

OPM 99-39

TO: ALL APPOINTING AUTHORITIES
FROM: Oscar B. Jackson, Jr., Administrator
and Cabinet Secretary of Human Resources
DATE: June 15, 1999
RE: 1999 Major HR-Related Legislation

During the 1999 session, the Oklahoma Legislature passed a number of human resources-related bills that affect state agencies and employees. Though we will provide you with more detailed information regarding several individual bills in the coming weeks, you may find the following list helpful in the interim. This list includes major, generally-applicable HR-related legislation. It does not include legislation regarding specific agencies, retirement, insurance, or appropriations.

The actual statutory changes created by this legislation are too numerous and complex to adequately cover in this memo. You may obtain copies of legislation from Senate Bill Distribution, 310 State Capitol, or by calling (405) 521-5515, between 8:30 a.m. and 4:30 p.m. You may also access legislation via the Internet at <http://www.lsb.state.ok.us>.

Classification/Compensation Reform Project

Senate Bill 464
***Dickerson & Morgan/
Dunegan***

In August 1996, Governor Keating authorized, and the Legislature funded, the *Classification and Compensation Reform Project (CCRP)*. In December 1998, the Office of Personnel Management (OPM) reported the results of this extensive 28-month study, which included the following recommendations: adoption of a classification system based on Job Families that incorporate a wide variety of jobs; conversion of all classified employees and positions to the new classification system; adoption of broad pay bands to replace the existing salary grade structure; recognition of the midpoint of the pay bands as the target rate for establishing market comparisons in future compensation reports; adoption of the salary administration standards outlined in the CCRP report to provide salary movement mechanisms for employees, including pay-for-performance; adoption of the Performance Management Process (PMP), including documentation and forms, by all state agencies; implementation of PMP in all state agencies between July 1, 1999, and December 31, 1999.

SB 464 is consistent with the abovementioned recommendations, except that it does not authorize pay-for-performance. Earlier versions of SB 464 did authorize pay-for-performance beginning July 1, 2000. OPM is hopeful that the Legislature will study this issue during the interim and authorize, during the next legislative session, pay-for-performance to begin, as originally scheduled, on July 1, 2000.

SB 464 requires the OPM Administrator to implement a new classification and compensation system, including new job families and pay bands, for classified employees on or after November 1, 1999:

Classification

- Requires OPM to allocate positions to job families and agencies to determine job family levels;
- Requires OPM Administrator to adopt rules establishing policies and procedures for Appointing Authorities to follow when determining the job family level where duties and responsibilities are assigned.

Compensation

- Requires OPM Administrator to design compensation system, except for performance-based adjustments, for classified employees consistent with but not limited to CCRP recommendations;
- Guarantees no loss of pay or status for employees at conversion;
- Provides that only the Legislature can give cost-of-living raises or any other type of raise that would be given to state employees on an across-the-board basis;
- Authorizes agencies to accomplish certain pay actions, pursuant to rules promulgated by the OPM Administrator, e.g., market adjustments, intra-agency lateral transfers up to 5 %, skill-based adjustments, equity-based adjustments, career progression increases as an employee advances through job family levels, and salary adjustments not to exceed 5 % for probationary classified employees achieving permanent status following the initial probationary period and permanent classified employees successfully completing trial periods after promotion to a different job family:
 - ⇒ Appointing Authorities may implement these pay movement mechanisms, if funds are available within the agency's budget for current fiscal year and subsequent fiscal year without the need for additional funding to increase the agency's personal services budget.
 - ⇒ Failure by the Appointing Authority to follow these provisions may cause withdrawal of the use of these pay movement mechanisms within the agency during the next appropriations cycle.
 - ⇒ Agencies to report to OPM on an annual basis the pay movement mechanisms utilized, including the mechanism type, frequency, amounts provided, affected classes and job families, projected pay movement mechanisms and costs anticipated for the balance of the fiscal year, and other information required by the OPM

Administrator.

- ⇒ Agencies to report information for the 12-month period ending December 31 for classified and unclassified employees, and OPM to forward reports to Governor, Speaker, and President Pro Tempore no later than February 1 of each year.

Performance Management Process (PMP)

- Requires OPM to make available one standard performance management system to be used by all state agencies;
- Requires agencies to implement PMP on or before January 1, 2000;
- Authorizes agencies to continue to use current system approved by Administrator before November 1, 1999;
- Deletes report requirement.

Promotional Posting

- Requires Appointing Authorities to post announcements of vacancies in accordance with promotional plan filed with OPM:
 - ⇒ Posting required for initial entry into a job family at any level and for entry into any vacant supervisory position.
 - ⇒ Posting to include job family descriptor, identification of job family level of vacancy, etc.

Grievances/Appeals

- Prohibits employee appeals of conversion to new system;
- Prohibits appeal of agency classification and reclassification decisions to the Merit Protection Commission (MPC);
- Provides that involuntary removal of a permanent employee in permanent status in a job family level to another job family level assigned a lower pay band considered a demotion and may be appealed by the employee to MPC;
- Requires OPM Administrator to adopt rules establishing a process for review by OPM of internal classification grievances of job family level assignments which cannot be resolved at the agency level.

Miscellaneous

- Authorizes Administrator to establish noncompetitive appointments by rule;
- Clarifies that entrance exams not required for appointments to job families requiring state licensing and when job family descriptor requires BA/BS or equivalent + three years;
- Clarifies that exams not required for a person previously tested and currently licensed by the state;
- Changes probationary period for unclassified employees made subject to the Merit System from six months to 12;
- Changes terminology, e.g., *class* to *job family* or *job family level*, *class specification* to *job family descriptor*, *grade* to *pay band*, etc.

Effective November 1, 1999.

Compensation/Benefits

- Provides an annualized salary increase for certain full-time and part-time state employees, including temporary and other time-limited employees, who were employed by the state on the last working day of June 1999, equal to two percent of their annual salary on June 30,

1999;

- Prohibits state agencies from using funds appropriated for the salary increase to increase the compensation of persons employed by a temporary employment agency;
- Amends 74:920 to reduce state agency contributions to the Oklahoma Public Employees Retirement System (OPERS) from 12 1/2 % to 10 % to fund the pay increase required by the bill;
- Excludes numerous officers and employees from receiving the pay raise, including employees who are members of the Oklahoma Teachers' Retirement System and employees who are members of the Oklahoma Law Enforcement Retirement System. This will affect approximately 2,696 state employees from 18 state agencies.

Effective July 1, 1999.

House Bill 1140
Easley, et al./Monson

Amends 74:840-2.21 to clarify that state employees on leave-without-pay due to a job-related illness or injury will continue to receive dependent care coverage.

Effective May 21, 1999.

Leave

House Bill 1140
Easley, et al./Monson

Amends 74:840-2.24 to provide that any executive branch state officer or employee authorized by his/her employing agency to volunteer in a disaster relief activity during a presidentially-declared national disaster in Oklahoma after May 1, 1999, for a period of not more than six months after the date of the presidentially-declared national disaster, shall not be required to use accrued leave or make up any time due to the performance of his/her volunteer activities.

Effective May 21, 1999.

House Bill 1169
Erwin, et al./
Shurden, et al.

Amends 74:840-2.20 to provide that employees who are volunteer firefighters pursuant to the Oklahoma Volunteer Firefighters Act (11:29-201, et seq.) and who are called to fight a fire are not required to use any accrued leave or make up any time due to the performance of their volunteer firefighter duties.

Effective July 1, 1999.

House Bill 1579
Settle & Begley, et al./
Haney & Hobson, et al.

Creates new law at 74:840-2.23A to:

- authorize leave-with-pay not to exceed 15 working days for state employees who are affected by a presidentially-declared national disaster in Oklahoma after May 1, 1999, if the employee suffered a physical injury as a result of the disaster; a relative or household member of the employee suffered a physical injury or died as a result of the disaster; or the domicile (residence) of the employee or a relative of the employee was damaged or destroyed as a result of the disaster;
- provide that the authority to grant leave-with-pay shall extend for a period of not more than six months after the date of the disaster;
- provide that annual leave, sick leave, or compensatory time which was charged to an employee as a result of the disaster resulting from

the May 3, 1999, tornadoes that would have otherwise been eligible for leave-with-pay, shall be reinstated;

- provide that an employee entitled to leave-with-pay who was charged leave-without-pay shall be compensated at his/her base rate of pay.

Effective July 1, 1999.

**Senate Concurrent
Resolution 38**
*Leftwich, et al./
Paulk et al.*

Requests that the Governor issue an Executive Order granting 15 working days of paid administrative leave for state employees affected by the May 3, 1999, tornadoes.

Note: SCR 38 DOES NOT grant leave to state employees. A concurrent resolution merely expresses the opinion or will of the Legislature—it is not law. Governor Keating did not issue an Executive Order regarding paid administrative leave; instead, the Legislature passed and the Governor signed HB 1579 (see above).

Leave Sharing

House Bill 1579
*Settle & Begley/
Haney & Hobson*

Amends 74:840-2.23 to:

- expand the state leave sharing program to include state employees who are affected by a presidentially-declared national disaster in Oklahoma after May 1, 1999, for a period of six months after the date of the disaster, if the employee suffered a physical injury as a result of the disaster; the relative or household member of the employee suffered a physical injury or died as a result of the disaster; or the domicile (residence) of the employee or the home of a relative of the employee was damaged or destroyed as a result of the disaster;
- change the definition of “state employee” to provide that probationary classified employees or unclassified employees on temporary or other limited term appointments are eligible to receive donated leave under the abovementioned circumstances.

Note: These are the only changes to the leave sharing provision of the Oklahoma Personnel Act. Other requirements remain intact, e.g.,

- *an employee may be eligible to receive donated leave if the employee’s chief administrative officer determines that the employee meets the abovementioned criteria and has abided by state policies regarding the use of leave;*
- *an employee may donate annual or sick leave to another employee if the employee in need of leave has exhausted, or will exhaust, all annual leave and sick leave due to the circumstances described in 840-2.23, the condition has caused, or is likely to cause, the employee to go on leave-without-pay or terminate employment, and the donating employee’s chief administrative officer permits leave to be donated to an eligible employee.*

Please review all of 74:840-2.23 for other leave sharing requirements.

Effective July 1, 1999.

Mandatory Supervisory Training

Senate Bill 464
*Dickerson & Morgan/
Dunegan*

Amends 74:840-3.1 to:

- require 24 hours of training for new supervisors within 12 months of assuming supervisory duties, and 12 hours of training thereafter;
- define “supervisor” as an employee who is responsible for evaluating the performance of subordinates;
- require OPM Administrator to promulgate rules to develop and im-

plement training programs for supervisory personnel, including courses related to the effective performance of an agency manager or supervisor.

Effective November 1, 1999.

Privatization

Senate Bill 376
Leftwich/Paulk, et al.

Creates the “Oklahoma Privatization of State Functions Act” at 74:595 to establish guidelines for the privatization of state services to ensure that such privatization is cost-effective and in the best interests of the state’s citizens:

- provides that before any agency may contract to privatize a function, program, service, unit or division, the agency must permit its employees to submit proposals for improving the operations, efficiency, or organization of the entity being considered for privatization;
- establishes the privatization process, which consists of notification by the agency to employees affected by the proposed privatization, a specific statement that employees have an opportunity to submit proposals to the agency, and notification by the agency to the Director of the Office of State Finance (OSF) of the agency’s intent to privatize a state function;
- requires the agency to provide information about the delivery of services to its employees as they develop proposals to be considered, including revenue expenditure data, wage and salary data, and inventory of the supplies, equipment, and facilities associated with the program being privatized;
- provides that proposals submitted by agency employees to the agency shall be considered when a determination is made to seek nonemployee bids to privatize a function, etc. of the agency;
- provides that before soliciting bids from other interested parties, the agency shall notify the Governor, President Pro Tempore, and Speaker of the agency’s intent to solicit bids and a statement that the agency has given the opportunity to its employees to submit proposals before the decision to privatize and that it has complied with the provisions of SB 376 and all other applicable laws regarding the privatization of the respective state functions;
- prohibits any state employee who exercises discretionary or decision-making authority in awarding a privatization contract from becoming an officer or employee of a business organization which is a party to a privatization contract with the agency for one year from the date the privatization contract is awarded.

Effective January 1, 2000.

State Travel Reimbursement Act (STRA)

House Bill 1140
Easley, et al./Monson

Amends 74:500.7 to provide that state officers or employees directed to participate in their official capacity in a disaster relief activity during a presidentially-declared national disaster in Oklahoma after May 1, 1999, for a period of not more than six months after the date of disaster, shall be eligible for reimbursement of meal and lodging costs associated with the performance of their duties.

Senate Bill 505
Williams/Braddock

Effective May 21, 1999.

Creates new law at 74:500.37 to provide that state officers and employees may receive travel reimbursements through direct deposit if they receive their paychecks through direct deposit.

Effective November 1, 1999.

Strategic Planning/Quality Improvement

House Bill 1622
Askins, et al./Hobson

Creates the "Oklahoma Program Performance Budgeting and Accountability Act" at 62:45.1, et seq. for the purpose of better prioritizing state funding needs, reducing program duplication, enhancing budgeting information necessary to improve the efficiency of state operations, and improving state services to the public. HB 1622 was introduced for the purpose of implementing the recommendations of the Quality Improvement Task Force, which was created by the Legislature during the 1998 session to study and recommend ways of making Oklahoma state government more efficient. HB 1622:

- requires each state agency to make a strategic plan for its operations, covering five fiscal years, the first of which is due October 1, 2001;
- requires OSF to determine the plan's required elements, including:
 - ⇒ the agency's mission and goals;
 - ⇒ a description of indicators used to measure performance of the agency and its programs;
 - ⇒ identification of the groups of people served by the agency and estimates of changes in those groups expected during the term of the plan;
 - ⇒ an analysis of the use of the agency's resources to meet the agency's needs, and an estimate of additional resources that may be necessary to meet future needs;
 - ⇒ a description of the means and strategies for meeting the agency's needs, including future needs, and achieving the goals for each area of state government for which the agency provides services;
 - ⇒ a summary of the capital improvement needs of the agency which were provided to the Long-Range Capital Planning Commission;
- requires each agency to send one copy of plan to the Governor, President Pro Tempore, Speaker, Chair and Vice-Chair of the Joint Legislative Committee on Budget and Program Oversight, Chair and Vice-Chair of the Joint Committee on Accountability in Government, OSF Director; and State Auditor and Inspector;
- requires OSF and the Joint Legislative Committee on Budget and Program Oversight to work with each state agency to determine acceptable performance measures for use in the agency's plan;
- requires the State Auditor and Inspector, when conducting a performance audit of a state agency, to consider the extent to which the agency conforms to the agency's strategic plan;
- authorizes the Joint Committee on Accountability in Government pursuant to its procedures to conduct a performance investigation of a state agency to consider to what extent the agency has improved

- performance;
- requires the Joint Legislative Committee on Budget and Program Oversight to annually establish a schedule of program evaluation and performance review for state agencies;
- authorizes OPM to provide training or other services to state agencies.

Effective July 1, 1999.

Temporary Employment Study

Senate Bill 464
***Dickerson & Morgan/
Dunegan***

Section 21 creates the Legislative Task Force on Management of Contract Employees by State Agencies consisting of 10 legislators, the State Auditor and Inspector, the Director of the Office of State Finance, the OPM Administrator, and the Director of the Department of Central Services. SB 464:

- Requires the Task Force to study state agencies' utilization of temporary or contract employees provided by companies, corporations, or individuals that contract with its clients for the purpose of providing temporary or contract employees and make any recommendations the Task Force deems appropriate;
- Requires the Task Force study to include but not be limited to the following: increasing expenditures by state government in recent years for contracts with entities providing temporary or contract employees and the fees paid to those entities; appropriate usage of temporary or contract employees; impact that state agency usage of contract or temporary employees has on the Legislature's commitment to compensation and benefits for the state's workforce; consideration of imposing controls on overhead paid to companies, corporations, or individuals that contract with state agencies for the purpose of providing temporary or contract employees; development of a cost-benefit analysis requirement before agencies enter into contracts for temporary or contract employees; improving state accounting, purchasing, and other central reporting systems to maintain appropriate control and oversight of temporary or contract employees; minimizing the legal and other liabilities associated with state agency use of temporary or contract employees; and requiring state agencies to develop personnel and other policies associated with state agency use of temporary or contract employees prior to contracting for them;
- Requires all executive branch agencies to cooperate with the Task Force in the performance of its duties and to provide the Task Force copies of contracts and information about their contracts with companies, corporations, or individuals that contract with the agencies for the purpose of providing temporary or contract employees;
- Authorizes the Task Force to request authorization from the Speaker and President Pro Tempore to request a performance audit by the State Auditor and Inspector regarding state agency use of temporary and contract employees;
- Requires the Task Force to submit its initial findings and recommendations to the Speaker and President Pro Tempore and recommend legislation to implement them on or before January 1, 2000;

Effective November 1, 1999.

Unclassified Service

Senate Bill 158
**Haney & Hobson/
Settle & Begley**

Amends 74:840-5.5 (unclassified catalog) to provide that the appointment of persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Legislature or a legislative committee or by authority of the Governor shall be funded from the budget of the appointing authority.

Effective July 1, 1999.

Senate Bill 176
**Haney & Hobson/
Settle & Begley**

Adds a variety of agency-specific amendments to 74:840-5.5 (unclassified catalog).

Effective July 1, 1999.

Y2K Liability

House Bill 1325
Weaver, et al./Morgan

Creates new law at 51:155.2 to provide that:

- under certain circumstances, the state shall have no liability for losses from any failure or malfunction occurring before December 31, 2002, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times;
- no claim or cause of action may be brought against the state or an officer or employee of the state on the basis that a computer or other information system produced, calculated or generated an incorrect date or failed to accurately store, process, provide or receive data;
- any contract entered into by or on behalf of and in the capacity of the state or an officer or employee of the state or any of its agencies must include a provision that provides immunity for any breach of contract that is caused by an incorrect date being produced, calculated or generated by a computer or computer system or caused a computer or computer system to fail to accurately store, process, provide or receive data. A contract is entered into on or after July 1, 1999, has the legal effect of including this immunity, and any provision of the contract which is in conflict is void;
- the state shall not be immune from a claim or cause of action if remediation efforts were not begun by January 1, 1999.

Effective July 1, 1999.