

ENROLLED HOUSE
BILL NO. 1751

By: Anthony and Steidley of
the House

and

Robinson and Hobson of
the Senate

An Act relating to the University Hospitals; amending Section 3, Chapter 330, O.S.L. 1993 and Section 11, Chapter 330, O.S.L. 1993, as amended by Section 9, Chapter 283, O.S.L. 1994 (63 O.S. Supp. 1994, Sections 3203 and 3211), which relate to the University Hospitals Authority Act; modifying duties of the University Hospitals Authority; providing for certain calculation and basis for determining level of indigent care; modifying definition of indigent care; allowing certain employees of the Authority to transfer to certain personnel system; approving the creation of the University Hospitals Trust; providing certain conditions to approval; requiring certain provisions in declaration of trust; requiring submission of certain contractual agreements to the Contingency Review Board for review; providing for disapproval of the agreement within a certain time period; authorizing the Authority to lease certain real property; providing certain conditions for approval of lease; providing for termination of lease upon certain conditions; 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 of state employees; providing for priority reemployment consideration for Authority employees; stating purpose of certain sections relating to Authority employees; providing for certain actions to be taken by the University Hospitals Authority under certain circumstances; listing actions which may be taken; limiting application to certain employees; repealing 56 O.S. 1991, Section 413, which relates to the Oklahoma Medical Center; providing for recodification; providing for noncodification; and providing for codification.

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

SECTION 1. AMENDATORY Section 3, Chapter 330, O.S.L. 1993 (63 O.S. Supp. 1994, Section 3203), is amended to read as follows:

Section 3203. A. The purposes of the University Hospitals Authority Act are to provide for an effective and efficient

administration, to ensure a dependable source of funding, and to effectuate the mission and purposes of the University Hospitals Authority. The mission and purposes of the University Hospitals Authority are to serve as general hospitals, to serve as teaching and training facilities for students enrolled at the University of Oklahoma, to serve as a site for conducting medical and biomedical research by faculty members of the University of Oklahoma Health Sciences Center and to provide care for the medically indigent. The University Hospitals shall maintain a close affiliation with the University of Oklahoma Health Sciences Center and shall coordinate their operations and activities in a cooperative manner. In addition, the University Hospitals shall provide indigent and nonindigent patient care, as more fully described herein.

B. The Legislature finds that the needs of the citizens of this state and the needs of the University of Oklahoma Health Sciences Center will be best served if the University Hospitals are operated by a separate authority charged with the mission of operating or leasing the operations of the teaching hospitals for the benefit of the colleges of the University of Oklahoma Health Sciences Center and providing care for the medically indigent.

C. The Authority by receiving the assets and operating obligations shall ~~continue to subsidize~~ ensure that the costs of delivering medically indigent care continue to be subsidized in excess of the state reimbursement for the medically indigent, consistent with the teaching hospitals' past policy and performance and that of the University of Oklahoma Health Sciences Center. The Authority ~~will~~ shall make or cause to be made every reasonable effort to continue the hospitals' historic commitment to the provision of uncompensated care and ~~shall allocate and invest its~~ that the allocation and investment of resources shall be made with a view to maximizing the hospitals' long-term ability to provide uncompensated care, except as may be modified by changes in federal or state law. ~~Total~~ The University Hospitals Authority shall ensure that indigent care provided by the ~~Authority~~ University Hospitals during a fiscal year shall be equal or exceed sixteen percent (16%) of the gross patient revenues of the Authority to or exceed one hundred twenty percent (120%) of the annual appropriation to the University Hospitals Authority. The level of indigent care provided shall be based on Medicare costs as determined by the most recent report filed by any operating entity of the University Hospitals with the federal Health Care Finance Administration.

D. ~~For any fiscal year that indigent care provided by the Authority does not equal or exceed sixteen percent (16%) of gross patient revenue, the state appropriation will be reduced in the following fiscal year by an amount equal to the difference between sixteen percent (16%) of gross patient revenues and actual indigent care provided.~~

~~E.~~ As used in this section, "indigent care" means charity care and, Medicaid contractual allowance charges less payment rate allowances, all debt arising from accounts for which there is no third-party coverage including services provided to the Department of Corrections and Department of Mental Health and Substance Abuse Services as otherwise required by law. For purposes of this subsection, third-party coverage shall not include Medicaid coverage.

~~F.~~ E. The Board of Regents of the University of Oklahoma shall retain full power to govern the personnel, curriculum and facilities of the University of Oklahoma.

SECTION 2. AMENDATORY Section 11, Chapter 330, O.S.L. 1993, as amended by Section 9, Chapter 283, O.S.L. 1994 (63 O.S. Supp. 1994, Section 3211), is amended to read as follows:

Section 3211. A. Employees of the University Hospitals who are in the classified service of the State Merit System of Personnel Administration on June 30, 1993, shall be transferred to the University Hospitals Authority without change or loss of pay, seniority, rights, privileges or benefits.

B. Employees of the University Hospitals who are in the unclassified service of the State Merit System of Personnel Administration on June 30, 1993, shall be transferred to the Authority without change or loss of pay, seniority, rights, privileges or benefits.

C. By January 1, 1995, all employees of the Authority shall be required to elect whether to remain in their present classification pursuant to the Oklahoma Personnel Act, ~~Section 840.1 et seq. of Title 74 of the Oklahoma Statutes,~~ or transfer to the University Hospitals Authority Model Personnel System established pursuant to subsection E of this section. Any employee who elected not to transfer to the University Hospitals Authority Model Personnel System pursuant to this subsection may elect to transfer to the personnel system at any time after the effective date of this act as prescribed by the Authority.

D. All new employees hired by the University Hospitals or the Authority and all positions vacated by classified employees of the University Hospitals and/or the Authority after June 30, 1993, shall be in the personnel system established pursuant to subsection E of this section.

E. The Authority shall develop, maintain or revise unclassified personnel systems, classes or procedures which are necessary for accommodating or responding to its human resource needs. Such authority includes recruitment, position classifications, qualifications, selection criteria, search and selection procedures, use of consultants, salaries, benefits, retirement plans, leave benefits and personnel administration. Such systems, classes or procedures shall require consultation with 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 3224 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State of Oklahoma expressly approves the creation of a public trust to be denominated the "University Hospitals Trust", of which the State of Oklahoma shall be the beneficiary, provided such approval shall be contingent upon the following conditions being satisfied:

1. Finalizing of the Declaration of Trust;
2. Adoption of the Declaration of Trust by an official action of the trustees of the Trust;
3. Submission of the Trust for acceptance of the beneficial interest and approval as required by Section 177 of Title 60 of the Oklahoma Statutes; and
4. The approved Declaration of Trust shall:
 - a. clearly state that the principal purpose of the University Hospitals Trust is to effectuate the purposes of the University Hospitals Authority as established in the University Hospitals Authority Act,
 - b. except as otherwise provided by law, provide that the title to real property held by the University Hospitals Authority shall not be transferred, conveyed, or assigned to the University Hospitals

- Trust without the express consent of the Legislature as the governing entity of the beneficiary pursuant to Section 176 of Title 60 of the Oklahoma Statutes,
- c. provide that any indebtedness incurred by the University Hospitals Trust or the trustees of the Trust shall not be secured with or create a lien upon real property to which title is held by the University Hospitals Authority,
 - d. provide that the trust estate of the University Hospitals Trust shall not include real property to which fee simple title is held by the University Hospitals Authority,
 - e. clearly state that the creation of the University Hospitals Trust shall not in any way reduce, limit or interfere with the power granted to the University Hospitals Authority in the University Hospitals Authority Act,
 - f. provide that any lease or contractual agreement involving use of the real property to which title is held by the University Hospitals Authority and any improvements thereto shall contain a provision and covenants requiring the proper maintenance and upkeep of the real property and improvements,
 - g. provide that the trustees of the University Hospitals Trust shall be the acting members of the University Hospitals Authority as provided in the University Hospitals Authority Act, and
 - h. provide that the trustees of the University Hospitals Trust shall have the duty to submit an annual report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The report shall be submitted by January 1 of each year and shall include an account of all operations, actions of the Trust, account of all revenue received and disbursed by the Trust for the previous fiscal year. The report shall also provide a complete accounting of how the Trust meets its primary function of effectuating the purposes of the the University Hospitals Authority, as established in the University Hospitals Authority Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3225 of Title 63, unless there is created a duplication in numbering, reads as follows:

Contingent upon the creation of the University Hospitals Trust as provided in Section 3 of this act, the Trust, prior to acceptance, shall submit to the Contingency Review Board for review any proposed contractual agreement regarding the lease and operations of the University Hospitals to any entity authorized to transact business in the state. The Contingency Review Board shall upon receipt of the proposed agreement meet within fifteen (15) business days to review the proposed agreement; and unless the Contingency Review Board disapproves the proposed agreement, the agreement may be executed.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3226 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Contingent upon the creation of the University Hospitals Trust as provided in Section 3 of this act, the University Hospitals Authority is hereby authorized to lease, for a term of not more than fifty (50) years, renewable at the option of the Authority, all real

property known as the University Hospitals and any other sites under the control of the Authority to the University Hospitals Trust. Any lease agreement made pursuant to this section shall be contingent upon:

1. Prior review by the Attorney General of any contractual agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma regarding the lease and operations of the University Hospitals. The Attorney General shall disapprove the agreement if it is determined that provisions of the agreement are not consistent with state law; and

2. The execution of an operating and lease agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma.

B. If a contracting entity fails to take possession of the leased premises or abandons or surrenders possession of the leased premises at any time during the term of the lease between the University Hospitals Trust and the contracting entity, the interest in the real property leased to the University Hospitals Trust by the University Hospitals Authority shall revert to and be the sole and exclusive property of the University Hospitals Authority.

SECTION 6. It is the purpose of Section 7 of this act to provide a severance package to University Hospitals Authority 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 this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3213.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. When the University Hospitals Authority decides to enter into a contract with a private entity for the purpose of performing services previously provided by employees of the Authority and the contract will result in a reduction-in-force, the Authority 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 Authority, to pay all the affected Authority employees up to 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 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 University Hospitals Authority employees who are separated pursuant to the reduction-in-force and do not voluntarily change employment or are involuntarily separated from employment with the Authority unrelated to the reduction-in-force.

SECTION 8. 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 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 plan and subsequent personnel transactions shall be 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, 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~~ Except as otherwise provided, 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. Beginning after the effective date of this act, the provisions of subsection D of this section regarding priority reemployment consideration shall apply to any employee of the University Hospitals Authority who was

employed on or became employed after February 1, 1995, and who are separated from state service as a result of a reduction-in-force.

SECTION 9. REPEALER 56 O.S. 1991, Section 413, is hereby repealed.

SECTION 10. 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 8 of this act, shall be recodified as Section 840-2.27 of Title 74 of the Oklahoma Statutes.

SECTION 11. NONCODIFICATION The provisions of Section 6 of this act shall not be codified in the Oklahoma Statutes.

Passed the House of Representatives the 19th day of May, 1995.

Speaker of the House of
Representatives

Passed the Senate the 22th day of May, 1995.

President of the Senate