

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2376

By: Kannady of the House

and

Hall of the Senate

COMMITTEE SUBSTITUTE

[state government - Oklahoma Personnel Act -
payments - limits - leave - conditions - repealer -
effective date -
emergency]

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 840-2.18, as
amended by Section 14, Chapter 243, O.S.L. 2022 (74 O.S. Supp. 2022,
Section 840-2.18), is amended to read as follows:

Section 840-2.18 A. A longevity pay plan is hereby adopted.
This plan applies to all state employees, excluding members of
boards and commissions, institutions under the administrative
authority of the Oklahoma State Regents for Higher Education,
employees of public school districts, and elected officials. The
plan shall also apply to those employees of the Oklahoma School for
the Blind and the Oklahoma School for the Deaf who qualify for

1 longevity pay in accordance with subsection G of Section 1419 of
2 Title 10 of the Oklahoma Statutes.

3 B. The Oklahoma Conservation Commission is hereby authorized to
4 establish a longevity pay program for employees of the conservation
5 districts employed under Section 3-3-103 of Title 27A of the
6 Oklahoma Statutes. Such longevity pay program shall be consistent
7 with the longevity pay program for state employees authorized under
8 this title and payments shall be made in a manner consistent with
9 procedures for reimbursement to conservation districts.

10 C. To be eligible for longevity pay, employees must have been
11 continuously employed in the service of the state for a minimum of
12 two (2) years in full-time status or in part-time status working
13 more than one thousand (1,000) hours a year.

14 For purposes of this section, a break in service of thirty (30)
15 calendar days or less shall not be considered an interruption of
16 continuous service; a break in service of more than thirty (30)
17 calendar days shall mark an end to continuous service. The
18 legislative session employees who have worked for two (2) years or
19 more in part-time status and are eligible for state retirement
20 benefits, but do not receive other longevity payments, shall be
21 eligible and shall be considered to have been continuously employed
22 for purposes of calculating longevity payments, notwithstanding the
23 provisions of subsection E of this section.

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D. 1. Longevity pay for the first twenty (20) years of service shall be determined pursuant to the following schedule:

Years of Service	Annual Longevity Payment
At least 2 years but less than 4 years	\$250.00
At least 4 years but less than 6 years	\$426.00
At least 6 years but less than 8 years	\$626.00
At least 8 years but less than 10 years	\$850.00
At least 10 years but less than 12 years	\$1,062.00
At least 12 years but less than 14 years	\$1,250.00
At least 14 years but less than 16 years	\$1,500.00
At least 16 years but less than 18 years	\$1,688.00
At least 18 years but less than 20 years	\$1,900.00
At least 20 years	\$2,000.00

2. For each additional two (2) years of service after the first twenty (20) years an additional Two Hundred Dollars (\$200.00) shall

1 be added to the amount stated above for twenty (20) years of
2 service.

3 The total amount of the annual longevity payment made to an
4 employee by any and all state agencies in any year shall not exceed
5 the amount shown on the table corresponding to that employee's years
6 of service with the state, except as otherwise provided by Section
7 840-2.28 of this title. Further, no employee shall receive
8 duplicating longevity payments for the same periods of service with
9 any and all agencies, except as otherwise provided by Section 840-
10 2.28 of this title.

11 E. To determine years of service, cumulative periods of full-
12 time employment or part-time employment working more than one
13 hundred fifty (150) hours per month with the state excluding service
14 as specified in subsection A of this section are applicable. Part-
15 time employment, working one hundred fifty (150) hours per month or
16 less for the state, excluding service as specified in subsection A
17 of this section, shall be counted only if:

18 1. The period of employment was continuous for at least five
19 (5) months; and

20 2. a. The person worked more than two-fifths (2/5) time.

21 Other employment shall not be counted as service for
22 purposes of longevity payments. Further, no period of
23 employment with the state, whether with one or more
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1 than one agency, shall be counted as more than full-
2 time service.

3 b. For the purposes of computation required by this
4 section, any service performed by a person during
5 which the person received compensation for duties
6 performed for the state shall be counted if payment
7 for such service was made using state fiscal
8 resources. The provisions of this subparagraph shall
9 not apply to elected or appointed justices or judges,
10 including special judges, who perform service in the
11 trial or appellate courts. The provisions of this
12 section shall apply to persons who perform services as
13 an administrative law judge within the executive
14 department and employees of the judicial branch.

15 F. Years of service under the administrative authority of the
16 Oklahoma State Regents for Higher Education or the administrative
17 authority of the Oklahoma Department of Career and Technology
18 Education of any employee who is now employed in a job
19 classification which is eligible for longevity pay shall be included
20 in years of service for purposes of determining longevity pay.

21 G. Years of service shall be certified through the current
22 employing agency by the appointing authority on a form approved by
23 the Office of Management and Enterprise Services. The form shall be
24 completed and posted as directed by the Director of the Office of

1 Management and Enterprise Services by the current employing agency
2 when the employee initially enters on duty with the agency and
3 thereafter whenever the employee's anniversary date is changed.

4 H. Eligible employees, in full-time status or in part-time
5 status working more than one hundred fifty (150) hours per month,
6 shall receive one (1) lump-sum annual payment, in the amount
7 provided on the preceding schedule, during the month following the
8 anniversary date of the employee's most recent enter-on-duty day
9 with the state. Upon implementation of the statewide information
10 systems project, the lump-sum annual payment may be paid concurrent
11 with the final payroll of the month of the employee's anniversary
12 date. Eligible part-time employees who work one hundred fifty (150)
13 hours per month or less shall receive one (1) lump-sum annual
14 payment, based on the formula in subsection L of this section,
15 during the month following the anniversary date of the employee's
16 most recent enter-on-duty day with the state. To receive longevity
17 pay an employee must be in pay status on or after his or her
18 anniversary date.

19 Eligible employees who would not otherwise receive annual
20 longevity payments because their employment includes regular periods
21 of leave without pay in excess of thirty (30) calendar days shall
22 receive one (1) lump-sum annual payment, based on the formula in
23 subsection L of this section, during:
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1 1. The month of August if the employee is in pay status on July
2 1; or

3 2. During the month following the employee's first return to
4 duty that fiscal year if the employee is not in pay status on July
5 1.

6 Except as otherwise provided by Section 840-2.28 of this title,
7 employees terminated as a result of a reduction-in-force or retiring
8 from state employment shall receive upon ~~said~~ termination or
9 retirement the proportionate share of any longevity payment which
10 may have accrued as of the date of termination or retirement.

11 Provided further, that, the proportionate share of any longevity
12 payment which may have accrued as of the date of death of an
13 employee shall be made to the surviving spouse of the employee or if
14 there is no surviving spouse to the estate of the employee.

15 I. Periods of leave without pay taken in accordance with
16 Section 840-2.21 of this title shall be counted as service. Other
17 periods of nonpaid leave status in excess of thirty (30) calendar
18 days shall not mark a break in service; however, they shall:

19 1. Not be used in calculating total months of service for
20 longevity pay purposes; and

21 2. Extend the anniversary date for longevity pay by the total
22 period of time on nonpaid leave status except as provided in
23 subsection H of this section for employees whose conditions of
24 employment include regular periods of leave without pay.

1 J. Employees currently receiving longevity pay who work for the
2 judicial branch of state government or who work for the Oklahoma
3 Department of Career and Technology Education shall not be eligible
4 for the longevity pay plan provided for in this section.

5 K. A break in service with the state in excess of thirty (30)
6 days but which does not exceed two (2) years which was caused by a
7 reduction-in-force shall be treated as if it were a period of
8 nonpaid leave status as provided for in subsection I of this section
9 for the purpose of calculating total months of service for longevity
10 pay. This subsection shall only apply to state employees laid off
11 after June 30, 1982.

12 L. Eligible part-time employees working less than one hundred
13 fifty (150) hours per month and other eligible employees with
14 regular annual periods of leave without pay of more than thirty (30)
15 calendar days will receive a prorated share of the "Annual Longevity
16 Payment" authorized in subsection D of this section. The prorated
17 amount of payment will be based on actual hours worked in the
18 immediately preceding twelve (12) months.

19 M. An employee shall not be entitled to retroactive longevity
20 payments as a result of amendments to this section unless
21 specifically authorized by law.

22 N. The Director of the Office of Management and Enterprise
23 Services is authorized to promulgate such Longevity Pay Plan Rules
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1 as he or she finds necessary to carry out the provisions of this
2 section.

3 O. As of July 1, 1998, years of service with a city-county
4 health department for employees who left a city-county health
5 department for employment with the Department of Environmental
6 Quality or the Oklahoma Department of Agriculture, Food, and
7 Forestry, between July 1, 1993, and July 1, 1998, and who are now
8 employed in a job classification that is eligible for longevity pay
9 pursuant to this section, shall be included in years of service for
10 purposes of determining longevity pay subsequent to July 1, 1998.

11 P. As of July 1, 2003, years of service with a local
12 conservation district shall be included in years of service for
13 purposes of determining longevity pay for local conservation
14 district employees transferred to the Oklahoma Conservation
15 Commission pursuant to the provisions of this section.

16 SECTION 2. AMENDATORY 74 O.S. 2021, Section 840-2.20, as
17 amended by Section 16, Chapter 243, O.S.L. 2022 (74 O.S. Supp. 2022,
18 Section 840-2.20), is 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.

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

4 1. Eligible employees who enter on duty or who are reinstated
5 after a break in service shall receive leave benefits in accordance
6 with the schedule outlined below. Leave shall be accrued based upon
7 hours worked, paid leave, and holidays, but excluding overtime, not
8 to exceed the total possible work hours for the pay period. Years
9 of service shall be based on cumulative periods of employment
10 calculated in the manner that cumulative service is determined for
11 longevity purposes pursuant to Section 840-2.18 of this title.

12 Employees may accumulate more than the maximum annual leave
13 accumulation limits shown in the schedule below provided that such
14 excess is used during the same calendar year in which it accrues or
15 within twelve (12) months of the date on which it accrues, at the
16 discretion of the appointing authority. If an employee whose job
17 duties include providing fire protection services, law enforcement
18 services or services with the Department of Corrections is unable to
19 use excess leave as provided for in this paragraph because the
20 employee's request for leave is denied by the employee's appointing
21 authority and the denial of leave is due to extraordinary
22 circumstances such that taking leave could pose a threat to public
23 safety, health or welfare, the employee shall receive compensation
24 at the employee's regular rate of pay for the amount of excess leave

the employee is unable to use. Such compensation shall be paid at the end of the time period during which the excess leave was required to have been used;

2. ~~From November 1, 2001~~ On and after the effective date of this act, 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 <u>80</u> days
10-20 yrs	= 20 day/yr	15 days/yr	60 <u>80</u> days
over 20 yrs	= 25 day/yr	15 days/yr	60 <u>80</u> 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 to the end of the fiscal year following the year in which the emergency declaration ended.

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

1 declaration ended regardless of regulatory provisions that establish
2 a maximum amount of annual leave that may be accumulated by an
3 employee of ~~the State of Oklahoma~~ this state. Expired annual leave
4 governed by this subsection shall be reinstated as of ~~the effective~~
5 ~~date of this act~~ May 7, 2021, and accumulation limits for annual
6 leave shall not apply to amounts accrued or reinstated pursuant to
7 this subsection. Eligibility for reinstatement of annual leave is
8 limited to employees currently employed by ~~the State of Oklahoma~~
9 this state on ~~the effective date of this act~~ May 7, 2021;

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

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

17 5. The Director of the Office of Management and Enterprise
18 Services shall assist agencies in developing policies to prevent
19 violence in state government workplaces without abridging the rights
20 of state employees. Such policies shall include a paid
21 administrative leave provision as a cooling-off period which the
22 Director of the Office of Management and Enterprise Services is
23 authorized to provide pursuant to the Administrative Procedures Act.

1 Such leave shall not be charged to annual or sick leave
2 accumulations;

3 6. State employees who terminated their employment in the state
4 service on or after October 1, 1992, may be eligible to have sick
5 leave accrued at the time of termination of employment restored if
6 they return to state employment provided that the state employees'
7 enter-on-duty dates for reemployment occur on or before two (2)
8 years after their termination of employment and they are eligible to
9 accrue sick leave before the two (2) years expire;

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

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

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

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1 10. For the purposes of computation required by this section,
2 any service performed by a person during which the person received
3 compensation for duties performed for the state shall be counted if
4 payment for such service was made using state fiscal resources. The
5 provisions of this subparagraph shall not apply to elected or
6 appointed justices or judges, including special judges, who perform
7 service in the trial or appellate courts. The provisions of this
8 section shall apply to persons who perform services as an
9 administrative law judge within the executive department and
10 employees of the judicial branch.

11 B. Nothing in law is intended to prevent or discourage an
12 appointing authority from disciplining or terminating an employee
13 due to abuse of leave benefits or absenteeism. Appointing
14 authorities are encouraged to consider attendance of employees in
15 making decisions regarding promotions, pay increases, and
16 discipline.

17 C. Upon the transfer of a function in state government to an
18 entity outside state government, employees may, with the agreement
19 of the outside entity, waive any payment for leave accumulations to
20 which the employee is entitled and authorize the transfer of the
21 leave accumulations or a portion thereof to the outside entity.

22 D. All permanent employees of the state shall be eligible to
23 carry over a maximum of six hundred forty (640) hours of annual
24 leave each year. Additionally, all employees shall be paid up to a

1 maximum of six hundred forty (640) hours of annual leave upon
2 separation from state service.

3 E. Any employee, including employees of the state, who makes an
4 agreement with an employer, including the state, whether in writing
5 or verbally, not to compete with the employer after the employment
6 relationship has been terminated, shall be permitted to engage in
7 the same business as that conducted by the former employer, or in a
8 similar business as that conducted by the former employer as long as
9 the former employee does not directly or indirectly, actively or
10 inactively, solicit the sale of goods, services, or a combination of
11 goods and services from the customers of the former employer or
12 independent contractors of the former employer. Any provision in a
13 contract between an employer and an employee in conflict with the
14 provisions of this section shall be void and unenforceable.

15 SECTION 3. REPEALER 15 O.S. 2021, Section 219A, is
16 hereby repealed.

17 SECTION 4. This act shall become effective July 1, 2023.

18 SECTION 5. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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23 59-1-2107 RD 4/12/2023 3:30:15 PM
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