positions shall
24 attend the meeting and present the proposal of the agency. The

1 Board shall also review positions currently in the unclassified
2 service. The Administrator of the Office of ~~Personnel Management~~
3 State Finance shall review and analyze such positions and provide
4 recommendations to the Board. The Board may request the presence of
5 state agency representatives to provide information concerning such
6 positions.

7 2. On or before February 1 of each year, the Board shall
8 present any recommendations to the President Pro Tempore of the
9 State Senate and the Speaker of the Oklahoma House of
10 Representatives concerning current positions in the unclassified
11 service and agency proposals to add unclassified positions.

12 3. The Board may also meet during the regular session of the
13 Legislature to consider any additional requests to add unclassified
14 positions to the state service submitted pursuant to this
15 subsection.

16 H. A majority of the members of the Board shall constitute a
17 quorum for the transaction of business. Each Board member shall be
18 entitled to one vote on the Board. Any official action of the Board
19 must have a majority of the votes of the members present.

20 I. Each member of the Board shall serve without compensation
21 except that each legislative member of the Board shall receive
22 reimbursement for travel expenses in accordance with Section 456 of
23 this title and each nonlegislative member of the Board shall receive
24 reimbursement for travel expenses in accordance with the State

1 Travel Reimbursement Act by the Office of ~~Personnel Management~~ State
2 Finance.

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

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

9 Any legislation authored by a member of the Senate or the House
10 of Representatives amending the Oklahoma Personnel Act may be
11 introduced in the first session of any Legislature according to the
12 applicable deadlines established by each body. Such measure shall
13 be referred to the Oklahoma Compensation and Unclassified Positions
14 Review Board for review and analysis and the measure may be further
15 acted upon by either or both bodies of the Legislature in accordance
16 with applicable deadlines during the regular legislative session the
17 following year.

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

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