

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 546

By: Dickerson of the Senate

and

Dunegan of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state government and public finance; amending 74 O.S. 1991, Section 841.14, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 15, Chapter 283, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-4.18), which relates to reduction-in-force, layoffs and furloughs; modifying requirements for eligibility for longevity; providing that certain plan be provided when a reduction-in-force occurs in any state agency, whether subject to the Merit System or the unclassified service; making such plan subject to the approval of the Administrator of the Office of Personnel Management; providing that certain employees shall be eligible for certain reemployment conditions and subject to recall pursuant to certain specified criteria; stating purpose of section of act; providing procedure for state agency to follow when contract results in reduction-in-force; construing provisions of certain portions of act; stating purpose of section of law; limiting effect of certain minimum guidelines; requiring certain notifications and specifying contents thereof; stating when provisions of section of law shall not be applied; construing section of law; amending 62 O.S. 1991, Section 7.10, as amended by Section 1, Chapter 142, O.S.L. 1992 (62 O.S. Supp. 1994, Section 7.10), which relates to voluntary payroll deductions; adding certain membership dues to payroll deductions; providing for codification; providing for recodification; providing for noncodification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 841.14, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 15, Chapter 283, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-4.18), is amended to read as follows:

Section 840-4.18 A. Whenever the number of positions and employees in any state agency, whether subject to the provisions of the Merit System or in the unclassified service, is reduced,

the appointing authority shall, ~~subject to the approval of the Administrator of the Office of Personnel Management,~~ provide a plan for such reduction-in-force within the agency. ~~Such~~ The plan and ~~subsequent personnel transactions~~ shall be subject to the approval of the Administrator of the Office of Personnel Management and in compliance with rules adopted by the Administrator. The appointing authority shall post in each office of the agency a copy of the proposed reduction-in-force plan five (5) days prior to the submission of the proposed plan to the Administrator. Such plan shall provide for the appointing authority to determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof. It shall also provide for retention of employees based on classification and type of appointment. It shall require the separation of probationary and other limited term unclassified/~~exempt~~ and classified employees in classes affected by a reduction-in-force prior to the separation or displacement of any permanent classified employee in an affected class. The plan shall additionally provide for retention of permanent classified employees in classes affected by the reduction-in-force based upon consideration of length of service. The plans for agencies having both classified and unclassified/~~exempt~~ positions in affected classes shall provide that the percentage of occupied classified positions abolished as compared to the total number of occupied classified positions in the affected class shall not exceed the percentage of occupied unclassified/~~exempt~~ positions abolished as compared to the total number of occupied unclassified/~~exempt~~ positions in the affected class.

The Administrator of the Office of Personnel Management shall review the agency plan and shall reject any plan which is not in substantial compliance with this section and the rules promulgated hereunder.

B. The appointing authority may limit displacement of employees at the time of a reduction-in-force if such limitation is based upon reasonable, written, articulated criteria. If

displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women.

C. Permanent classified employees removed from a class by an agency under the provisions of this section shall be recalled by the agency to the class from which removed in inverse order of removal before the agency may appoint other persons to the class, from the employment register, by internal action or from Priority Reemployment Consideration Rosters as provided in subsection D of this section. Upon declination of an offer of reappointment to the class from which removed or eighteen (18) months after the date of removal from the class, whichever is first, this right to be recalled shall expire.

D. The names of probationary and permanent employees, and regular ~~exempt and~~ unclassified full-time employees with over six (6) months continuous service who have been separated as a result of an officially conducted reduction-in-force or the abolition of a state agency, board or commission or any part thereof, who apply and meet all requirements for state jobs in the classified service shall be placed on Priority Reemployment Consideration Rosters in accordance with their individual final earned ratings for a maximum of eighteen (18) months after the date of separation. Before any vacant position is filled by any person eligible for initial appointment from the employment register, persons on the Priority Reemployment Consideration Rosters shall be given priority consideration for reemployment by any state agency within eighteen (18) months after the date of the reduction-in-force. Upon declination of an offer of reemployment to a class having the same or higher grade than that class from which removed, or eighteen (18) months after the date of separation, whichever is first, this priority consideration for reemployment shall expire.

E. If an institution, facility, or agency of this state is scheduled to be closed or abolished as a result of legislation or a court order, the employees of the institution, facility, or agency who would be eligible for Priority Reemployment Consideration after their separation in accordance with subsection

D of this section, may apply and, if qualified and eligible, shall be accorded Priority Reemployment Consideration not to exceed twelve (12) months before the scheduled date of separation.

F. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct agencies, boards and commissions to reduce the number of employees working for said agency, board or commission whenever it is deemed necessary and proper. Such reduction shall be made pursuant to reduction-in-force plans as provided in this section.

G. State employees separated as a result of a reduction-in-force or as a consequence of the abolition of a state agency, board or commission or any part thereof shall be given the option of being placed on leave without pay status and may retain their membership in the State Employees Group Health, Dental and Life Insurance program for a period of time consistent with applicable rules and regulations. Each affected employee electing to retain his or her insurance membership shall be responsible for payment of all premiums on the insurance.

H. 1. When the Legislature is not in session, the Contingency Review Board may, upon the request of the Governor, direct and require mandatory furloughs for all state employees whenever it is deemed necessary and proper. The Contingency Review Board shall specify the effective dates for furloughs and shall note any exceptions to state employees affected by same. All classified, and unclassified, ~~exempt or nonmerit~~ employees, including those employees of agencies or offices established by statute or the Constitution, shall be affected by such actions.

2. Mandatory furlough means the involuntary temporary reduction of work hours or the placement of an employee on involuntary leave without pay. Rules governing leave regulations, longevity pay and participation in the State Employees Group Health, Dental and Life Insurance program shall not be affected by mandatory furloughs. Furlough, as provided for in this section or by rules adopted by the Administrator of the Office of Personnel Management, shall not be appealable under the provisions of the Oklahoma Personnel Act.

3. Notwithstanding existing laws or provisions to the contrary, members of state boards and commissions shall not receive per diem expenses during periods of mandatory furlough. The Contingency Review Board shall additionally call upon elected officials, members of the judiciary, and other public officers whose salary or emoluments cannot be altered during current terms of office, to voluntarily donate to the General Revenue Fund any portion of their salary which would otherwise have been affected by a mandatory furlough.

I. All agencies, boards and commissions directed by the Contingency Review Board to terminate or furlough employees, shall report the cumulative cost savings achieved by the reductions-in-force or furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives on a quarterly basis for one (1) year following the effective date of the action.

J. ~~Provided, however, the University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority, shall not be subject to the provisions of this section~~ Full-time unclassified employees of the University Hospitals Authority with over six (6) months' continuous service with the Hospitals Authority and classified employees who are terminated after February 1, 1995, as a result of a reduction-in-force conducted by the University Hospitals Authority shall be eligible for priority reemployment consideration pursuant to subsection D of this section.

Such classified employees of the Hospitals Authority shall be subject to recall pursuant to subsection C of this section in order of their cumulative service with the state as calculated for purposes of the longevity pay plan pursuant to Section 840-2.18 of this title beginning with those employees with the greatest cumulative service.

SECTION 2. It is the purpose of Section 3 of this act to provide a severance package to state employees who are separated from state employment as a result of the privatization of their positions in order to effectuate the orderly transfer of the services provided at the University Hospitals that may result from

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this act. The University Hospitals Authority shall, prior to any official action, notify the University Hospitals Advisory Committee of any reduction-in-force of classified or unclassified Authority employees which shall be approved or disapproved within ten (10) working days by the Administrator of the Office of Personnel Management.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-2.18a of Title 74, unless there is created a duplication in numbering, reads as follows:

A. When a state agency decides to enter into a contract with a private entity for the purpose of performing services previously provided by employees of the agency and the contract will result in a reduction-in-force, the state agency shall:

1. Seek assistance from the Oklahoma Employment Security Commission which shall provide out placement services to the affected employees;

2. Be permitted at the discretion of the appointing authority to pay all the affected state employees double the proportionate share of any earned longevity payment which they have accrued as of the date of their separation; and

3. Be permitted at the discretion of the appointing authority to pay the affected employees for any earned accumulated sick leave or extended illness benefits up to one hundred twenty (120) days not otherwise used pursuant to law for conversion to credited retirement credit.

B. The provisions of paragraphs 2 and 3 of subsection A of this section shall only apply to employees who are separated pursuant to the reduction-in-force and do not voluntarily change employment or are involuntarily separated from employment with the agency unrelated to the reduction-in-force.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-6.3A of Title 74, unless there is created a duplication in numbering, reads as follows:

It is the purpose of this section to provide minimum guidelines to be followed in the course of internal agency investigations of state employees, when such investigations are

conducted by or initiated at the request of the employing agency. Minimum guidelines shall not eliminate, reduce, or infringe on any employee's obligations as otherwise provided for by federal or state law.

The employing agency of any employee, whether subject to the provisions of the Merit System or in unclassified service, who is subject to an internal agency investigation as described in this section, shall notify such employee in writing at least twenty-four (24) hours before any employee is interrogated of such investigation. Notice shall include:

1. A general summary of the grounds for the investigation and a general summary of evidence or physical evidence to support the grounds for the investigation;
2. Authority for the investigation;
3. The investigative process which the employing agency will follow during the course of the investigation;
4. The role the employee is to follow to facilitate the investigation; and
5. Rights of the employee to legal counsel.

Within thirty (30) calendar days after completion of the investigation or within thirty (30) calendar days after the investigation is discontinued, the employing agency shall notify the employee of the results of the investigation. The notice shall include a general summary of the findings of the investigation and disposition of the matter.

If allegations or charges against the employee are confirmed, in whole or in part, the employee shall be notified in writing of any action which shall be taken by the employing agency. If allegations or charges against the employee are not confirmed, the employing agency shall fully remove all records of the investigation from the employee's file unless the agency determines additional information warrants further investigation, and shall not use or reference the investigation in any further actions against the employee.

This section shall not apply if the agency determines that there is an imminent and immediate need for the protection of the

public's safety or the protection of public property; when the provisions of life-sustaining health services are at risk; or when to do so is not otherwise in the best interests of the state.

This section shall not preclude any independent investigation by other law enforcement entities. The Office of Personnel Management shall promulgate rules pursuant to the Administrative Procedures Act.

SECTION 5. AMENDATORY 62 O.S. 1991, Section 7.10, as amended by Section 1, Chapter 142, O.S.L. 1992 (62 O.S. Supp. 1994, Section 7.10), is amended to read as follows:

Section 7.10 A. 1. Upon the request of a state employee, a state agency, board, or commission shall make voluntary payroll deductions for the employee to a credit union which primarily serves state employees or employees of a political subdivision of the state.

2. The governing body of any county, municipality, or school district may provide for voluntary payroll deductions to a credit union serving the employees of the county, municipality, or school district.

B. Upon the request of a state employee and pursuant to procedures established by the Administrator of the Office of Personnel Management, a state agency, board, or commission shall make payroll deductions for:

1. The payment of any insurance premiums due a private insurance organization with a minimum participation of five hundred (500) state employees for life, accident, and health insurance which is supplemental to that provided for by the state;

2. The payment of any insurance premiums due a private insurance organization or service company which is regulated by the State Insurance Commissioner and with a minimum participation of five hundred (500) state employees for legal services;

3. Premiums or payments for retirement plans with a minimum participation of five hundred (500) state employees for retirement plans which are supplemental to that provided for by the state;

4. Salary adjustment agreements included in a flexible benefits plan as authorized by the State Employees Flexible Benefits Act; ~~and~~

5. Membership dues in the Oklahoma Public Employees Association or any other statewide association limited to state employee membership with a minimum membership of one thousand (1,000) dues-paying members; and

6. Membership dues or contributions to its foundation organized pursuant to 26 U.S.C., Section 501(c)(3) in the Oklahoma Public Employees Association or any other statewide association limited to state employee membership with a minimum membership of one thousand (1,000) dues-paying members.

C. The administrative costs of processing payroll deductions or administering salary adjustment agreements for insurance premiums as provided for in subsection B of this section shall be a charge of two percent (2%) of the gross annual premiums for insurance plans. The administrative costs of processing payroll deductions or administering salary adjustment agreements for payments for retirement plans as provided for in subsection B of this section shall be one percent (1%) of the gross annual payments for retirement plans. These charges shall be collected monthly from the private insurance or retirement plan organization by the Office of Personnel Management and shall be deposited to the credit of the General Revenue Fund. Provided that these costs shall not be collected from state employees or state agencies unless otherwise directed in this act.

D. Any insurance or retirement plan organization with a payroll deduction as of the date the Office of State Finance begins administering this section shall be exempt from the minimum state employee participation requirement for a period of six (6) months from said date.

E. Any statewide association granted a payroll deduction prior to the effective date of this act shall be exempt from the minimum state employee membership requirement.

F. Approval of a payroll deduction or salary adjustment agreement for any insurance organization, line of coverage or

policy shall not be construed as an assumption of liability, for the term of policy or the performance of the insurance organization, by this state, or any of its agencies, boards, commissions, institutions or any officer or employee thereof. Contracts for such insurance shall be in all respects subject to the insurance laws of this state, and shall be enforceable solely pursuant to such laws.

G. The Oklahoma Employment Security Commission is authorized to deduct from the wages or salary of its employees the employees' contribution to the Employment Security Commission Retirement Plan.

H. Payroll deductions shall be made for premium payments for group insurance for retired members or beneficiaries of any state-supported retirement system upon proper authorization given by the member or beneficiary to the board from which the member or beneficiary is currently receiving retirement benefits.

SECTION 6. RECODIFICATION 74 O.S. 1991, Section 841.14, as renumbered by Section 54, Chapter 242, O.S.L. 1994 (74 O.S. Supp. 1994, Section 840-4.18), and as last amended by Section 1 of this act, shall be recodified as Section 840-2.27 of Title 74 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 7. The provisions of Section 2 of this act shall not be codified in the Oklahoma Statutes.

SECTION 8. This act shall become effective November 1, 1995.

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