

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 1046

By: Newberry of the Senate

and

McCullough of the House

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10                                   COMMITTEE SUBSTITUTE

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

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

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

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

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

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1 and shall make time available for each such employee to complete the  
2 training.

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

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

19 D. By January 1 of each year, the Office of State Finance shall  
20 notify agencies of the method for reporting their level of  
21 compliance with these requirements for the previous calendar year.  
22 The Office of State Finance may assess fines to agencies for not  
23 complying with subsections A through D of this section. Such fines

1 shall not exceed One Hundred Dollars (\$100.00) per supervisor.  
2 Agencies may petition for the fine to be waived in extenuating  
3 circumstances. The Office of State Finance shall provide a summary  
4 of the reports to the Governor, the President Pro Tempore of the  
5 Senate and Speaker of the House of Representatives.

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

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

15 B. In addition to establishing statewide registers pursuant to  
16 subsection A of this section, the ~~Administrator~~ Director is hereby  
17 authorized to promulgate rules creating a local register to fill a  
18 vacancy in a local office of an agency by providing a certificate of  
19 available names of eligible persons who are residents of the county  
20 where the local office is located or ~~said~~ the county and adjacent  
21 counties or a group of contiguous counties comprising a service area  
22 of an agency. Available eligible residents shall be certified ahead  
23 of other available eligible persons who reside outside the area of

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1 the local register. In filling vacant positions, the appointing  
2 authority shall select any one of the persons whose names have been  
3 so certified and may give preference in all cases to persons who  
4 have resided in this state for at least one (1) year prior to the  
5 date of the examination. Provided, however, that any appointing  
6 authority authorized to employ persons who are not citizens of the  
7 United States, pursuant to Section 255 of this title, may request  
8 the Office to certify only the names of persons who are citizens of  
9 the United States in carrying out the provisions of this section;  
10 and such appointing authority may select any person so certified to  
11 the ~~Administrator~~ Director to fill such vacant positions even though  
12 a noncitizen may have received a higher grade on the examination.  
13 Provided, further, that any appointing authority may select special  
14 disabled veterans considered for employment pursuant to Sections 401  
15 through 404 of Title 72 of the Oklahoma Statutes. The Department of  
16 Public Safety, in filling vacancies for Highway Patrol Cadets, may  
17 disqualify any eligible whose name has been certified for Highway  
18 Patrol Cadet pursuant to subsection A of this section, if the  
19 Department of Public Safety considers the eligible in connection  
20 with the hiring of three other eligibles pursuant to subsection A of  
21 this section from that certificate. The name of such disqualified  
22 eligible shall be omitted from further certification to, and  
23 consideration by, the Department of Public Safety for appointment as

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1 a Highway Patrol Cadet to the Highway Patrol Academy for which  
2 vacancies are being filled. Such disqualification shall neither  
3 deprive any person of any preference pursuant to paragraph 3 of  
4 subsection A of Section 840-4.14 of this title nor deprive any  
5 person from certification to, and consideration by, the Department  
6 of Public Safety for appointment as a Highway Patrol Cadet to a  
7 subsequent Highway Patrol Academy. The Department of Public Safety  
8 shall provide written notice of the disqualification to the Office  
9 of ~~Personnel Management~~ State Finance. The Department of  
10 Corrections, in filling vacancies for Correctional Officer Cadets  
11 and Probation and Parole Officers, may disqualify any eligible whose  
12 name has been certified for Correctional Officer Cadet or Probation  
13 and Parole Officer, pursuant to subsection A of this section, if the  
14 Department of Corrections considers the eligible in connection with  
15 the hiring of three other eligibles pursuant to subsection A of this  
16 section from that or any other certificate. The name of such  
17 disqualified eligible shall be omitted from future certification to,  
18 and consideration by, the Department of Corrections for appointment  
19 as a Correctional Officer Cadet or Probation and Parole Officer for  
20 a period of six (6) months, at which time the eligible may request  
21 restoration to the register by the Office of ~~Personnel Management~~  
22 State Finance. Such disqualification shall not deprive any person  
23 of any preference pursuant to paragraph 3 of subsection A of Section

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1 840-4.14 of this title. The Department of Corrections shall provide  
2 written notice of the disqualification to the Office of ~~Personnel~~  
3 ~~Management~~ State Finance.

4 C. Agencies may fill positions requiring professional practice  
5 licensure and hard-to-fill positions pursuant to authorization by  
6 the ~~Administrator~~ Director without regard to subsections A and B of  
7 this section. The ~~Administrator~~ Director shall promulgate rules to  
8 authorize agencies to fill positions directly, pursuant to this  
9 subsection. Such rules shall include criteria for identifying  
10 professional practice licensure positions and hard-to-fill positions  
11 which shall not require establishment of an employment list of  
12 eligible persons or the application of veterans preference. The  
13 ~~Administrator~~ Director shall monitor appointments made by agencies  
14 pursuant to this subsection and shall establish recordkeeping and  
15 reporting procedures and the conditions under which the  
16 ~~Administrator~~ Director may withdraw authorization for agencies to  
17 directly hire persons into hard-to-fill positions. Nothing in this  
18 subsection shall be construed to waive any requirement for any job  
19 or position established by statute or the ~~Administrator~~ Director.

20 D. Every person, except as provided in ~~subsection~~ subsections E  
21 and F of this section, upon initial appointment under the classified  
22 service, shall be appointed for a probationary period of one (1)  
23 year, except that the appointing authority may waive in writing the

1 remainder of the probationary period at any time after a  
2 probationary employee has served six (6) months; provided, however,  
3 that the employee and the ~~Administrator~~ Director of the Office of  
4 ~~Personnel Management~~ State Finance shall be notified in writing as  
5 to such action and the reason therefor. The probationary  
6 appointment of any person may be terminated at any time during the  
7 probationary period without the right of appeal. At the close of  
8 the probationary period, as herein provided, ~~said~~ the person shall  
9 acquire a permanent status under the conditions prescribed in the  
10 Oklahoma Personnel Act.

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

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

5        ~~F.~~ G. In working with appointing authorities in determining  
6 minimum qualifications for a position, the ~~Administrator~~ Director of  
7 the Office of ~~Personnel Management~~ State Finance shall require an  
8 appointing authority to justify in writing any reasons for excluding  
9 from consideration relevant public or private sector experience  
10 applicable to the position.

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

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

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

17        1. Two members of the Oklahoma Senate appointed by the  
18 President Pro Tempore of the Senate;

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

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

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

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

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

15 E. The Board shall review the study of the Office of ~~Personnel~~  
16 ~~Management~~ State Finance, as required by paragraph 19 of Section  
17 840-1.6A of this title, and make recommendations which may include  
18 compensation adjustments, pay band adjustments, targeted salary  
19 increases, and other recommendations related to turnover, fringe  
20 benefits and other compensation issues concerning state employees,  
21 but excluding retirement issues. The recommendations shall be made  
22 to the President Pro Tempore of the Senate, Speaker of the House of  
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1 Representatives, and Governor on or before February 1 of the year  
2 following each biennial meeting.

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

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

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

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

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

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

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

19 I. Each member of the Board shall serve without compensation  
20 except that each legislative member of the Board shall receive  
21 reimbursement for travel expenses in accordance with Section 456 of  
22 this title and each nonlegislative member of the Board shall receive  
23 reimbursement for travel expenses in accordance with the State  
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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 shall be  
11 referred to the Oklahoma Compensation and Unclassified Positions  
12 Review Board for review and analysis. The results of the analysis  
13 shall be sent to the author of the legislation, the President Pro  
14 Tempore of the Oklahoma State Senate, the Speaker of the House of  
15 Representatives, and members of the House and Senate committee to  
16 which the legislation was initially assigned.

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

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19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
20 04/12/2012 - DO PASS, As Amended.

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