

ENGROSSED SENATE
BILL NO. 539

By: Monson of the Senate

and

Steidley of the House

[Oklahoma Personnel Act - reduction-in-force -
layoffs and furloughs - codification -
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 8, Chapter 263, O.S.L. 1995, and as last renumbered by Section 10, Chapter 263, O.S.L. 1995 (74 O.S. Supp. 1996, Section 840-2.27), is amended to read as follows:

Section 840-2.27 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. If an agency has posted a reduction-in-force implementation schedule, all employees in positions covered in the plan and any within the displacement limits established by the plan shall be eligible for priority reemployment consideration, except as provided by Section 2 of this act, beginning with the date the schedule is posted.

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. If an agency has posted a reduction-in-force implementation schedule, all employees in positions covered in the plan and any within the displacement limits established by the plan shall be eligible for priority reemployment consideration, except as provided by Section 2 of this act, beginning with the date the schedule is posted.

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 or as otherwise provided by Section 2 of this act. Each affected employee electing to retain ~~his or her~~ the employee's insurance membership shall be responsible for payment of all premiums on the insurance, unless the employee's premium payments shall be paid pursuant to Section 2 of this act.

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. 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, 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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 840-2.27A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. All state entities shall certify whether or not a reduction-in-force is due to reduced funding. If the reduction-in-force is due to reduced funding, the appointing authority shall offer a severance package to persons scheduled to be terminated by a reduction-in-force due to a reduced funding that causes a substantial reduction in services. The severance package shall be developed in accordance with this section. A severance package shall provide for uniform treatment of all individuals who receive the severance benefits. Only permanent classified employees and regular unclassified employees with over six (6) months continuous service shall be eligible to receive the severance benefits pursuant to this section, except for those provided by paragraph 2 of subsection C of this section.

B. All severance packages shall be developed in conjunction with a reduction-in-force plan that will abolish occupied positions and reduce the number of persons employed when the reduction-in-force plan is implemented. Severance package plans may be developed for reduction-in-force plans in effect on the effective date of this act. The severance package may be offered to persons employed in affected positions within any displacement limits established in the plan. State entities in the executive department and public trusts having the State of Oklahoma as their beneficiary shall implement their severance packages in connection with a reduction-in-force plan approved by the Administrator of the Office of Personnel Management pursuant to Section 840-2.27 of Title 74 of the Oklahoma Statutes and applicable rules promulgated by the Administrator.

C. 1. All state entity severance packages shall provide the following:

- a. payment of the individual's medical insurance premium for the individual only for the twelve (12) months following separation. The individual can maintain other insurance coverages during the twelve-month period, provided that the individual shall pay all premiums. Following the initial twelve-month period after separation, the individual shall be entitled to any medical and other insurance coverage pursuant to federal law, and
- b. outplacement assistance 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 any other compensation or benefits that are allowed by law, state entities may offer severance packages providing:

- a. up to fifty percent (50%) of the individual's gross annual salary, provided that the payment shall not exceed Thirty-five Thousand Dollars (\$35,000.00) for this subparagraph,
- b. payment for up to twenty-five percent (25%) of the individual's sick leave at the time of the individual's separation, less any sick leave applied towards retirement credit, and
- c. payment of the full amount of longevity pay that the individual would have received at the time of the next year's longevity payment, in lieu of the provision in Section 840-2.27 of Title 74 of the Oklahoma Statutes regarding longevity payments to employees who

terminate employment with the state service due to a reduction-in-force.

D. If the appointing authority intends to utilize the severance package options provided by paragraph 2 of subsection C of this section, the appointing authority of an executive department entity shall file with the Director of the Office of State Finance and the Administrator of the Office of Personnel Management a copy of the reduction-in-force implementation schedule and the severance package plan. The appointing authority shall also certify to the chair and vice-chair of the Joint Legislative Committee on Budget and Program Oversight created by Section 41.47 of Title 62 of the Oklahoma Statutes, that a severance package plan has been submitted to the Director of the Office of State Finance for review and comment. The certification shall also include that the cause for the reduction-in-force is based on grounds specified in subsection A of this section. The severance package plan shall include a detailed organizational chart showing the positions to be eliminated, the projected savings that the reduction-in-force and other organizational actions will achieve, the details of the severance package, the expected costs of the package, and the impact on services. The severance package plan must demonstrate the state entity's ability to fund the cost of the severance package. The Director of State Finance shall review the severance package plan and comment on the plan's accuracy and the state entity's ability to pay the costs of the severance plan. The Director of State Finance shall, within fifteen (15) days of receiving the state entity's plan, complete the review and comment and submit copies of the severance plan and the Director's review to the Governor, the appointing authority, the Administrator of the Office of Personnel Management, the appropriate Cabinet Secretary, and the chair and vice-chair of the Joint Legislative Committee on Budget and Program Oversight.

E. After the review requirement in subsection D of this section has been completed, the state entity may implement the provisions in the severance plan developed in accordance with this section. Employees who accept and receive the severance options shall be considered to have resigned in good standing and shall not be able to exercise their displacement, priority reemployment consideration, or recall rights as provided by Section 840-2.27 of Title 74 of the Oklahoma Statutes, unless the amount of said severance payments are repaid to the state entity.

F. The severance provisions authorized by paragraph 2 of subsection C of this section are not entitlements. State entities shall offer such benefits contained in their severance packages to all individuals whose positions are being abolished, and those in affected positions within any displacement limits established in a reduction-in-force implementation schedule are eligible to receive such benefits contained in the state entity's severance package upon an offer from the appointing authority. The appointing authority shall have the authority to determine which employees shall receive the severance provisions developed pursuant to paragraph 2 of subsection C of this section based on objective criteria developed by the appointing authority, including but not limited to the management needs of the entity, the attainment of budget goals resulting from the number of individuals accepting the severance package, or consideration of equal employment opportunity laws. If the appointing authority elects to offer the options available pursuant to paragraph 2 of subsection C of this section, all individuals holding positions which are eliminated or who are separated must be given the severance provisions authorized pursuant to paragraph 2 of subsection C of this section unless said individual refuses to accept the benefits.

G. Employees who receive the severance pay provisions provided by paragraph 2 of subsection C of this section shall not be eligible

for reemployment with any state entity for a period of two (2) years, unless the costs of said severance payments pursuant to subparagraph a of paragraph 2 of subsection C of this section are repaid to the state entity which paid the severance benefits.

H. This section shall not apply to a reduction-in-force made by the University Hospitals Authority pursuant to Section 3226 of Title 63 of the Oklahoma Statutes. The provisions of paragraph 2 of subsection C of this section shall not apply to any employees in positions in a reduction-in-force caused by a contract between a state and another private or nonprofit entity for the delivery of services similar to those provided by the positions being eliminated who will be offered employment by the private or nonprofit entity.

I. If an appointing authority does not certify that a reduction-in-force is due to reduced funding pursuant to subsection A of this section, any person who is terminated in connection with said reduction-in-force may appeal pursuant to Section 840-6.6 of Title 74 of the Oklahoma Statutes on the grounds that the reduction-in-force was due to reduced funding and that the state entity should have offered a severance package pursuant to this section. Any person terminated by a reduction-in-force wherein the appointing authority offered a severance package to other persons pursuant to subsection C of this section, but who was not given such severance package may appeal pursuant to Section 840-6.6 of Title 74 of the Oklahoma Statutes.

J. No appointing authority shall grant any individuals a severance package due to a reduction-in-force except pursuant to this section.

K. "State entity" or "entity" shall be defined as agencies of the executive branch, public trusts with the State of Oklahoma as their beneficiary, and agencies of the legislative and judicial branches.

L. The Administrator of the Office of Personnel Management shall have rulemaking authority in regard to this section.

SECTION 3. 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.

Passed the Senate the 5th day of March, 1997.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1997.

Speaker of the House of Representatives