

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2586

By: Ownbey

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5
6 AS INTRODUCED

7 An Act relating to the Department of Human Services;
8 amending 74 O.S. 2011, Section 840-4.12, as amended
9 by Section 907, Chapter 304, O.S.L. 2012 (74 O.S.
10 Supp. 2013, Section 840-4.12), which relates to the
11 Oklahoma Personnel Act; extending trial period for
12 certain Department of Human Services employees; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-4.12, as
16 amended by Section 907, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
17 2013, Section 840-4.12), is amended to read as follows:

18 Section 840-4.12 A. The Director of the Office of Management
19 and Enterprise Services shall be responsible for conducting
20 promotional examinations and entrance examinations as required under
21 the Oklahoma Personnel Act. Such examinations shall be of such
22 character as to determine the qualifications, fitness and ability of
23 the persons tested to perform the duties of the job family or job
24 family level for which such tests or examinations are given.

Provided, however, tests and examinations of persons with severe

1 disabilities who have satisfactorily completed vocational and
2 technical education courses in vocational training units or
3 divisions approved by the State Department of Rehabilitation
4 Services shall be limited in scope so as to relate to the skill and
5 physical capability required for a particular position. Adequate
6 public notice shall be given of all examinations except for
7 promotion within a department or agency. Notwithstanding any other
8 provision of law, the Director may keep confidential all promotional
9 examinations, entrance examinations, and any other testing
10 materials, but the Director shall be required to disclose them
11 pursuant to a valid order from a court of competent jurisdiction and
12 establishment of a protective order prohibiting public disclosure of
13 the examinations and materials.

14 B. No person shall be required to take an entrance examination
15 for an appointment to a job family level requiring licensing by a
16 state agency if that person has been previously tested and is
17 currently licensed by the State of Oklahoma.

18 C. Promotional examinations for promotion within an agency,
19 unless requested by the agency, shall not be required; provided that
20 the promotion is in accordance with a plan adopted by the Director
21 and is in accordance with a plan adopted by the promoting agency.
22 Every employee promoted within an agency or following an intra-
23 agency lateral transfer shall serve a six-month trial period in the
24 job level to which the employee is promoted or transferred, unless

1 the trial period is waived, in writing, by the appointing authority.
2 However, when a Department of Human Services employee transfers from
3 any job classification to become a Child Welfare Specialist I, II,
4 III or IV, the trial period shall be for one (1) year. At any time
5 during a trial period, the appointing authority may return the
6 employee to the level from which the employee was promoted upon
7 written notification by the appointing authority to the employee as
8 to such action and the reason therefor, and the employee shall not
9 have the right to appeal.

10 D. The Director shall accept Certificates of Proficiency issued
11 by accredited private or public schools, colleges or the Oklahoma
12 Employment Security Commission in lieu of typing and shorthand
13 tests.

14 E. The Office of Management and Enterprise Services shall
15 certify that a candidate meets the necessary job qualifications for
16 a job family level in the classified service for the purpose of
17 allowing that candidate to be appointed to a job. The Director of
18 the Office of Management and Enterprise Services may delegate the
19 certification function provided by this section to an agency
20 pursuant to subsection ~~F~~ A of Section 840-1.15 of this title. Any
21 statute which creates any position or qualifications for any
22 position in the classified service shall not be construed to limit
23 the power of the Director to interpret or add to those
24 qualifications in a reasonable manner consistent with the intent of

1 the Legislature and the duties of that position. Any statute which
2 empowers any agency head or other employer to hire or nominate
3 persons for employment within the classified service shall not be
4 construed to empower that agency head or other employer to waive or
5 modify any qualification or rule for employment established by the
6 Director. The Director shall not be construed to have the authority
7 to limit or reduce any qualification established by statute for any
8 position. The constructions established herein shall apply to any
9 statutes or positions heretofore or hereafter created unless that
10 statute clearly and specifically states that such constructions do
11 not apply.

12 F. Subsections A through E of this section shall not apply to
13 special disabled veterans who are considered for employment under
14 the provisions of Sections 401 through 404 of Title 72 of the
15 Oklahoma Statutes. Provided, said veterans may elect instead to be
16 considered for employment according to the procedures set out in
17 subsections A through E of this section.

18 G. Subsections A through E of this section shall not apply to
19 persons with severe disabilities who are considered for employment
20 under the provisions of this subsection. Provided, said persons may
21 elect instead to be considered for employment according to the
22 procedures set out in subsections A through E of this section.

23 1. As used in this subsection "persons with severe
24 disabilities" means persons certified as having disabilities

1 according to standards and procedures established by the Director.
2 Said standards and procedures shall be developed by the Director of
3 the Office of Management and Enterprise Services with the assistance
4 of the Office of Handicapped Concerns, and the State Department of
5 Rehabilitation Services.

6 2. Agencies of this state may employ persons with severe
7 disabilities who are legal residents of the state in competitive and
8 noncompetitive jobs. Except for the requirement of minimum
9 qualifications specified in applicable job specifications, such
10 persons with disabilities shall be exempt from entrance examinations
11 and hiring procedures administered by the Office of Management and
12 Enterprise Services pursuant to this section and Section 840-4.13 of
13 this title.

14 3. Persons with severe disabilities hired pursuant to this
15 subsection shall be appointed for a probationary period pursuant to
16 Section 840-4.13 of this title.

17 4. Persons with severe disabilities hired pursuant to this
18 subsection shall be subject to the rules of the Director of the
19 Office of Management and Enterprise Services.

20 5. The Office of Management and Enterprise Services shall
21 maintain records regarding the employment of persons with severe
22 disabilities by state agencies and shall report the number of
23 persons so employed in its annual report for the Office of
24

1 Management and Enterprise Services required by Section 840-1.6A of
2 this title.

3 H. 1. This subsection shall be known and may be cited as the
4 "Fair Employment Practices Act".

5 2. Agencies of this state may use the optional hiring procedure
6 provided in this subsection to employ females, blacks, Hispanics,
7 Asian/Pacific Islanders and American Indians/Alaskan natives, as
8 defined by the Equal Employment Opportunity Commission, who are
9 legal residents of the state in competitive and noncompetitive jobs.
10 Individuals must meet the minimum qualifications and pass any
11 required examinations established by the Office of Management and
12 Enterprise Services or by statute. Except for any required
13 examinations and minimum qualifications specified in applicable job
14 specifications, such persons shall be exempt from the hiring
15 procedures administered by the Office of Management and Enterprise
16 Services. Persons may only be employed under this subsection in a
17 job family level, group or category which has been identified as
18 underutilized and in which an appropriate hiring goal has been set
19 in the state agency's affirmative action plan approved by the Office
20 of Management and Enterprise Services ~~pursuant to the provisions of~~
21 ~~Section 840-2.1 of this title.~~ In addition, the appointing
22 authority of the employing agency must determine that a manifest
23 imbalance exists which justifies remedial action pursuant to this
24 subsection in order to reach the affirmative action hiring goal.

1 Provided further, that eligible war veterans, as defined by Section
2 67.13a of Title 72 of the Oklahoma Statutes, who are members of the
3 group for which a hiring goal has been set shall be considered by
4 the employing agency before a nonveteran is appointed pursuant to
5 this subsection.

6 3. To be eligible for appointment, the persons who are members
7 of the group for which a hiring goal has been set must score within
8 the top ten scores of other available members of said group based on
9 any examination or rating of education and experience.

10 4. Persons hired pursuant to this subsection shall be appointed
11 for a probationary period pursuant to Section 840-4.13 of this
12 title.

13 5. Upon acquiring permanent status, the employee shall be
14 subject to the rules and regulations of the Office of Management and
15 Enterprise Services and to full rights and entitlements of state
16 employees in the classified service.

17 6. The authority for an agency to make appointments pursuant to
18 this subsection shall be temporary and shall cease when the
19 appointing authority of an agency can no longer justify remedial
20 action pursuant to this subsection.

21 7. The Office of Management and Enterprise Services shall
22 maintain records regarding the employment of persons by state
23 agencies pursuant to this subsection and shall report the number of
24 persons so employed in its annual report for the Office of

1 Management and Enterprise Services required by Section 840-1.6A of
2 this title.

3 SECTION 2. This act shall become effective November 1, 2014.

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