

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1027 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Kevin Wallace _____

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE

4 SUBSTITUTE

5 FOR

6 HOUSE BILL NO. 1027X

By: Wallace and Martinez of the
House

and

Thompson (Roger) and Hall
of the Senate

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10 PROPOSED COMMITTEE SUBSTITUTE

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

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

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

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

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

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

24

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

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

13	Years of Service	Annual Longevity Payment
14	At least 2 years but	
15	less than 4 years	\$250.00
16	At least 4 years but	
17	less than 6 years	\$426.00
18	At least 6 years but	
19	less than 8 years	\$626.00
20	At least 8 years but	
21	less than 10 years	\$850.00
22	At least 10 years but	
23	less than 12 years	\$1,062.00

24

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

10 2. For each additional two (2) years of service after the first
11 twenty (20) years an additional Two Hundred Dollars (\$200.00) shall
12 be added to the amount stated above for twenty (20) years of
13 service.

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

22 E. To determine years of service, cumulative periods of full-
23 time employment or part-time employment working more than one
24 hundred fifty (150) hours per month with the state excluding service

1 as specified in subsection A of this section are applicable. Part-
2 time employment, working one hundred fifty (150) hours per month or
3 less for the state, excluding service as specified in subsection A
4 of this section, shall be counted only if:

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

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

8 Other employment shall not be counted as service for purposes of
9 longevity payments. Further, no period of employment with the
10 state, whether with one or more than one agency, shall be counted as
11 more than full-time service.

12 b. For purposes of the computation required by this
13 section, any service performed by a person during
14 which the person received compensation for duties
15 performed for the state, shall be counted if payment
16 for such service was made using state fiscal
17 resources. The provisions of this paragraph shall not
18 apply to elected or appointed justices or judges,
19 including special judges, who perform services in the
20 trial or appellate courts. The provisions of this
21 section shall apply to persons who perform services as
22 an administrative law judge within the executive
23 department and employees of the judicial branch.

24

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

24

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 2. 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 840-2.20A The Director of the Office of Management and
5 Enterprise Services shall promulgate such emergency and permanent
6 rules regarding leave and holiday leave as are necessary to assist
7 the state and its agencies.

8 A. 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
19	Persons employed 0-5 yrs	= 15 day/yr	15 days/yr	30 days
20	5-10 yrs	= 18 day/yr	15 days/yr	60 <u>80</u> days
21	10-20 yrs	= 20 day/yr	15 days/yr	60 <u>80</u> days
22	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~~ this state. Expired annual leave
11 governed by this subsection shall be reinstated as of ~~the effective~~
12 ~~date of this act~~ May 7, 2021, and accumulation limits for annual
13 leave shall not apply to amounts accrued or reinstated pursuant to
14 this subsection. Eligibility for reinstatement of annual leave is
15 limited to employees currently employed by ~~the State of Oklahoma~~
16 this state on ~~the effective date of this act~~ May 7, 2021;

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 shall be counted if
11 payment for such service was made using state fiscal resources. The
12 provisions of this section shall not apply to elected or appointed
13 justices or judges, including special judges, who perform service in
14 the trial or appellate courts. The provisions of this section shall
15 apply to persons who perform services as an administrative law judge
16 within the executive department and employees of the judicial
17 branch.

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

24

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

6 D. All permanent employees of the state shall be eligible to
7 carry over a maximum of six hundred forty (640) hours of annual
8 leave each year. Additionally, all employees shall be paid up to a
9 maximum of six hundred forty (640) hours of annual leave upon
10 separation from state service.

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

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

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

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

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7 59-1EX-50088 MKS 05/22/23

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