

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1478

6 By: Murphey

7 COMMITTEE SUBSTITUTE

8 An Act relating to state government; amending 62 O.S.
9 2011, Section 34.64, as amended by Section 387,
10 Chapter 304, O.S.L. 2012 (62 O.S. Supp. 2012, Section
11 34.64), which relates to the Oklahoma State Finance
12 Act; prohibiting certain persons from approving
13 certain payments; directing cost avoidance be
14 remitted to the General Revenue Fund; amending 74
15 O.S. 2011, Sections 840-2.10, 840-2.13, 840-2.14 and
16 840-2.19, as amended by Sections 873, 874, 875 and
17 878, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012,
18 Sections 840-2.10, 840-2.13, 840-2.14 and 840-2.19),
19 which relate to the Oklahoma Personnel Act;
20 authorizing Office of Management and Enterprise
21 Services to enter into certain contracts; removing
22 obsolete language; removing certain reporting
23 requirements; requiring certain payroll adjustments
24 be published; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2011, Section 34.64, as
amended by Section 387, Chapter 304, O.S.L. 2012 (62 O.S. Supp.
2012, Section 34.64), is amended to read as follows:

1 Section 34.64 A. Except as otherwise provided in the Oklahoma
2 State Finance Act, procedures for paying claims or payrolls shall
3 include the following:

4 1. All miscellaneous claims and payroll claims for the payment
5 of money from the State Treasury, shall be filed with the Director
6 of the Office of Management and Enterprise Services for audit and
7 settlement prior to being filed for payment with the State
8 Treasurer;

9 2. The Director of the Office of Management and Enterprise
10 Services may establish alternative procedures for the settlement of
11 claims whenever such procedures are more advantageous so long as
12 they are consistent with the requirements of state law;

13 3. Such alternative procedures shall be at the discretion of
14 the Director of the Office of Management and Enterprise Services and
15 may include, but are not limited to:

16 a. a procedure to permit consolidated payment to vendors
17 for claims involving more than one agency of the state
18 when audit and settlement of such claims, as
19 hereinafter provided, can in all respects be
20 accomplished,

21 b. procedures based upon valid statistical sampling
22 models for preaudit of claims, against contracts,
23 purchase orders and other commitments before entering
24 such claims against the accounts, and

1 c. policies, procedures and performance criteria for the
2 participation of agencies or departments, not
3 authorized by this section, to engage in an
4 alternative system for the settlement of claims; and

5 4. The Director of the Office of Management and Enterprise
6 Services may use automated processes and a numeric or alphanumeric
7 designation to cross-reference claims or payrolls to check warrant
8 numbers, transfer entry or optional settlement mode used in the
9 payment thereof.

10 B. After claims or payrolls or both have been properly audited
11 and recorded against the respective contracts, purchase orders,
12 other commitments and accounts, the Division of Central Accounting
13 and Reporting shall certify such claims or payrolls to the State
14 Treasurer for payment.

15 C. It shall be the responsibility of the Division of Central
16 Accounting and Reporting to determine that:

17 1. All material legal requirements concerning the expenditure
18 of monies involved in each claim or payroll have been complied with;

19 2. Funds have been properly and legally allotted for the
20 payment of the claim or payroll; and

21 3. A sufficient balance exists for the payment of same.

22 D. The Director of the Office of Management and Enterprise
23 Services or bonded employees in the Division of Central Accounting
24

1 and Reporting authorized by the Director shall certify to the State
2 Treasurer that the claim or payroll has been approved for payment.

3 E. 1. The Director of the Office of Management and Enterprise
4 Services shall be authorized to establish necessary agency
5 disbursing funds to efficiently accommodate the cash flow
6 requirements of applicable federal regulations, bond indebtedness
7 and other directives deemed appropriate by the Director.

8 2. Agencies operating such disbursing funds are authorized to
9 establish a preaudit and settlement system for claims or payments or
10 both relating to the purposes of the stated directives.

11 3. The State Treasurer shall establish procedures for the state
12 in accordance with Federal Banking and National Automated Clearing
13 House Association standards and agencies shall be required to
14 utilize automated clearing house procedures established by the State
15 Treasurer.

16 4. No individual or entity shall be required to have a bank
17 account unless required by federal law or federal regulation.

18 5. Agencies shall be further required to present these
19 transactions to the Office of Management and Enterprise Services in
20 a summarized format and shall include any accounting information
21 necessary as determined by the Director of the Office of Management
22 and Enterprise Services including, but not limited to, information
23 related to federal law.

24

1 6. Administrative expenditures shall not be eligible for these
2 procedures.

3 7. The efficiency of the payment system shall be considered
4 when the interest earnings of the state are not diminished.

5 F. The Director of the Office of Management and Enterprise
6 Services shall be authorized to process payments for federal tax
7 withholding without claim forms. The Director shall establish a
8 separate fund for the purpose of accumulating federal income tax
9 withholding from payrolls and remitting same to the United States
10 Treasury.

11 G. 1. The Director of the Office of Management and Enterprise
12 Services shall be authorized to process, without claim forms,
13 interest payments to the U.S. Treasury as required by federal law.

14 2. Agencies are responsible for the accrual of such interest
15 liability of the state and shall provide payment to the Office of
16 Management and Enterprise Services in the amount and method
17 prescribed by the Director of the Office of Management and
18 Enterprise Services.

19 3. Any liability of the U.S. Treasury as determined by federal
20 law shall be deposited in the State Treasury and transferred by the
21 Director of the Office of Management and Enterprise Services to the
22 General Revenue Fund of the state subsequent to final determination
23 and necessary audit resolution.

1 H. Payments disbursed from the State Treasury shall be conveyed
2 solely through an electronic payment mechanism. The State Treasurer
3 may provide an exemption from the provisions of this subsection,
4 with cause, provided the number of exempted payments and a
5 corresponding list of causes shall be published in a regularly
6 updated report which is featured prominently on the State
7 Treasurer's website.

8 I. Neither the Director of the Office of Management and
9 Enterprise Services, the Division of Central Accounting and
10 Reporting, nor the State Treasurer shall approve, or certify for
11 payment, encumber, authorize, entertain, consider for approval, or
12 process any payment proposed for issuance by any state agency for
13 human resources, personnel or other service provided the payment
14 exceeds the statutorily established cost for the recording of
15 security interests pursuant to Section 1110 of Title 47 of the
16 Oklahoma Statutes and provided the proposed recipient is required to
17 file reports as an individual, business or principal pursuant to
18 Section 257:23-1-2 of the Rules of the Ethics Commission (74 O.S.
19 Supp. 2012, Ch. 62, App.). Cost avoidance resulting from the
20 application of the prohibition in this subsection shall be remitted
21 to the General Revenue Fund.

22 SECTION 2. AMENDATORY 74 O.S. 2011, Section 840-2.10, as
23 amended by Section 873, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
24 2012, Section 840-2.10), is amended to read as follows:

1 Section 840-2.10 A. There is hereby created a State Employee
2 Assistance Program within the Office of Management and Enterprise
3 Services. The program may provide assistance to state agencies in
4 their management of employees whose personal problems may have a
5 negative impact on job performance. The program may also provide
6 for assessment, referral, consultation, and problem resolution
7 assistance to state employees and their family members seeking
8 corrective help with medical or mental health problems, including
9 alcohol or drug abuse and emotional, marital, familial, financial or
10 other personal problems. Participation in the State Employee
11 Assistance Program shall be on a voluntary basis.

12 B. The Office of Management and Enterprise Services may enter
13 into contracts which are necessary and proper to carry out the
14 purposes and functions of the State Employee Assistance Program and
15 establish standards and criteria which shall be met by entities to
16 be eligible to contract with the Office of Management and Enterprise
17 Services.

18 C. The Director of the Office of Management and Enterprise
19 Services is hereby directed to:

20 1. Promulgate rules necessary for the administration of the
21 State Employee Assistance Program and the maintenance and release of
22 participant records;

23 2. Conduct training specific to the State Employee Assistance
24 Program; and

1 3. Establish evaluation methods to assess the effectiveness of
2 the State Employee Assistance Program.

3 ~~C.~~ D. Nothing in this act is intended to nullify any agency's
4 existing employee assistance program or to prohibit any state agency
5 from establishing its own employee assistance program; provided,
6 however, such programs established by state agencies shall be
7 subject to compliance with rules promulgated by the Director of the
8 Office of Management and Enterprise Services to ensure equitable
9 treatment of employees.

10 ~~D.~~ E. Records that relate to participation by an individual in
11 the State Employee Assistance Program or an employee assistance
12 program established by a state agency shall be maintained separate
13 and apart from regular personnel records and shall not become part
14 of an employee's personnel file. Such records relating to an
15 individual's participation in an employee assistance program shall
16 be confidential and neither the records nor the testimony of an
17 Employee Assistance Program professional shall be subject to
18 subpoena unless a participant poses a threat to deliberately harm
19 the participant or others. Such determination shall be made by an
20 Employee Assistance Program Professional. A participant in an
21 employee assistance program shall have a right of access to his or
22 her own employee assistance program records.

23 ~~E.~~ F. No provision of this section or the rules promulgated
24 pursuant to this section shall be construed to conflict with an

1 appointing authority's responsibility and authority to maintain
2 discipline or to take disciplinary measures against employees for
3 misconduct or unacceptable performance. Further, participation or
4 nonparticipation in any state employee assistance program shall not
5 excuse an employee from discipline or otherwise affect the terms and
6 conditions of such employee's employment status or opportunities for
7 advancement with the state.

8 ~~F.~~ G. 1. There is hereby created the Employee Assistance
9 Program Advisory Council to assist in the implementation of the
10 state's employee assistance program. The Council shall advise the
11 Director on policy issues and provide support to expand and improve
12 program services that are available to state employees and their
13 families.

14 2. The Employee Assistance Program Advisory Council shall
15 consist of the current nine (9) members who shall continue to hold
16 their current positions through June 30, 1995. Effective July 1,
17 1995, three members shall be appointed by the Governor, three
18 members shall be appointed by the Speaker of the House of
19 Representatives, and three members shall be appointed by the
20 President Pro Tempore of the Senate. All members shall serve two-
21 year terms, unless removed prior to the expiration of a term by the
22 respective individual making the appointment. Any vacancy in office
23 shall be filled by the individual who made the initial appointment.
24 The Council shall select a chair and vice-chair from among its

1 membership. A majority of the members of the Council shall
2 constitute a quorum to transact business, but no vacancy shall
3 impair the right of the remaining members to exercise all of the
4 powers of the Council and every act of a majority of the members
5 present shall be deemed the act of the Council.

6 3. Members of the Council shall receive no compensation for
7 serving on the Council, but shall receive necessary travel
8 reimbursement by the employing agency for members who are state
9 employees or appointing authorities of agencies pursuant to the
10 State Travel Reimbursement Act. Any member employed in state
11 government shall receive the reimbursement from their employing
12 entity. Members who are not employed in state government shall
13 receive travel reimbursement from the Office of Management and
14 Enterprise Services.

15 4. The Council shall not have authority to adopt rules pursuant
16 to the Administrative Procedures Act.

17 ~~G.~~ H. The Legislature and the judicial branch of state
18 government may utilize the services of the State Employee Assistance
19 Program at their discretion.

20 SECTION 3. AMENDATORY 74 O.S. 2011, Section 840-2.13, as
21 amended by Section 874, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
22 2012, Section 840-2.13), is amended to read as follows:

23 Section 840-2.13 A. The Director of the Office of Management
24 and Enterprise Services shall establish a Personnel Management

1 Information System to provide various management reports to
2 facilitate decision making within agencies, and to promote the
3 efficient utilization of personnel resources by providing a method
4 for tracking, monitoring and reporting positions and employee
5 transactions. The System shall include information on both the
6 classified and unclassified services within the executive branch of
7 government, but shall not require institutions within The Oklahoma
8 State System of Higher Education to participate.

9 B. The Director of the Office of Management and Enterprise
10 Services shall promulgate rules regarding the Personnel Management
11 Information System as necessary to implement the provisions of this
12 section. Such rules shall establish a schedule to ensure the
13 orderly implementation of such Personnel Management Information
14 System.

15 C. ~~The Personnel Management Information System shall be~~
16 ~~implemented for all state agencies under the Merit System by July 1,~~
17 ~~1993, and for all other executive branch state agencies by July 1,~~
18 ~~1994.~~

19 ~~D.~~ State agencies shall assist the Office of Management and
20 Enterprise Services as necessary to ensure the orderly completion of
21 implementation as provided for in this section.

22 ~~E.~~ D. Appointing authorities in the legislative or judicial
23 branches of state government may participate in the Personnel
24 Management Information System at their option.

1 SECTION 4. AMENDATORY 74 O.S. 2011, Section 840-2.14, as
2 amended by Section 875, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
3 2012, Section 840-2.14), is amended to read as follows:

4 Section 840-2.14 A. The intent of the Legislature is to
5 increase individual agency skill and accountability in managing the
6 costs associated with personnel and in applying controls that will
7 enhance the ability of the State of Oklahoma to manage the overall
8 costs of human resources as efficiently as possible, while
9 continuing to maintain fairness to employees.

10 ~~B. All agencies, boards, and commissions shall report all~~
11 ~~reallocation decisions for both classified and unclassified~~
12 ~~positions and all adjustments to pay grades or salary assignments~~
13 ~~for classes in the unclassified service to the Office of Management~~
14 ~~and Enterprise Services on a semiannual basis. The Office of~~
15 ~~Management and Enterprise Services shall submit the semiannual~~
16 ~~reports to the Governor, the President Pro Tempore of the Senate,~~
17 ~~and the Speaker of the House of Representatives, along with an~~
18 ~~analysis of statewide reallocation decisions.~~

19 ~~C. All agencies, boards, and commissions shall report to the~~
20 ~~Office of Management and Enterprise Services on a semiannual basis~~
21 ~~all transactions in both the classified and unclassified service~~
22 ~~involving the establishment of new positions that have not been~~
23 ~~authorized specifically by legislative action. Agencies shall~~
24 ~~report the transactions for the six-month period ending June 30 or~~

1 ~~December 31. The Office of Management and Enterprise Services shall~~
2 ~~forward the semiannual reports to the Governor, President Pro~~
3 ~~Tempore of the Senate, and Speaker of the House of Representatives,~~
4 ~~accompanied by an analysis of agency decisions concerning such~~
5 ~~positions.~~

6 ~~D.~~ As a further control on human resource costs, the Governor
7 may declare a financial emergency or implement a freeze in hiring,
8 by declaring this section to be in effect. CompSource Oklahoma
9 shall not be subject to the provisions of this subsection. During
10 such periods, no audits of classified positions or reallocation of
11 unclassified positions shall be initiated or conducted at the
12 request of an agency except at the direction of the Governor. The
13 provisions of the Oklahoma Personnel Act relating to agency-
14 requested audits may be suspended during such periods to the extent
15 that they are in conflict with this section. Provided, an audit at
16 the request of an employee who files a classification grievance
17 shall be conducted during such periods in accordance with the
18 provisions of Section 840-4.3 of this title.

19 ~~E.~~ C. The Office of Management and Enterprise Services shall
20 establish due dates and specify the format for reports required by
21 this section. Agencies that do not respond by the due dates shall
22 be identified in a special section of the semiannual analysis
23 reports forwarded to the Governor, President Pro Tempore of the
24 Senate and Speaker of the House of Representatives.

1 ~~F.~~ D. The provisions of this section shall not be construed to
2 suspend the responsibility of any agency to ensure that the duties
3 and responsibilities assigned to an employee are consistent with the
4 current classification of the employee.

5 SECTION 5. AMENDATORY 74 O.S. 2011, Section 840-2.19, as
6 amended by Section 878, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
7 2012, Section 840-2.19), is amended to read as follows:

8 Section 840-2.19 A. The Director of the Office of Management
9 and Enterprise Services shall not approve any payroll claim for
10 payment for any agency unless said claim contains or is accompanied
11 by the certification by the administrative head of said agency or an
12 authorized employee of said agency that the persons named in said
13 claim have been appointed and employed in accordance with the
14 provisions of the Oklahoma Personnel Act and the rules and orders
15 promulgated pursuant to the provisions of the Oklahoma Personnel
16 Act. For purposes of this section, "payroll claim" shall also
17 include longevity payments made pursuant to Section 840-2.18 of this
18 title.

19 B. If, as a result of a payroll audit, the Office of Management
20 and Enterprise Services finds that an agency has made payments of
21 salaries or wages contrary to the provisions of the Oklahoma
22 Personnel Act and the rules promulgated pursuant to the provisions
23 of the Oklahoma Personnel Act:

24

1 1. Audit findings shall be promptly transmitted to the
2 appointing authority of the agency certifying the payroll claim or
3 claims involved;

4 2. An audit conference with said agency shall be scheduled
5 within fifteen (15) days, at which time the audit exceptions will be
6 resolved or become a determination of error unless the parties to
7 the conference agree to a further review;

8 3. If underpayments or overpayments made by said agency are
9 deemed to be the result of administrative error, the agency which
10 certified the payroll claim or claims in error shall refund to the
11 employee the balance of the actual amounts due and owing to the
12 payee or shall seek repayment from the payee of any amount paid in
13 excess of the actual amount due and owing the payee;

14 4. If an agency neglects or refuses to seek repayment after a
15 determination that an error in payroll amount or amounts has been
16 made, or to properly adjust a then current salary or wage, the
17 Director of the Office of Management and Enterprise Services shall
18 note an unresolved audit exception stating the agency involved and
19 the person to whom said exception refers;

20 5. Upon receipt of notification that a procedure to initiate
21 repayment has been instituted by the certifying agency or that a
22 protest has been filed with the Oklahoma Merit Protection
23 Commission, said notice shall be withdrawn or waived by the Director
24 of the Office of Management and Enterprise Services. Implementation

1 of procedures provided in this section shall not operate to deny or
2 delay payment of proper salaries or wages to any employee of this
3 state;

4 6. The provisions of this section regarding collections of any
5 overpayment of salaries or wages by any agency to any state employee
6 or officer shall not include any such overpayment made prior to July
7 1, 1983;

8 7. Recovery of overpayments from an employee shall include all
9 overpayments occurring within one (1) year prior to the
10 determination of error. Disbursement of underpayments to an
11 employee shall include all underpayments made within a period of two
12 (2) years prior to the determination of error; and

13 8. If an agency discovers overpayment or underpayment errors
14 through an internal audit, the agency shall recover overpayments
15 from the employee or disburse underpayment amounts in accordance
16 with this section. Prior to initiation of recovery of overpayments
17 from an employee, the agency shall provide the employee with
18 adequate notice and an opportunity to respond.

19 C. The Director of the Office of Management and Enterprise
20 Services shall not approve any payroll claim for payment for any
21 agency for which a notification of an unresolved audit exception
22 pursuant to this section has been filed, unless the person named in
23 the audit exception has been removed from the payroll by the
24 certifying agency, the overpayment has been converted by the agency,

1 or the exception has been withdrawn or waived in writing by the
2 Office of Management and Enterprise Services.

3 D. Any sum on a payroll claim found to have been paid in excess
4 of the actual amount due and owing may be recovered from the payee
5 through the following procedures:

6 1. Upon the determination that an error in payroll amount has
7 been made, the agency which certified the claim or claims shall
8 notify the payee in writing within ten (10) days from said
9 determination. The notice to the payee shall contain:

- 10 a. the amounts paid in error,
- 11 b. the dates of said payments,
- 12 c. the options available for repayment, and
- 13 d. the right of the payee to protest the findings.

14 Said notice shall also provide space for the payee to indicate
15 an election of a repayment option or to protest the findings. Said
16 election shall be required within thirty (30) days after the
17 notification;

18 2. If the payee is, at the time of said notification, an
19 officer or employee of the agency seeking repayment, options
20 available for repayment shall be by:

- 21 a. lump-sum cash repayment,
- 22 b. reduction of the corrected current salary or
23 miscellaneous payroll deduction in a lump sum or in
24

1 installments over a term not to exceed the term in
2 which the erroneous payments were made,

3 c. reduction in accrued annual leave by an amount of time
4 at the then current correct salary level equal in
5 value to the total of the amount or amounts to be
6 repaid, or

7 d. any combination thereof;

8 3. If the payee is, at the time of said notification, an
9 officer or employee of an agency of the state other than the agency
10 seeking repayment, the options provided by paragraph 2 of this
11 subsection may be exercised by the payee with the approval of the
12 then current employing agency. Payment of amounts deducted or
13 charged against annual leave shall be paid to the agency seeking
14 repayment by an appropriate miscellaneous claim for interagency
15 payment. If a payroll deduction is elected pursuant to the
16 provisions of this paragraph and employment is subsequently
17 terminated, any balance remaining shall be deducted from any final
18 payment otherwise due to the employee;

19 4. If a payee who is, at the time of said notification, a
20 permanent classified officer or employee of any agency of this state
21 protests the determination of the error or the amount of said
22 determination, the agency seeking repayment shall present, within
23 five (5) days of the return of said protest, the facts in writing,
24 the notice, and the protest of the payee, to the Oklahoma Merit

1 Protection Commission. The Oklahoma Merit Protection Commission
2 shall treat any such protest as a complaint pursuant to Section 840-
3 1.9 of this title. The Commission and Executive Director, after
4 investigation and hearing, shall make a determination which shall be
5 binding on the agency. The salary or wages of any payee exercising
6 the right to the protest shall not be suspended or reduced until a
7 determination has been issued by the Oklahoma Merit Protection
8 Commission and Executive Director;

9 5. If the payee is no longer an employee of the state but
10 agrees to repay the amount or amounts paid in error, repayment may
11 be accepted:

- 12 a. by lump-sum cash repayment, or
- 13 b. in installments over a period not to exceed twelve
14 (12) months;

15 6. If the payee is no longer an employee of the state, and does
16 not respond or cannot be located within ten (10) days after mailing
17 of the determination of error, or refuses repayment, the agency
18 seeking repayment shall present the facts in writing to the Attorney
19 General and shall send a copy to the Office of Management and
20 Enterprise Services. The Attorney General shall determine what
21 action may be taken to recover said amount; and

22 7. Repayments other than by reduction in present salary or
23 reduction in accrued annual leave for a payee currently employed by
24 the agency seeking repayment shall be deposited in the General

1 Revenue Fund unless the fund to which the amount in error was
2 originally charged can be identified and was other than a General
3 Revenue Fund appropriation. Said deposits shall be treated as
4 nonrevenue receipts.

5 E. Payroll adjustments made pursuant to the terms of this
6 section shall be reflected in the transparency feeds as published on
7 the *data.ok.gov* web portal.

8 SECTION 6. This act shall become effective November 1, 2013.

9

10 54-1-7465 LRB 02/28/13

11

12

13

14

15

16

17

18

19

20

21

22

23

24