An Act

ENROLLED HOUSE
BILL NO. 2586

By: Ownbey and Pittman of the House

and

David of the Senate

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

SUBJECT: Department of Human Services employees

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

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

Section 840-4.12 A. The Director of the Office of Management and Enterprise Services shall be responsible for conducting promotional examinations and entrance examinations as required under the Oklahoma Personnel Act. Such examinations shall be of such character as to determine the qualifications, fitness and ability of the persons tested to perform the duties of the job family or job family level for which such tests or examinations are given. Provided, however, tests and examinations of persons with severe disabilities who have satisfactorily completed vocational and technical education courses in vocational training units or divisions approved by the State Department of Rehabilitation Services shall be limited in scope so as to relate to the skill and physical capability required for a particular position. Adequate public notice shall be given of all examinations except for

promotion within a department or agency. Notwithstanding any other provision of law, the Director may keep confidential all promotional examinations, entrance examinations, and any other testing materials, but the Director shall be required to disclose them pursuant to a valid order from a court of competent jurisdiction and establishment of a protective order prohibiting public disclosure of the examinations and materials.

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

C. Promotional examinations for promotion within an agency, unless requested by the agency, shall not be required; provided that the promotion is in accordance with a plan adopted by the Director and is in accordance with a plan adopted by the promoting agency. Every employee promoted within an agency or following an intra-agency lateral transfer shall serve a six-month trial period in the job level to which the employee is promoted or transferred, unless the trial period is waived, in writing, by the appointing authority. <u>However, when a Department of Human Services employee transfers from any job classification to become a Child Welfare Specialist I, II, III or IV, the trial period shall be for one (1) year.</u> At any time during a trial period, the appointing authority may return the employee to the level from which the employee was promoted upon written notification by the appointing authority to the employee as to such action and the reason therefor, and the employee shall not have the right to appeal.

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

E. The Office of Management and Enterprise Services shall certify that a candidate meets the necessary job qualifications for a job family level in the classified service for the purpose of allowing that candidate to be appointed to a job. The Director of the Office of Management and Enterprise Services may delegate the certification function provided by this section to an agency pursuant to subsection ~~E~~ <u>A</u> of Section 840-1.15 of this title. Any statute which creates any position or qualifications for any position in the classified service shall not be construed to limit the power of the Director to interpret or add to those

qualifications in a reasonable manner consistent with the intent of the Legislature and the duties of that position. Any statute which empowers any agency head or other employer to hire or nominate persons for employment within the classified service shall not be construed to empower that agency head or other employer to waive or modify any qualification or rule for employment established by the Director. The Director shall not be construed to have the authority to limit or reduce any qualification established by statute for any position. The constructions established herein shall apply to any statutes or positions heretofore or hereafter created unless that statute clearly and specifically states that such constructions do not apply.

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

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

1. As used in this subsection "persons with severe disabilities" means persons certified as having disabilities according to standards and procedures established by the Director. Said standards and procedures shall be developed by the Director of the Office of Management and Enterprise Services with the assistance of the Office of Handicapped Concerns, and the State Department of Rehabilitation Services.

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

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

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

5. The Office of Management and Enterprise Services shall maintain records regarding the employment of persons with severe disabilities by state agencies and shall report the number of persons so employed in its annual report for the Office of Management and Enterprise Services required by Section 840-1.6A of this title.

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

2. Agencies of this state may use the optional hiring procedure provided in this subsection to employ females, blacks, Hispanics, Asian/Pacific Islanders and American Indians/Alaskan natives, as defined by the Equal Employment Opportunity Commission, who are legal residents of the state in competitive and noncompetitive jobs. Individuals must meet the minimum qualifications and pass any required examinations established by the Office of Management and Enterprise Services or by statute. Except for any required examinations and minimum qualifications specified in applicable job specifications, such persons shall be exempt from the hiring procedures administered by the Office of Management and Enterprise Services. Persons may only be employed under this subsection in a job family level, group or category which has been identified as underutilized and in which an appropriate hiring goal has been set in the state agency's affirmative action plan approved by the Office of Management and Enterprise Services ~~pursuant to the provisions of Section 840-2.1 of this title~~. In addition, the appointing authority of the employing agency must determine that a manifest imbalance exists which justifies remedial action pursuant to this subsection in order to reach the affirmative action hiring goal. Provided further, that eligible war veterans, as defined by Section 67.13a of Title 72 of the Oklahoma Statutes, who are members of the group for which a hiring goal has been set shall be considered by the employing agency before a nonveteran is appointed pursuant to this subsection.

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

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

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

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

7. The Office of Management and Enterprise Services shall maintain records regarding the employment of persons by state agencies pursuant to this subsection and shall report the number of persons so employed in its annual report for the Office of Management and Enterprise Services required by Section 840-1.6A of this title.

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

Passed the House of Representatives the 18th day of February, 2014.

Presiding Officer of the House of Representatives

Passed the Senate the 14th day of April, 2014.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 15th day of April, 2014, at 2:30 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 21st day of April, 2014, at 2:33 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 21st day of April, 2014, at 5:40 o'clock P. M.

By: C. Bunge