

An Act

ENROLLED HOUSE
BILL NO. 3293

By: Osborn, McCall, Ownbey,
McBride, Walker, Billy,
Wood and Roberts (Sean) of
the House

and

Jolley of the Senate

An Act relating to state employee compensation; creating the State Employee Compensation Program; defining terms; declaring the Office of Management and Enterprise Services responsible for implementing compensation program; stating goal; requiring certain funding by Legislature; amending 74 O.S. 2011, Section 840-2.17, as amended by Section 876, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.17), which relates to state employee compensation; prohibiting compensation for certain state employees inconsistent with compensation schedules; modifying references to certain state employees; amending 74 O.S. 2011, Section 840-4.6, as amended by Section 902, Chapter 304, O.S.L. 2012 (74 O.S. 2013, Section 840-4.6), which relates to state employee compensation structure; requiring development of certain compensation structure based on recommendations from certain salary study; stating exception; stating time period; providing for annual review; stating exception from the Administrative Procedures Act; amending 74 O.S. 2011, Section 840-4.17, as amended by Section 911, Chapter 304, O.S.L. 2012 (74 O.S. 2013, Section 840-4.17), which relates to state employee performance evaluation system; requiring O.M.E.S. to establish performance evaluation system for certain purpose; authorizing O.M.E.S. to promulgate rules; repealing 63 O.S. 2011, Section 2-103a and 74 O.S. 2011, Section 840-4.7, as amended by Section 903, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.7) which relate to

certain salary schedules and adoption of pay grades and pay-grade adjustments; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

SUBJECT: State Employee Compensation Program

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

As used in this act, "classified service" and "unclassified service" shall mean "career service and executive service" respectively, unless the context clearly requires a different interpretation.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-2.15A of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby established the "State Employee Compensation Program" within the executive branch. The State Employee Compensation Program will attract, retain and reward quality employees with competitive total compensation based on relevant labor markets. The Office of Management and Enterprise Services will be responsible for coordinating the implementation of the compensation program. The compensation program will establish pay structures with a goal of compensating state employees at a level of at least a ninety percent (90%) of compensation for comparable private sector positions. The compensation program will reinforce a productive work climate and culture of accountability and make the State of Oklahoma an employer of choice. Pay structures will be implemented with fairness and equity throughout the executive branch. Pay delivery mechanisms will be based on a combination of establishing and maintaining relativity to market, achievement of performance objectives, recognition of differences in job content, acquisition and application of further skill and education. The Legislature will be accountable for the funding of the pay structures established pursuant to the compensation program.

SECTION 3. AMENDATORY 74 O.S. 2011, Section 840-2.17, as amended by Section 876, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-2.17), is amended to read as follows:

Section 840-2.17 A. Unless otherwise provided by the Oklahoma Constitution, ~~language in law which authorizes the setting or fixing of statutory authority to set or fix~~ compensation, pay or salary of state officers and employees shall not be construed to authorize any agency, board, commission, department, institution, bureau, executive officer or other entity of the executive branch of state government to award, grant, give, authorize, or promise any officer or employee of the State of Oklahoma a raise that is inconsistent with the compensation schedules established by the Office of Management and Enterprise Services for all state officers and employees in the executive branch pursuant to Section 840-4.6 of this title, including, but not limited to, a cost-of-living raise or any other type of raise that would be given to state employees on an across-the-board basis, except as herein provided. Such raises are prohibited unless authorized by the Legislature and by ~~Merit System of Personnel Administration~~ Career Service Rules for Employment promulgated by the Director. This prohibition applies to all ~~classified and unclassified~~ career and executive service officers and employees in the executive branch of state government, excluding institutions under the administrative authority of the Oklahoma State Regents for Higher Education.

B. However, nothing in this section shall be construed to prohibit the following actions if the action is made in good faith and not for the purpose of circumventing subsection A of this section, and if the appointing authority certifies that the action can be implemented for the current fiscal year and the subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency, and if the Office of Management and Enterprise Services certifies that the action is consistent with the compensation schedules established pursuant to the provisions of Section 840-4.6 of this title:

1. Salary advancements on promotion or direct reclassification to a job family level or class with a higher salary band;

2. Salary adjustments resulting from a pay band change for a job family level or class adopted by the Office of Management and Enterprise Services;

3. Increases in longevity payments pursuant to Section 840-2.18 of this title;

4. Payment of overtime, special entrance rates, pay differentials;

5. Payment of wages, salaries, or rates of pay established and mandated by law;

6. Market adjustments for job family levels tied to market competitiveness;

7. Intra-agency lateral transfers, provided that the adjustment does not exceed five percent (5%) and the adjustment is based on the needs of the agency;

8. Skill-based adjustments. Such adjustments, which are implemented before November 1, 2006, other than lump-sum payments, shall become permanent after twenty-four (24) months from the date such salary adjustment is implemented and may not later be removed from an employee's base salary if a furlough or reduction-in-force is implemented by the appointing authority granting such salary adjustment. Skill-based pay adjustments, which are implemented on or after November 1, 2006, and which are paid to an employee, shall be paid as long as the employee remains employed in the position and performs the skills for which the differential is due, but shall not be included as a part of the employee's base salary;

9. Equity-based adjustments;

10. Performance-based adjustments for employees who received at least a "meets standards" rating on their most current performance rating;

11. Career progression increases as an employee advances through job family levels; or

12. Salary adjustments not to exceed five percent (5%) for probationary ~~classified~~ career employees achieving permanent status following the initial probationary period and permanent ~~classified~~ career employees successfully completing trial periods after intra-agency lateral transfer or promotion to a different job family level or following career progression to a different job family level.

C. Provided, however, any reclassification for one of the purposes provided in subsection B of this section that would require additional funding by the Legislature shall not be implemented without approval of the Legislature.

D. The pay movement mechanisms described in paragraphs 6 through 11 in subsection B of this section shall be implemented pursuant to rules promulgated by the Director of the Office of Management and Enterprise Services for the ~~classified~~ career service.

E. Appointing authorities may implement the pay movement mechanisms in paragraphs 6 through 12 in subsection B of this section subject to the availability of funds within the agency's budget for the current fiscal year and subsequent fiscal year without the need for additional funding to increase the personal services budget of the agency. Failure by the appointing authority to follow the provisions of this subsection may cause the withdrawal of the use of the pay movement mechanisms provided in paragraphs 6, 7, 9, 10 and 11 of subsection B of this section within the agency during the next appropriations cycle.

F. The provisions in subsection B of this section shall not apply to chief executive officers of any agency, board, commission, department or program except for paragraphs 3 and 5 of subsection B of this section.

SECTION 4. AMENDATORY 74 O.S. 2011, Section 840-4.6, as amended by Section 902, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.6), is amended to read as follows:

Section 840-4.6 A. The State of Oklahoma, to recruit, retain and motivate a quality workforce for the purpose of providing quality services to the citizens of Oklahoma, shall provide a pay compensation structure based on internal equity and external competitiveness balanced by the state's fiscal conditions. The state's goal shall be to provide a flexible and adaptable state employee pay compensation system based on the market data found in relevant public and private sector markets.

B. The Director of the Office of Management and Enterprise Services shall develop a salary compensation schedule for ~~the classified service and pay lines as appropriate to meet the needs of agencies~~ all career and executive service positions within the executive branch pursuant to the recommendations of the 2013 State

Employee Total Remuneration Study, excluding institutions under the administrative authority of the Oklahoma State Regents for Higher Education. The Office may develop market-based occupational compensation structures. The compensation structures established pursuant to this section for all career and executive service positions shall be initially established and published by January 1, 2015, and shall thereafter be reviewed for revision annually. The provisions of this section are not subject to the provisions of Article I of the Administrative Procedures Act.

~~C. The Director shall design a compensation system for all classified state employees. The compensation system, except for performance based adjustments, developed pursuant to this subsection shall be consistent with but not limited to the recommendations contained in the Classification and Compensation Reform Report from the Director, dated December 1998 and submitted to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives.~~

~~D. All executive branch state agencies who employ personnel in the unclassified service of the state, whose salaries are not prescribed by law, shall establish salary schedules for such employees.~~

SECTION 5. AMENDATORY 74 O.S. 2011, Section 840-4.17, as amended by Section 911, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.17), is amended to read as follows:

Section 840-4.17 A. The Office of Management and Enterprise Services shall make available one standard study and establish a performance management evaluation system that shall be used by all executive branch agencies for completing employee performance evaluations and making salary and performance-based pay decisions. The purpose of this employee performance management the system is to evaluate the performance of each regular classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 of this title and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education effectively link pay and performance while taking into consideration both the relativity of the position to market and the performance of the employee. The Office of Management and Enterprise Services may promulgate rules to implement the provisions of this section.

~~B. The employee performance management system shall provide for the following:~~

~~1. An objective evaluation by the immediate supervisor of the performance of the employee within the assigned duties of the job. The evaluation shall contain the agency number, date of review, and employee identification number;~~

~~2. The identification by the immediate supervisor of accountabilities and behaviors upon which the employee will be evaluated;~~

~~3. A mid term interview with the immediate supervisor for the purpose of discussing the progress of the employee in meeting the accountabilities and behaviors upon which the employee will be evaluated;~~

~~4. Identification of performance strengths and performance areas for development;~~

~~5. A final interview with the employee by the immediate supervisor who shall provide the employee with a copy of the performance evaluation; and~~

~~6. The opportunity for the employee to submit written comments regarding the performance evaluation.~~

~~C. Each employee shall be rated at least thirty (30) days prior to the end of the probationary period. Except as may otherwise be provided by rules promulgated by the Director of the Office of Management and Enterprise Services, after the end of the probation period, each employee shall be evaluated at least annually on a twelve month period.~~

~~D. Any permanent classified employee who disagrees with the employee's performance evaluation may file a grievance pursuant to Section 840 6.2 of this title.~~

~~E. Any employee, regardless of status, who is required to be evaluated pursuant to this section and who believes that the employing agency has not complied with the requirements of subsection B of this section may file a complaint through any dispute resolution process made available through the employing agency or, if there is no internal agency dispute resolution~~

~~process, through the Oklahoma Merit Protection Commission. The Oklahoma Merit Protection Commission shall have jurisdiction to investigate or hear appeals of the failure of an agency to comply with the provisions of subsection B of this section.~~

~~F. The agency shall use employee evaluations of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases and discharges. Reductions in force shall not be considered discharges.~~

~~G. The agency shall retain a copy of the performance evaluation for each employee of the agency. A copy of the performance evaluation shall be retained in the employee's personnel file.~~

~~H. Each appointing authority shall annually report its compliance with the provisions of this section in writing to the Director of the Office of Management and Enterprise Services. The Director shall prescribe a form for such reporting.~~

~~I. The Director of the Office of Management and Enterprise Services shall conduct an annual random audit of state agencies to determine whether they are in compliance with this section. Any agency deemed to be out of compliance shall submit a written plan to the Director detailing the efforts the agency will make to come into compliance at the earliest possible date.~~

SECTION 6. REPEALER 63 O.S. 2011, Section 2-103a, is hereby repealed.

SECTION 7. REPEALER 74 O.S. 2011, Section 840-4.7, as amended by Section 903, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2013, Section 840-4.7), is hereby repealed.

SECTION 8. This act shall become effective July 1, 2014.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 20th day of May, 2014.


Presiding Officer of the House
of Representatives

Passed the Senate the 23rd day of April, 2014.


Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 21st

day of May, 20 14, at 12:07 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 3rd

day of June, 20 14, at 10:37 o'clock A M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 3rd

day of June, 20 14, at 1:38 o'clock P M.

By: Chris Benz