

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2855

By: Steidley

COMMITTEE SUBSTITUTE

An Act relating to state employees; amending 74 O.S. 1991, Section 841.14, as last amended by Section 6, Chapter 287, O.S.L. 1997, and as last renumbered by Section 20, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.27C), which relates to reduction-in-force plans; adding requirement for creation of an interagency advisory task force under certain circumstances; providing for duties and membership; amending Sections 7 and 12, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Sections 840-2.27D and 840-2.28), which relate to severance benefits and voluntary out benefits; modifying agency severance benefits; deleting certain severance benefit options; modifying and authorizing certain insurance coverages for an additional length of time for state employees separated as a result of certain reductions-in-force; adding eligibility requirements for severance benefits for part-time employees; modifying agency voluntary out benefits; modifying and deleting certain voluntary out options; adding eligibility requirements for voluntary out benefits; deleting requirements and restrictions concerning voluntary out benefits; allowing certain members of Oklahoma Law Enforcement Retirement System and the Teachers' Retirement System of Oklahoma to purchase termination credit if terminated pursuant to a reduction-in-force; providing procedures, requirements, and restrictions for the purchase and use of termination credit; amending Section 1, Chapter 285, O.S.L. 1997 (74 O.S. Supp. 1997, Section 913c), which relates to termination credit in the Oklahoma Public Employees Retirement System; modifying eligibility date for reductions-in-force under which termination credit may be purchased; repealing Section 13, Chapter 287, O.S.L. 1997 (47 O.S. Supp. 1997, Section 2-307.6), which relates to the purchase of retirement source credit in the Oklahoma Law Enforcement Retirement System; repealing Section 14, Chapter 287, O.S.L. 1997 (70 O.S. Supp. 1997, Section 17-116.11), which relates to the purchase of retirement service credit in the Teachers' Retirement System of Oklahoma; repealing Section 11, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.27H), which relates to the Reduction-In-Force Premium Payment Fund; repealing Section 15, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 913d), which relates to the purchase of severance credit in the Oklahoma Public Employees Retirement System; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 841.14, as last amended by Section 6, Chapter 287, O.S.L. 1997, and as last renumbered by Section 20, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.27C), is amended to read as follows:

Section 840-2.27C A. Whenever a reduction-in-force occurs, the appointing authority shall provide a plan for such reduction-in-force at least sixty (60) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law. A reduction-in-force shall not be used as a disciplinary action. The reduction-in-force plan of an agency, except for the fiscal components of the plan as provided by paragraph 1 of this subsection, in the executive branch of state government is subject to the approval of the Administrator of the Office of Personnel Management who shall reject any plan that is not in substantial compliance with this section and the rules promulgated hereunder.

1. The Director of the Office of State Finance shall review the fiscal components of the plan and reject any plan that does not:

- a. demonstrate that funds are available to cover projected costs,
- b. contain an estimate of the number of affected employees likely to participate in the education voucher program established in Section 7 840-2.27D of this ~~act~~ title, and
- c. contain an estimate of the cost savings or reduced expenditures likely to be achieved by the agency.

2. If the reduction-in-force is conducted pursuant to a reorganization, the fiscal components of the reduction-in-force plan shall contain reasons for the reorganization, which may include, but not be limited to, increased efficiency, improved service delivery, or enhanced quality of service.

B. The reduction-in-force plan and subsequent personnel transactions directly related to the reduction-in-force shall be in compliance with rules adopted by the Administrator. The appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force plan a copy

of the plan five (5) days prior to the submission of the proposed plan to the Administrator and the Director of State Finance. An approved reduction-in-force plan, the description of and reasons for displacement limits and protections from displacement actions, severance benefits that will be offered pursuant to Section 7 840-2.27D of this ~~act~~ title, and the implementation schedule shall be posted in each office affected by the plan within two (2) business days after approval of the plan by the Administrator for executive branch agencies or appointing authorities in the legislative and judicial departments. The plan shall:

1. 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;

2. Provide for retention of affected employees based on classification and type of appointment. If an agency has both classified and unclassified positions in affected classes, the appointing authority shall not reduce a higher percentage of occupied classified positions than occupied unclassified positions;

3. Require the separation of probationary classified affected employees in affected classes, except those affected employees on probationary status after reinstatement from permanent classified status without a break in service, prior to the separation or displacement of any permanent classified affected employee in an affected class;

4. Require the separation of limited term unclassified affected employees and regular unclassified affected employees with less than six (6) months continuous service in affected classes prior to the separation or displacement of regular unclassified affected employees with six (6) months or more of continuous service in an affected class;

5. Provide for retention of permanent classified affected employees in affected classes and those affected employees on probationary status after reinstatement from permanent classified status without a break in service based upon consideration of years of service;

6. Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service if any displacement opportunities exist; and

7. Provide outplacement assistance and employment counseling from the Oklahoma Employment Security Commission and any other outplacement assistance and employment counseling made available by the agency to affected employees regarding the options available pursuant to ~~this act~~ the State Government Reduction-in-Force and Severance Benefits Act prior to the date that a reduction-in-force is implemented.

C. The appointing authority may limit displacement of affected employees at the time of a reduction-in-force. Displacement limits shall not be subject to the approval of the Administrator. Any limitation shall be based upon reasonable, written, articulated criteria as certified by the appointing authority. If displacement is limited, the appointing authority shall take action to avoid or minimize any adverse impact on minorities or women. However, if an appointing authority does not limit displacement, the appointing authority shall explain in writing the reasons displacement was not limited.

1. The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees in affected positions within displacement limits; provided, that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected, which explanation shall not be subject to the approval of the Administrator.

2. If the affected employee has not held within the last five (5) years a position in the class in which the affected employee is otherwise eligible for a displacement opportunity, the appointing authority may determine that the affected employee does

not possess the recent relevant experience for the position and deny in writing the displacement opportunity.

3. An affected permanent classified employee may exercise a displacement privilege, if one exists, if the affected employee has received an overall rating of at least "satisfactory", or its equivalent, on the most recent annual service rating. If an affected employee has not been rated in accordance with the time limits established in Section 840-4.17 of this title, the employee shall be deemed to have received an overall rating of at least "satisfactory" on the most recent service rating. An affected employee who exercises a displacement privilege pursuant to this section shall:

- a. be required, as a condition of continued employment by the agency, to sign an agreement, in a form to be prescribed by the Administrator of the Office of Personnel Management, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. An affected employee who signs the agreement required by this subparagraph waives any privilege which might otherwise have been available to the affected employee pursuant to the agreement for the provision of severance benefits, and
- b. not have the right to exercise any subsequent right to receive severance benefits from the agency for which the affected employee performs services on the date that the employee exercises a displacement privilege. The provisions of this section shall not prohibit any person from exercising a displacement privilege in, or accepting severance benefits from, more than one agency during employment with the State of Oklahoma or from the agency which the affected employee exercised a displacement privilege in any future reduction-in-force.

D. An affected employee who does not agree pursuant to Section ~~8~~ 840-2.27E of this ~~act~~ title to accept severance benefits and who does not have a displacement opportunity or does not accept a displacement opportunity shall be separated by the reduction-in-force and shall not receive any severance benefits that would have otherwise been provided pursuant to Section ~~7~~ 840-2.27D of this ~~act~~ title.

E. Permanent classified affected employees and those affected employees on probationary status after reinstatement from permanent classified status without a break in service removed from a class by taking a position in another class through displacement or separated after foregoing severance benefits 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 by 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.

F. The names of permanent classified affected employees, those affected employees on probationary status after reinstatement from permanent classified status without a break in service and regular unclassified affected employees with six (6) months or more continuous service who have been separated pursuant to the State Government Reduction-in-Force and Severance Benefits Act, 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 individual eligible for initial appointment from the employment register, individuals 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

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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. If an agency, including but not limited to the University Hospitals Authority, has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency who have been separated shall be eligible for priority reemployment consideration.

G. If an agency or any part thereof is scheduled to be closed or abolished as a result of legislation or a court order, the affected employees, who would be eligible for Priority Reemployment Consideration after their separation in accordance with subsection F 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. If an agency, including but not limited to the University Hospitals Authority, has posted a reduction-in-force plan and implementation schedule, all affected employees in positions covered by the plan and any within the displacement limits established by the appointing authority of the agency shall be eligible for Priority Reemployment Consideration beginning with the date the schedule is posted, not to exceed twelve (12) months before the scheduled date of separation.

H. 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.

I. 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, Disability, 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.

J. All agencies 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.

K. The appointing authority of an agency which has an approved reduction-in-force plan pursuant to the State Government Reduction-in-Force and Severance Benefits Act may request the Administrator of the Office Personnel Management to appoint an interagency advisory task force for the purpose of assisting the agency and its employees with the implementation of the reduction-in-force. Appointing authority of state agencies requested by the Administrator to participate on a task force shall assign

appropriate administrative personnel necessary to facilitate the necessary assistance required for the efficient implementation of the approved reduction-in-force.

L. Except as otherwise provided, the University Hospitals Authority shall not be subject to the provisions of this section. ~~Beginning after the effective date of this act~~ August 25, 1995, the provisions of subsection E 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~~ is separated from state service as a result of a reduction-in-force. The University Hospitals Authority shall conduct a reduction-in-force to terminate employees, regardless of status, whose positions are eliminated because of a contract with a private nongovernmental entity for the lease and operations of the University Hospitals pursuant to the University Hospitals Authority Act.

SECTION 2. AMENDATORY Section 7, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.27D), is amended to read as follows:

Section 840-2.27D A. Agencies shall provide severance benefits to the following categories of affected employees who are separated from the state service as a result of a reduction-in-force ~~which occurs after the effective date of this act~~: permanent classified affected employees, affected employees on probationary status after reinstatement from permanent classified status without a break in service, and regular unclassified affected employees with six (6) months or more continuous state service; provided, however, affected employees of the University Hospitals Authority must have been continuously employed in the state service since on or before January 1, 1995, to receive severance benefits. Affected employees who qualify for severance benefits pursuant to this section, in addition to the payment of any compensable accrued leave or other benefits an affected employee is eligible to receive upon separation from the state service, shall receive severance benefits consisting of the following elements:

1. All agency severance benefits shall provide the following:
 - a. ~~payment of equal to the affected employee's current health insurance premium for the affected employee only for the eighteen (18) months following separation or payment of an equivalent amount for current health insurance premiums that the affected employee would otherwise have received, pursuant to this subsection, based on the cost of the premium at the time of the reduction-in-force. The affected employee can maintain other insurance coverages offered to state employees during the eighteen-month period, provided that the affected employee shall pay all nonhealth premiums. The affected employee shall pay premiums directly to the Oklahoma State Employees Benefits Council. Provided, however, the affected employee shall be eligible during the annual option period to change health insurance carriers and other insurance coverages for which the affected employee is paying premiums. Following the initial eighteen-month period after separation, the affected employee shall be entitled to any health and other insurance coverage pursuant to federal law. If the affected employee elects the continued health insurance coverage option in this subparagraph and the affected employee, within the coverage period, decides to cancel the coverage or the affected employee receives coverage under another employer's health benefit plan, the affected employee's rights to benefits pursuant to this subsection shall terminate. The affected employee shall receive a payment for the equivalent of the cost of the remaining months of coverage based on the premium at the time of the reduction-in-force. Agencies which are abolished shall transfer monies to the Reduction-in-Force Premium Payment Fund created by Section 11 of this act to provide premium~~

~~payment if applicable for affected employees of abolished agencies.~~ The appointing authority of the agency can ask the Director of the Office of State Finance to waive the severance benefit provision in this subparagraph or to reduce the length of coverage or subsequent severance benefit payment upon demonstration of the agency's inability to fund the full benefit,

- b. a longevity payment, as prescribed by Section 840-2.18 of ~~Title 74 of the Oklahoma Statutes~~ this title, in the amount which would otherwise be paid to the affected employee on the affected employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for affected employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of ~~Title 74 of the Oklahoma Statutes~~ this title, and
- c. outplacement assistance and employment counseling prior to and after the reduction-in-force from the Oklahoma Employment Security Commission and other state or private entities that the entity may contract with to assist individuals who may be impacted by a reduction-in-force;

2. In addition to the severance benefits provided by paragraph 1 of this subsection, agencies may give affected employees, except as otherwise provided by paragraph 3 of this subsection, severance benefit packages based on any combination of the following options, provided that all affected employees who receive severance benefits in the reduction-in-force shall be accorded uniform treatment pursuant to the State Government Reduction-in-Force and Severance Benefits Act:

- a. up to one (1) week of pay, calculated by dividing the affected employee's current annual salary by the whole number fifty-two (52), for each year of service,
- b. a maximum lump-sum payment of Five Thousand Dollars (\$5,000.00), and
- c. payment for accumulated sick leave or extended illness benefits at up to one-half of the affected employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit, and
- ~~d. payment of health benefit premiums as provided by the Public Health Service Act, 42 U.S.C., Section 300bb-1 et seq., for a period not to exceed eighteen (18) months. The agency shall not be authorized to make a cash payment to the affected employee in lieu of the payment by the agency of the cost of continued health care coverage for the affected employee; and~~

3. ~~In lieu of the~~ An affected employee may direct payment of all or a portion of the affected employee's severance benefits to the options authorized by ~~paragraphs 1 and 2 of this subsection,~~ the affected employee may:

- ~~a. exercise an option to have the agency make payment to the Oklahoma Law Enforcement Retirement System, the Teachers' Retirement System of Oklahoma or the Oklahoma Public Employees Retirement System of the amount, or some part of the amount, which would otherwise have resulted in a cash payment to the affected employee. The payment authorized by this subparagraph may be applied toward the cost of the purchase by the affected employee of as many additional years of service within the applicable retirement system as can be purchased with available funds. Other sources of funds may not be used to purchase retirement credit pursuant to this section.~~

~~Purchases of such service shall be subject to the requirements of:~~

- ~~(1) Section 13 of this act for service purchased in the Oklahoma Law Enforcement Retirement System,~~
- ~~(2) Section 14 this act for service purchased in the Teachers' Retirement System of Oklahoma, and~~
- ~~(3) Section 15 of this act for service purchased in the Oklahoma Public Employees Retirement System.~~

~~If the cash available for purchase of the retirement credit equals the cost of the retirement credit purchased by the affected employee, the affected employee shall receive no further severance benefits offered pursuant to paragraphs 1 and 2 of this subsection. If the cash available for purchase of the retirement credit is greater than the cost of the retirement credit purchased by the affected employee, the affected employee shall have the right to use the balance of the payments to acquire other severance benefits,~~

~~b. exercise an option to acquire additional insurance products offered to state employees either for the affected employee or the dependents of the affected employee, or~~

~~e. exercise this paragraph by exercising an option to receive education vouchers for use in connection with the Reduction-in-Force Education Voucher Action Fund subject to the following requirements and rules of the Administrator of the Office of Personnel Management, provided that the agency offers to match employee severance funds pursuant to this paragraph.~~

~~In such case:~~

- ~~(1) a. the affected employee may purchase One Dollar (\$1.00) in voucher credit for each One Dollar (\$1.00) contributed by the affected employee to the fund subject to a maximum affected employee contribution of~~

Three Thousand Dollars (\$3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars (\$3,000.00); provided, that the agency contribution shall not exceed the contribution of the affected employee,

~~(2)~~ b. the affected employee may pay the cost for the voucher program directly, subject to the requirements of ~~division (1) of this subparagraph a of this paragraph~~, or the employing agency of the affected employee may pay the cost of the voucher from funds which would otherwise have been used to make payments to the displaced affected employee pursuant to an election by the affected employee to receive severance benefits,

~~(3)~~ c. no voucher issued pursuant to the provisions of this paragraph shall:

~~(a)~~ (1) be redeemed by the affected employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or

~~(b)~~ (2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the affected employee,

~~(4)~~ d. the Administrator of the Office of Personnel Management shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees from the educational institution which shall be

credited to the affected employee's account, and

~~(5)~~ e. the Administrator of the Office of Personnel Management shall distribute to the affected employee and the agency any monies remaining in the affected employee's account after the voucher credit has expired. The distribution shall be based on the proportional share of contributions made by the affected employee and the agency.

B. Each affected employee who is separated from state service as a result of a reduction-in-force after July 1, 1998, shall be eligible for health insurance and other insurance products offered to state employees through the Oklahoma State Employees Benefits Council for an additional eighteen (18) months in addition to the period provided by the Public Health Service Act, 42 U.S.C., Section 30066-1 et seq., provided the affected employee did not allow coverage to lapse.

C. Part-time affected employees shall receive benefits pursuant to this section on a prorated basis. Part-time employees shall have been compensated for at least one thousand (1,000) hours during the twelve (12) months immediately preceding the effective date of the reduction-in-force to be eligible for severance benefits pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

~~C.~~ D. No appointing authority shall grant affected employees in a reduction-in-force severance benefits except as provided in this section.

SECTION 3. AMENDATORY Section 12, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.28), is amended to read as follows:

Section 840-2.28 A. Agencies shall be authorized to provide voluntary out benefits to permanent classified employees and regular unclassified employees with six (6) months of continuous state service who are voluntarily separated ~~after the effective~~

~~date of this act,~~ from the state service in order to reduce or eliminate the adverse impact of an imminent reduction-in-force. For purposes of this section, "agency" or "agencies" shall include agencies, boards, commissions, or departments of all three branches of state government. Voluntary out benefit payments made pursuant to this section, in addition to the payment of any compensable accrued leave and other benefits an employee who voluntarily separates is eligible to receive upon separation from the state service, shall consist of the following elements:

1. All agency voluntary out benefits shall provide the following:

- a. ~~payment of equal to the employee's current health insurance premium for the employee only for the eighteen (18) months following separation or payment of an equivalent amount for current health insurance premiums that the employee would otherwise have received, pursuant to this subsection, based on the cost of the premium at the time of the voluntary separation. The employee can maintain other insurance coverages offered to state employees during the eighteen-month period, provided that the employee shall pay all nonhealth premiums. The employee shall pay premiums directly to the Oklahoma State Employees Benefits Council. Provided, however, the employee shall be eligible during the annual option period to change health insurance carriers and other insurance coverages for which the employee is paying premiums. Following the initial eighteen-month period after separation, the employee shall be entitled to any health and other insurance coverage pursuant to federal law. If the employee elects the continued health insurance coverage option in this subparagraph and the employee, within the coverage period, decides to cancel the coverage or the employee receives coverage under another employer's health benefit plan, the employee's~~

~~rights to benefits pursuant to this subsection shall terminate. The employee shall receive a payment for the equivalent of the cost of the remaining months of coverage based on the premium at the time of the reduction-in-force. Agencies which are abolished shall transfer monies to the Reduction-in-Force Premium Payment Fund created by Section 11 of this act to provide premium payment if applicable for affected employees of abolished agencies, and~~

- b. a longevity payment, as prescribed by Section 840-2.18 of ~~Title 74 of the Oklahoma Statutes~~ this title in the amount which would otherwise be paid to the employee on the employee's next anniversary date. For the purposes of this subparagraph, the University Hospitals Authority shall calculate longevity for employees who were members of the University Hospitals Authority Model Personnel System pursuant to Section 3211 of Title 63 of the Oklahoma Statutes for all state service as would otherwise be determined by Section 840-2.18 of ~~Title 74 of the Oklahoma Statutes~~ this title;

2. In addition to the voluntary out benefits provided by paragraph 1 of this subsection, agencies may give employees, except as otherwise provided by paragraph 3 of this subsection, voluntary out benefit packages based on any combination of the following options, provided that all employees who are separated as a result of the agency offer of a voluntary out benefit pursuant to this section in anticipation of the imminent reduction-in-force are accorded uniform treatment pursuant to this section:

- a. up to one (1) week of pay, calculated by dividing the employee's current annual salary by the whole number fifty-two (52), for each year of service,
- b. a maximum lump-sum payment of Five Thousand Dollars (\$5,000.00),

- c. payment for accumulated sick leave or extended illness benefits at up to one-half of the employee's hourly rate not otherwise used pursuant to law for conversion to credited retirement credit, and
- d. payment of health benefit premiums as provided by the Public Health Service Act, 42 U.S.C., Section 300bb-1 et seq., for a period not to exceed eighteen (18) months. The agency shall not be authorized to make a cash payment to the employee in lieu of the payment by the agency of the cost of continued health care coverage for the employee; and

3. ~~In lieu of the~~ An employee may direct payment of all or a portion of the employee's voluntary out benefits to the options authorized by paragraphs 1 and 2 of this subsection, the employee may:

- ~~a. exercise an option to have the agency make payment to the Oklahoma Law Enforcement Retirement System, the Teachers' Retirement System of Oklahoma or the Oklahoma Public Employees Retirement System of the amount, or some part of the amount, which would otherwise have resulted in a cash payment to the employee. The payment authorized by this subparagraph may be applied toward the cost of the purchase by the employee of as many additional years of service within the applicable retirement system as can be purchased with available funds. Other sources of funds may not be used to purchase retirement credit pursuant to this section. Purchases of such service shall be subject to the requirements of:~~
 - ~~(1) Section 13 of this act for service purchased in the Oklahoma Law Enforcement Retirement System,~~
 - ~~(2) Section 14 of this act for service purchased in the Teachers' Retirement System of Oklahoma, and~~
 - ~~(3) Section 15 of this act for service purchased in the Oklahoma Public Employees Retirement System.~~

~~If the cash available for purchase of the retirement credit equals the cost of the retirement credit purchased by the employee, the employee shall receive no further voluntary out benefits offered pursuant to paragraphs 1 and 2 of this subsection. If the cash available for purchase of the retirement credit is greater than the cost of the retirement credit purchased by the employee, the employee shall have the right to use the balance of the payments to acquire other voluntary out benefits,~~

~~b. exercise an option to acquire additional insurance products offered to state employees either for the employee or the dependents of the employee, or~~

~~e. exercise this paragraph by exercising an option to receive education vouchers for use in connection with the Reduction-in-Force Education Voucher Action Fund subject to the following requirements and rules of the Administrator of the Office of Personnel Management, provided that the agency offers to match employee voluntary out funds pursuant to this paragraph. In such case:~~

~~(1) a. the employee may purchase One Dollar (\$1.00) in voucher credit for each One Dollar (\$1.00) contributed by the employee to the fund subject to a maximum employee contribution of Three Thousand Dollars (\$3,000.00) which may be matched by a maximum agency contribution of Three Thousand Dollars (\$3,000.00); provided, that the agency contribution shall not exceed the contribution of the employee,~~

~~(2) b. the employee may pay the cost for the voucher program directly, subject to the requirements of division (1) of this subparagraph, or the employing agency of the employee may pay the cost of the~~

voucher from funds which would otherwise have been used to make payments to the displaced employee pursuant to an election by the employee to receive voluntary out benefits,

~~(3)~~ c. no voucher issued pursuant to the provisions of this paragraph shall:

~~(a)~~ (1) be redeemed by the employee for cash or anything of value other than the cost of tuition and fees at a public or private educational institution within the State of Oklahoma, or

~~(b)~~ (2) be valid longer than a period of four (4) years from the date upon which the voucher is issued to the employee,

~~(4)~~ d. the Administrator of the Office of Personnel Management shall pay tuition and fees directly to the educational institution and shall receive any refunds for payment of tuition and fees from the educational institution which shall be credited to the employee's account, and

~~(5)~~ e. the Administrator of the Office of Personnel Management shall distribute to the affected employee and the agency any monies remaining in the employee's account after the voucher credit has expired. The distribution shall be based on the proportional share of contributions made by the employee and the agency.

B. Appointing authorities in agencies of the executive branch shall submit to the Director of the Office of State Finance, prior to offering voluntary out benefits pursuant to this section, a plan with details on why the agency has determined a reduction-in-force is imminent, the anticipated impact of the imminent reduction-in-force on the agency or part of the agency, the

voluntary out benefits the agency intends to offer pursuant to this section and their cost, and how the agency intends to execute the offer of the voluntary out benefits. The Director shall review the fiscal components of the plan and have ten (10) business days to disapprove it.

C. Part-time employees who are eligible to receive voluntary out benefits shall receive benefits pursuant to this section on a prorated basis. Part-time employees shall have been compensated for at least one thousand (1,000) hours during the twelve (12) months immediately preceding the separation of the employee due to the employee's acceptance of a voluntary out benefit.

D. An employee who accepts voluntary out benefits pursuant to this section shall not be eligible to accept any future voluntary out benefits pursuant to this section.

~~E. An employee who accepts a voluntary out and receives voluntary out benefits pursuant to this section shall sign an agreement acknowledging that the employee knows and understands that the receipt of voluntary out benefits is in exchange, to the extent allowed by federal or state law, for any rights the employee may have had to:~~

~~1. Continued employment with any agency; and~~

~~2. Future employment with the agency for a period of one (1) year from the date of the agreement, provided that nothing in this subparagraph shall prohibit an appointing authority of any agency from employing an employee who has received a voluntary out benefit if the employee repays all voluntary out benefits received pursuant to this section on a proportional basis. The repayment amount of the voluntary out benefits received by or paid on behalf of the employee shall be reduced one-three-hundred-sixty-fifths (1/365) for each day after the separation of the employee, provided that any education voucher credit benefits shall not include agency contributions.~~

~~F. Except as provided in this section, no appointing authority shall grant employees voluntary out benefits.~~

~~G. This section shall not apply to agencies which are to be abolished pursuant to law.~~

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-307.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A member of the Oklahoma Law Enforcement Retirement System who has ten (10) or more years of full-time-equivalent employment with a participating employer, and who is terminated by a state agency or other state governmental entity because the member's position is eliminated through a reduction-in-force after July 1, 1998, and is within three (3) years of a normal retirement date as defined in paragraph 7 of Section 2-300 of Title 47 of the Oklahoma Statutes may purchase termination credit of a period not to exceed the lesser of three (3) years or the number of years or months or both years and months required in order for the member to reach normal retirement date in the same period of time and with the same service credit which would have otherwise accrued if the termination had not occurred.

B. In order to receive the termination credit authorized by this section, the member shall be required to file an election with the System indicating an intent to purchase the credit. The member shall have a period of six (6) months from the date the member is terminated as described in subsection A of this section within which to file the election.

C. To purchase the termination credit, the member shall be required to make payment to the System of an amount equal to both the employer and employee contributions which would have been paid to the System based upon the actual paid base salary as defined in paragraph 8 of Section 2-300 of Title 47 of the Oklahoma Statutes, which was received by the member in the last full month that the member was employed by the state agency or other state governmental entity multiplied by the number of months required in order for the combination of the participating service and member's age to equal the amount required for the member to reach normal retirement date with an unreduced benefit as if the member had not been terminated.

D. The member must make full payment to the System of all required contribution amounts within sixty (60) days of filing the

election to purchase the credit. The member must vest his or her benefits with a declared future retirement date as of the first month the member is eligible for normal retirement. Failure to make the full payment to the System of the required contribution amounts, for any reason, within the time prescribed, shall result in cancellation of the election provided pursuant to this section, and return of the purchase amount tendered, without interest.

E. Purchased termination credit may only be used as service credit to qualify the member for normal retirement.

F. If the member chooses to retire at any time prior to the member's normal retirement date or returns to employment with a participating employer of the System at any time prior to retirement, the purchase of termination credit pursuant to this section shall be void and the System will return the purchase amount tendered, without interest.

G. In the event of the death of the member prior to retirement, the member's spouse, if otherwise eligible for benefits pursuant to Section 2-306 of Title 47 of the Oklahoma Statutes, may elect to receive benefits which include the termination credit on the member's declared future retirement date, or may elect to receive a return of the purchase amount tendered, without interest.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-116.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A member of the Teachers' Retirement System of Oklahoma who has ten (10) or more years of full-time-equivalent employment with a participating employer, and who is terminated by a state agency or other state governmental entity because the member's position is eliminated through a reduction-in-force after July 1, 1998, and is within three (3) years of retirement as prescribed in Section 17-105 of Title 70 of the Oklahoma Statutes, may purchase termination credit of a period not to exceed the lesser of three (3) years or the number of years or months or both years and months required in order for the member to reach normal retirement date in the same period of time and with the same service credit

which would have otherwise accrued if the termination had not occurred.

B. In order to receive the termination credit authorized by this section, the member shall be required to file an election with the System indicating an intent to purchase the credit. The member shall have a period of six (6) months from the date the member is terminated as described in subsection A of this section within which to file the election.

C. To purchase the termination credit, the member shall be required to make payment to the System of an amount equal to both the employer and employee contributions which would have been paid to the System based upon the maximum compensation level as defined in subsection (28) of Section 17-101 of Title 70 of the Oklahoma Statutes, which was received by the member in the last full month that the member was employed by the state agency or other state governmental entity multiplied by the number of months required in order for the combination of the participating service and member's age to equal the amount required for the member to reach normal retirement date with an unreduced benefit as if the member had not been terminated.

D. The member must make full payment to the System of all required contribution amounts within sixty (60) days of filing the election to purchase the credit. The member must vest his or her benefits with a declared future retirement date as of the first month the member is eligible for normal retirement. Failure to make the full payment to the System of the required contribution amounts, for any reason, within the time prescribed, shall result in cancellation of the election provided pursuant to this section, and return of the purchase amount tendered, without interest.

E. Purchased termination credit may only be used as service credit to qualify the member for normal retirement.

F. If the member chooses to retire at any time prior to the member's normal retirement date or returns to employment with a participating employer of the System at any time prior to retirement, the purchase of termination credit pursuant to this

section shall be void and the System will return the purchase amount tendered, without interest.

G. In the event of the death of the member prior to retirement, the member's spouse, if otherwise eligible for benefits pursuant to Section 17-105 of Title 70 of the Oklahoma Statutes, may elect to receive benefits which include the termination credit on the member's declared future retirement date, or may elect to receive a return of the purchase amount tendered, without interest.

SECTION 6. AMENDATORY Section 1, Chapter 285, O.S.L. 1997 (74 O.S. Supp. 1997, Section 913c), is amended to read as follows:

Section 913c. A. A member of the Oklahoma Public Employees Retirement System who has six (6) or more years of full-time-equivalent employment with a participating employer, and who is terminated by a state agency or other state governmental entity because the member's position is eliminated through a reduction-in-force ~~between the effective date of this act and~~ after July 1, 1998, and:

1. Is within three (3) years of a normal retirement date as defined in paragraph (a) of subsection (23) of Section 902 of ~~Title 74 of the Oklahoma Statutes~~ this title; or

2. Is within six (6) years of a normal retirement date as defined in paragraph (b) of subsection (23) of Section 902 of ~~Title 74 of the Oklahoma Statutes~~ this title or in paragraph (c) of subsection (23) of Section 902 of ~~Title 74 of the Oklahoma Statutes~~ this title,

may purchase termination credit of a period not to exceed the lesser of three (3) years or the number of years or months or both years and months required in order for the member to reach normal retirement date in the same period of time and with the same service credit which would have otherwise accrued if the termination had not occurred.

B. In order to receive the termination credit authorized by this section, the member shall be required to file an election with the System indicating an intent to purchase the credit. The

member shall have a period of six (6) months from the date the member is terminated as described in subsection A of this section within which to file the election.

C. To purchase the termination credit, the member shall be required to make payment to the System of an amount equal to both the employer and employee contributions which would have been paid to the System based upon the compensation as defined in subsection (9) of Section 902 of ~~Title 74 of the Oklahoma Statutes~~ this title, which was received by the member in the last full month that the member was employed by the state agency or other state governmental entity multiplied by the number of months required in order for the combination of the participating service and member's age to equal the amount required for the member to reach normal retirement date with an unreduced benefit as if the member had not been terminated.

D. The member must make full payment to the System of all required contribution amounts within sixty (60) days of filing the election to purchase the credit. The member must vest his or her benefits with a declared future retirement date as of the first month the member is eligible for normal retirement. Failure to make the full payment to the System of the required contribution amounts, for any reason, within the time prescribed, shall result in cancellation of the election provided pursuant to this section, and return of the purchase amount tendered, without interest.

E. Purchased termination credit may only be used as service credit to qualify the member for normal retirement. Eligible members may purchase termination credit or the incentive credit authorized pursuant to Section 913b of ~~Title 74 of the Oklahoma Statutes~~ this title, but may not purchase both termination credit and incentive credit. This purchase will not be used in the calculation for final average compensation.

F. If the member chooses to retire at any time prior to the member's normal retirement date or returns to employment with a participating employer of the System at any time prior to retirement, the purchase of termination credit pursuant to this

section shall be void and the System will return the purchase amount tendered, without interest.

G. In the event of the death of the member prior to retirement, the member's spouse, if otherwise eligible for benefits pursuant to paragraph (5) of Section 918 of ~~Title 74 of the Oklahoma Statutes~~ this title, may elect to receive benefits which include the termination credit on the member's declared future retirement date, or may elect to receive a return of the purchase amount tendered, without interest.

SECTION 7. REPEALER Section 13, Chapter 287, O.S.L. 1997 (47 O.S. Supp. 1997, Section 2-307.6), Section 14, Chapter 287, O.S.L. 1997 (70 O.S. Supp. 1997, Section 17-116.11), Section 11, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 840-2.27H), and Section 15, Chapter 287, O.S.L. 1997 (74 O.S. Supp. 1997, Section 913d), are hereby repealed.

SECTION 8. This act shall become effective July 1, 1998.

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.

46-2-9391

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