

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 ENGROSSED SENATE
5 BILL NO. 176

 By: Simpson and Kirt of the
 Senate

6 and

7 West (Tammy) of the House

8
9 An Act relating to the Oklahoma Personnel Act;
10 amending 74 O.S. 2021, Section 840-2.20, which
11 relates to leave benefits; allowing temporary
12 increase of certain accumulation limits and
13 carryover; updating statutory language; updating
14 statutory references; and providing an effective
15 date.

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

17 SECTION 1. AMENDATORY 74 O.S. 2021, Section 840-2.20, is
18 amended to read as follows:

19 Section 840-2.20. A. The Director of the Office of Management
20 and Enterprise Services shall promulgate such emergency and
21 permanent rules regarding leave and holiday leave as are necessary
22 to assist the state and its agencies.

23 The Director of the Office of Management and Enterprise
24 Services, in adopting new rules, amending rules and repealing rules,
 shall ensure that the following provisions are incorporated:

1 1. Eligible employees who enter on duty or who are reinstated
2 after a break in service shall receive leave benefits in accordance
3 with the schedule outlined below. Leave shall be accrued based upon
4 hours worked, paid leave, and holidays, but excluding overtime, not
5 to exceed the total possible work hours for the pay period. Years
6 of service shall be based on cumulative periods of employment
7 calculated in the manner that cumulative service is determined for
8 longevity purposes pursuant to Section 840-2.18 of this title.
9 Employees may accumulate more than the maximum annual leave
10 accumulation limits shown in the schedule below provided that such
11 excess is used during the same calendar year in which it accrues or
12 within twelve (12) months of the date on which it accrues, at the
13 discretion of the appointing authority. If an employee whose job
14 duties include providing fire protection services, law enforcement
15 services or services with the Department of Corrections is unable to
16 use excess leave as provided for in this paragraph because the
17 employee's request for leave is denied by the employee's appointing
18 authority and the denial of leave is due to extraordinary
19 circumstances such that taking leave could pose a threat to public
20 safety, health or welfare, the employee shall receive compensation
21 at the employee's regular rate of pay for the amount of excess leave
22 the employee is unable to use. Such compensation shall be paid at
23 the end of the time period during which the excess leave was
24 required to have been used;

2. From November 1, 2001, the following accrual rates and accumulation limits apply to eligible employees as follows:

| ACCRUAL RATES | | | ACCUMULATION |
|--------------------------|-------------|------------|--------------|
| | | | LIMITS |
| Cumulative | | | |
| Years of | Annual | Sick | Annual |
| Service | Leave | Leave | Leave |
| Persons employed 0-5 yrs | = 15 day/yr | 15 days/yr | 30 days |
| 5-10 yrs | = 18 day/yr | 15 days/yr | 60 days |
| 10-20 yrs | = 20 day/yr | 15 days/yr | 60 days |
| over 20 yrs | = 25 day/yr | 15 days/yr | 60 days |

Following an emergency declaration as described in Section 683.8 of Title 63 of the Oklahoma Statutes, the accumulation limits for annual leave shall temporarily increase and shall ~~carryover~~ carry over to the end of ~~the~~ fiscal year ~~following the year in which the~~ emergency declaration ended 2023.

All annual leave that accrued or expired during the period of the emergency declarations issued by the Governor in 2020 and 2021 in response to the novel coronavirus (COVID-19) shall carry over to the end of ~~the~~ fiscal year ~~following the year in which the emergency~~ declaration ended 2023 regardless of regulatory provisions that establish a maximum amount of annual leave that may be accumulated by an employee of the State of Oklahoma. Expired annual leave governed by this subsection shall be reinstated as of ~~the effective~~

~~date of this act~~ May 7, 2021, and accumulation limits for annual leave shall not apply to amounts accrued or reinstated pursuant to this subsection. Eligibility for reinstatement of annual leave is limited to employees currently employed by the State of Oklahoma on ~~the effective date of this act~~ May 7, 2021;

3. Temporary employees and other limited term employees are ineligible to accrue, use, or be paid for sick leave and annual leave. Such employees shall be eligible for paid holiday leave at the discretion of the appointing authority;

4. Except as provided in paragraph 2 of this subsection, employees shall not be entitled to retroactive accumulation of leave as a result of amendments to this section;

5. The Director of the Office of Management and Enterprise Services and the Executive Director of the Oklahoma Merit Protection Commission shall cooperate to assist agencies in developing policies to prevent violence in state government workplaces without abridging the rights of state employees. Such policy shall include a paid administrative leave provision as a cooling-off period which the Director of the Office of Management and Enterprise Services is authorized to provide pursuant to the Administrative Procedures Act. Such leave shall not be charged to annual or sick leave accumulations;

6. State employees who terminated their employment in the state service on or after October 1, 1992, may be eligible to have sick

1 leave accrued at the time of termination of employment restored if
2 they return to state employment provided that the state employees'
3 enter-on-duty dates for reemployment occur on or before two (2)
4 years after their termination of employment and they are eligible to
5 accrue sick leave before the two (2) years expire;

6 7. Employees who are volunteer firefighters pursuant to the
7 Oklahoma Volunteer Firefighters Act and who are called to fight a
8 fire shall not have to use any accrued leave or need to make up any
9 time due to the performance of their volunteer firefighter duties;

10 8. Employees who are reserve municipal police officers pursuant
11 to Section 34-101 of Title 11 of the Oklahoma Statutes and who miss
12 work in performing their duties in cases of emergency shall not have
13 to use any accrued leave or need to make up any time due to the
14 performance of their reserve municipal police officer duties; and

15 9. Employees who are reserve deputy sheriffs pursuant to
16 Section 547 of Title 19 of the Oklahoma Statutes and who miss work
17 in performing their duties in case of emergency shall not have to
18 use any accrued leave or need to make up any time due to the
19 performance of their reserve deputy sheriff duties.

20 B. Nothing in the Oklahoma Personnel Act is intended to prevent
21 or discourage an appointing authority from disciplining or
22 terminating an employee due to abuse of leave benefits or
23 absenteeism. Appointing authorities are encouraged to consider
24

1 attendance of employees in making decisions regarding promotions,
2 pay increases, and discipline.

3 C. Upon the transfer of a function in state government to an
4 entity outside state government, employees may, with the agreement
5 of the outside entity, waive any payment for leave accumulations to
6 which the employee is entitled and authorize the transfer of the
7 leave accumulations or a portion thereof to the outside entity.

8 SECTION 2. This act shall become effective November 1, 2022.

9
10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
11 04/11/2022 - DO PASS.
12
13
14
15
16
17
18
19
20
21
22
23
24