

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2855

By: Steidley

AS INTRODUCED

An Act relating to the Oklahoma Personnel act;
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; 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 of this act, 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 of this act, 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 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 of this act 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 of this act.

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 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 shall 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. Each task force shall include administrative personnel from the agency requesting the appointment of the task force, the Office of Personnel Management, the Office of State Finance, the Employee Benefits Council, the Oklahoma Employment Security Commission, the Oklahoma State Education Employees Group Insurance Program, state retirement agencies which will be affected, and other agencies that the Administrator shall determine necessary.

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

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.

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