

1 ENGROSSED HOUSE
2 BILL NO. 2376

By: Kannady of the House

3 and

4 Hall of the Senate

5
6 An Act relating to state government; amending 74
7 O.S. 2021, Sections 840-1.3, as amended by Section
8 2, Chapter 243, O.S.L. 2022, 840-2.18, as amended
9 by Section 14, Chapter 243, O.S.L. 2022, and 840-
10 2.20, as amended by Section 16, Chapter 243, O.S.L.
11 2022 (74 O.S. Supp. 2022, Sections 840-1.3, 840-
12 2.18, and 840-2.20), which relate to the Oklahoma
13 Personnel Act; modifying definitions; modifying
14 provisions related to longevity payments; modifying
15 leave benefits; increasing accumulation limits;
16 authorizing option for payment of certain leave;
17 modifying provisions related to computation of
18 service; providing for effect of certain
19 agreements; authorizing persons to engage in
20 certain business; imposing conditions; providing
21 certain contractual provisions unenforceable;
22 repealing 15 O.S. 2021, Section 219A, which relates
23 to noncompetition agreements; providing an
24 effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 840-1.3, as
amended by Section 2, Chapter 243, O.S.L. 2022 (74 O.S. Supp. 2022,
Section 840-1.3), is amended to read as follows:

Section 840-1.3 As used in this act, unless otherwise provided
in Sections 840-1.1 through 840-6.9 of this title:

1 1. "Agency" means any office, department, board, commission or
2 institution of the executive branch of state government, except as
3 otherwise provided by subparagraph b of paragraph 2 of subsection E
4 of Section 840-2.18 of this title and except as otherwise provided
5 by paragraph 10 of subsection A of Section 840-2.20 of this title;

6 2. "Employee" or "state employee" means an elected or appointed
7 officer or employee of an agency unless otherwise indicated;

8 3. "Appointing authority" means the chief administrative
9 officer of an agency;

10 4. "Job-related organization" means a membership association
11 which collects annual dues, conducts annual meetings and provides
12 job-related education for its members and which includes state
13 employees, including any association for which payroll deductions
14 for membership dues are authorized pursuant to paragraph 5 of
15 subsection B of Section 34.70 of Title 62 of the Oklahoma Statutes;

16 5. "Progressive discipline" means a system designed to ensure
17 the consistency, impartiality and predictability of discipline and
18 the flexibility to vary penalties if justified by aggravating or
19 mitigating conditions;

20 6. "Supervisor" means an officer or employee who has been
21 assigned authority and responsibility for evaluating the performance
22 of subordinates;

23 7. "Director" means the appointing authority of the Office of
24 Management and Enterprise Services;

1 8. "Office" means the Office of Management and Enterprise
2 Services; and

3 9. "Veteran" means a person who has been honorably discharged
4 from the Armed Forces of the United States.

5 SECTION 2. AMENDATORY 74 O.S. 2021, Section 840-2.18, as
6 amended by Section 14, Chapter 243, O.S.L. 2022 (74 O.S. Supp. 2022,
7 Section 840-2.18), is amended to read as follows:

8 Section 840-2.18 A. A longevity pay plan is hereby adopted.
9 This plan applies to all state employees, excluding members of
10 boards and commissions, institutions under the administrative
11 authority of the State Regents for Higher Education, employees of
12 public school districts, and elected officials. The plan shall also
13 apply to those employees of the Oklahoma School for the Blind and
14 the Oklahoma School for the Deaf who qualify for longevity pay in
15 accordance with subsection G of Section 1419 of Title 10 of the
16 Oklahoma Statutes.

17 B. The Oklahoma Conservation Commission is hereby authorized to
18 establish a longevity pay program for employees of the conservation
19 districts employed under Section 3-3-103 of Title 27A of the
20 Oklahoma Statutes. Such longevity pay program shall be consistent
21 with the longevity pay program for state employees authorized under
22 this title and payments shall be made in a manner consistent with
23 procedures for reimbursement to conservation districts.

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

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

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

1	At least 8 years but	
2	less than 10 years	\$850.00
3	At least 10 years but	
4	less than 12 years	\$1,062.00
5	At least 12 years but	
6	less than 14 years	\$1,250.00
7	At least 14 years but	
8	less than 16 years	\$1,500.00
9	At least 16 years but	
10	less than 18 years	\$1,688.00
11	At least 18 years but	
12	less than 20 years	\$1,900.00
13	At least 20 years	\$2,000.00

14 2. For each additional two (2) years of service after the first
15 twenty (20) years an additional Two Hundred Dollars (\$200.00) shall
16 be added to the amount stated above for twenty (20) years of
17 service.

18 The total amount of the annual longevity payment made to an
19 employee by any and all state agencies in any year shall not exceed
20 the amount shown on the table corresponding to that employee's years
21 of service with the state, except as otherwise provided by Section
22 840-2.28 of this title. Further, no employee shall receive
23 duplicating longevity payments for the same periods of service with
24

1 any and all agencies, except as otherwise provided by Section 840-
2 2.28 of this title.

3 E. To determine years of service, cumulative periods of full-
4 time employment or part-time employment working more than one
5 hundred fifty (150) hours per month with the state excluding service
6 as specified in subsection A of this section are applicable. Part-
7 time employment, working one hundred fifty (150) hours per month or
8 less for the state, excluding service as specified in subsection A
9 of this section, shall be counted only if:

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

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

13 Other employment shall not be counted as service for
14 purposes of longevity payments. Further, no period of
15 employment with the state, whether with one or more
16 than one agency, shall be counted as more than full-
17 time service.

18 b. For purposes of the computation required by this
19 section, any service performed by a person during
20 which the person received compensation for duties
21 performed for the state, except within the judicial
22 branch, and for which payment for such service was
23 made using state fiscal resources shall be included in
24 the calculation.

1 F. Years of service under the administrative authority of the
2 State Regents for Higher Education or the administrative authority
3 of the Oklahoma Department of Career and Technology Education of any
4 employee who is now employed in a job classification which is
5 eligible for longevity pay shall be included in years of service for
6 purposes of determining longevity pay.

7 G. Years of service shall be certified through the current
8 employing agency by the appointing authority on a form approved by
9 the Office of Management and Enterprise Services. The form shall be
10 completed and posted as directed by the Director of the Office of
11 Management and Enterprise Services by the current employing agency
12 when the employee initially enters on duty with the agency and
13 thereafter whenever the employee's anniversary date is changed.

14 H. Eligible employees, in full-time status or in part-time
15 status working more than one hundred fifty (150) hours per month,
16 shall receive one (1) lump-sum annual payment, in the amount
17 provided on the preceding schedule, during the month following the
18 anniversary date of the employee's most recent enter-on-duty day
19 with the state. Upon implementation of the statewide information
20 systems project, the lump-sum annual payment may be paid concurrent
21 with the final payroll of the month of the employee's anniversary
22 date. Eligible part-time employees who work one hundred fifty (150)
23 hours per month or less shall receive one (1) lump-sum annual
24 payment, based on the formula in subsection L of this section,

1 during the month following the anniversary date of the employee's
2 most recent enter-on-duty day with the state. To receive longevity
3 pay an employee must be in pay status on or after his or her
4 anniversary date.

5 Eligible employees who would not otherwise receive annual
6 longevity payments because their employment includes regular periods
7 of leave without pay in excess of thirty (30) calendar days shall
8 receive one (1) lump-sum annual payment, based on the formula in
9 subsection L of this section, during:

10 1. The month of August if the employee is in pay status on July
11 1; or

12 2. During the month following the employee's first return to
13 duty that fiscal year if the employee is not in pay status on July
14 1.

15 Except as otherwise provided by Section 840-2.28 of this title,
16 employees terminated as a result of a reduction-in-force or retiring
17 from state employment shall receive upon said termination or
18 retirement the proportionate share of any longevity payment which
19 may have accrued as of the date of termination or retirement.

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

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

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

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

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

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

22 L. Eligible part-time employees working less than one hundred
23 fifty (150) hours per month and other eligible employees with
24 regular annual periods of leave without pay of more than thirty (30)

1 calendar days will receive a prorated share of the "Annual Longevity
2 Payment" authorized in subsection D of this section. The prorated
3 amount of payment will be based on actual hours worked in the
4 immediately preceding twelve (12) months.

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

8 N. The Director of the Office of Management and Enterprise
9 Services is authorized to promulgate such Longevity Pay Plan Rules
10 as he or she finds necessary to carry out the provisions of this
11 section.

12 O. As of July 1, 1998, years of service with a city-county
13 health department for employees who left a city-county health
14 department for employment with the Department of Environmental
15 Quality or the Oklahoma Department of Agriculture, Food, and
16 Forestry, between July 1, 1993, and July 1, 1998, and who are now
17 employed in a job classification that is eligible for longevity pay
18 pursuant to this section, shall be included in years of service for
19 purposes of determining longevity pay subsequent to July 1, 1998.

20 P. As of July 1, 2003, years of service with a local
21 conservation district shall be included in years of service for
22 purposes of determining longevity pay for local conservation
23 district employees transferred to the Oklahoma Conservation
24 Commission pursuant to the provisions of this section.

1 SECTION 3. AMENDATORY 74 O.S. 2021, Section 840-2.20, as
2 amended by Section 16, Chapter 243, O.S.L. 2022 (74 O.S. Supp. 2022,
3 Section 840-2.20), is amended to read as follows:

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

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

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

19 Employees may accumulate more than the maximum annual leave
20 accumulation limits shown in the schedule below provided that such
21 excess is used during the same calendar year in which it accrues or
22 within twelve (12) months of the date on which it accrues, at the
23 discretion of the appointing authority. If an employee whose job
24 duties include providing fire protection services, law enforcement

1 services or services with the Department of Corrections is unable to
2 use excess leave as provided for in this paragraph because the
3 employee's request for leave is denied by the employee's appointing
4 authority and the denial of leave is due to extraordinary
5 circumstances such that taking leave could pose a threat to public
6 safety, health or welfare, the employee shall receive compensation
7 at the employee's regular rate of pay for the amount of excess leave
8 the employee is unable to use. Such compensation shall be paid at
9 the end of the time period during which the excess leave was
10 required to have been used;

11 2. ~~From November 1, 2001~~ On and after the effective date of
12 this act, the following accrual rates and accumulation limits apply
13 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	

23 Following an emergency declaration as described in Section 683.8
24 of Title 63 of the Oklahoma Statutes, the accumulation limits for

1 annual leave shall temporarily increase and shall carryover to the
2 end of the fiscal year following the year in which the emergency
3 declaration ended.

4 All annual leave that accrued or expired during the period of
5 the emergency declarations issued by the Governor in 2020 and 2021
6 in response to the novel coronavirus (COVID-19) shall carry over to
7 the end of the fiscal year following the year in which the emergency
8 declaration ended regardless of regulatory provisions that establish
9 a maximum amount of annual leave that may be accumulated by an
10 employee of the State of Oklahoma. Expired annual leave governed by
11 this subsection shall be reinstated as of the effective date of this
12 act, and accumulation limits for annual leave shall not apply to
13 amounts accrued or reinstated pursuant to this subsection.
14 Eligibility for reinstatement of annual leave is limited to
15 employees currently employed by the State of Oklahoma on the
16 effective date of this act;

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

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

24

1 5. The Director of the Office of Management and Enterprise
2 Services shall assist agencies in developing policies to prevent
3 violence in state government workplaces without abridging the rights
4 of state employees. Such policies shall include a paid
5 administrative leave provision as a cooling-off period which the
6 Director of the Office of Management and Enterprise Services is
7 authorized to provide pursuant to the Administrative Procedures Act.
8 Such leave shall not be charged to annual or sick leave
9 accumulations;

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

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

21 8. Employees who are reserve municipal police officers pursuant
22 to Section 34-101 of Title 11 of the Oklahoma Statutes and who miss
23 work in performing their duties in cases of emergency shall not have
24

1 to use any accrued leave or need to make up any time due to the
2 performance of their reserve municipal police officer duties; ~~and~~

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

8 10. For purposes of the computation required by this section,
9 any service performed by a person during which the person received
10 compensation for duties performed for the state, except within the
11 judicial branch, and for which payment for such service was made
12 using state fiscal resources shall be included in the calculation.

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

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

1 D. All permanent employees of the state shall be eligible to
2 carry over a maximum of six hundred forty (640) hours of annual
3 leave each year. Additionally, all employees shall be paid up to a
4 maximum of six hundred forty (640) hours of annual leave upon
5 separation from state service.

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

18 SECTION 4. REPEALER 15 O.S. 2021, Section 219A, is
19 hereby repealed.

20 SECTION 5. This act shall become effective July 1, 2023.

21 SECTION 6. It being immediately necessary for the preservation
22 of the public peace, health or safety, an emergency is hereby
23 declared to exist, by reason whereof this act shall take effect and
24 be in full force from and after its passage and approval.

1 Passed the House of Representatives the 22nd day of March, 2023.

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3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ____ day of _____, 2023.

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8 _____
9 Presiding Officer of the Senate