

SB 1136

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THE STATE SENATE
Wednesday, February 18, 2004

Senate Bill No. 1136

As Amended

SENATE BILL NO. 1136 - By: CORN of the Senate and SMITHSON of the House.

[state employees - reduction-in-force - veteran's preference - effective date]

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 2.27C, as last amended by Section 1, Chapter 353, O.S.L. 2003 (74 O.S. Supp. 2003, Section 840-2.27C), is amended to read as follows:

Section 840-2.27C A. At least sixty (60) days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the appointing authority shall post in each office of executive branch agencies affected by the proposed reduction-in-force notice that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit rules. The notice shall not be posted unless approved by the cabinet secretary for the agency conducting the reduction-in-force. If there is no incumbent cabinet secretary for the agency, the cabinet-secretary-notice-approval requirement shall not be applicable. The approved notice shall be posted in each office affected by the proposed plan for five (5) days. The appointing

1 authority shall provide a copy of the notice to the Administrator.

2 A reduction-in-force shall not be used as a disciplinary action.

3 B. The reduction-in-force implementation plan and subsequent
4 personnel transactions directly related to the reduction-in-force in
5 executive branch agencies shall be in compliance with rules adopted
6 by the Administrator. The reduction-in-force implementation plan,
7 including the description of and reasons for displacement limits and
8 protections from displacement actions, and severance benefits that
9 will be offered pursuant to Section 840-2.27D of this title shall be
10 posted in each office affected by the plan within five (5) business
11 days after posting of the reduction-in-force notice. The reduction-
12 in-force implementation plan shall:

13 1. Provide for the appointing authority to determine the
14 specific position or positions to be abolished within specified
15 units, divisions, facilities, agency-wide or any parts thereof;

16 2. Provide for retention of affected employees based on type of
17 appointment;

18 3. Require the separation of probationary classified affected
19 employees in affected job family levels, except those affected
20 employees on probationary status after reinstatement from permanent
21 classified status without a break in service, prior to the
22 separation or displacement of any permanent classified affected
23 employee in an affected job family level;

1 4. Provide for retention of permanent classified affected
2 employees in affected job family levels and those affected employees
3 on probationary status after reinstatement from permanent classified
4 status without a break in service based upon consideration of years
5 of service;

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

11 6. Provide outplacement assistance and employment counseling
12 from the Oklahoma Employment Security Commission and any other
13 outplacement assistance and employment counseling made available by
14 the agency to affected employees regarding the options available
15 pursuant to the State Government Reduction-in-Force and Severance
16 Benefits Act prior to the date that a reduction-in-force is
17 implemented.

18 C. If an agency implements a reduction-in-force then it shall
19 give a veteran's preference over affected nonveterans who have equal
20 retention points to the affected veteran.

21 D. The Director of the Office of State Finance shall review the
22 fiscal components of the reduction-in-force implementation plan and

1 within five (5) business days of receipt reject any plan that does
2 not:

3 1. Demonstrate that funds are available to cover projected
4 costs;

5 2. Contain an estimate of the number of affected employees
6 likely to participate in the education voucher program established
7 in Section 840-2.27D of this title; and

8 3. Contain an estimate of the cost savings or reduced
9 expenditures likely to be achieved by the agency.

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

15 ~~D.~~ E. The appointing authority may limit displacement of
16 affected employees at the time of a reduction-in-force.

17 Displacement limits shall not be subject to the approval of the
18 Administrator. Any limitation shall be based upon reasonable,
19 written, articulated criteria as certified by the appointing
20 authority. If displacement is limited, the appointing authority
21 shall take action to avoid or minimize any adverse impact on
22 minorities or women.

1 1. The appointing authority may protect from displacement
2 action up to twenty percent (20%) of projected post-reduction-in-
3 force employees in affected positions within displacement limits;
4 provided, that any fractional number resulting from the final
5 mathematical calculation of the number of those positions shall be
6 rounded to the next higher whole number. The appointing authority
7 must explain why affected employees are being protected.

8 2. If the affected employee has not held within the last five
9 (5) years a position in the job family level or predecessor class in
10 which the affected employee is otherwise eligible for a displacement
11 opportunity, the appointing authority may determine that the
12 affected employee does not possess the recent relevant experience
13 for the position and deny in writing the displacement opportunity.

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

22 4. An affected employee who exercises a displacement privilege
23 pursuant to this section shall:

1 a. be required, as a condition of continued employment by
2 the agency, to sign an agreement, in a form to be
3 prescribed by the Administrator of the Office of
4 Personnel Management, acknowledging that the employee
5 had an opportunity to receive severance benefits and
6 affirmatively elected to exercise a displacement
7 privilege and to forego such benefits. An affected
8 employee who signs the agreement required by this
9 subparagraph waives any privilege which might
10 otherwise have been available to the affected employee
11 pursuant to the agreement for the provision of
12 severance benefits, and

13 b. not have the right to exercise any subsequent right to
14 receive severance benefits from the agency for which
15 the affected employee performs services on the date
16 that the employee exercises a displacement privilege.
17 The provisions of this section shall not prohibit any
18 person from exercising a displacement privilege in, or
19 accepting severance benefits from, more than one
20 agency during employment with the State of Oklahoma or
21 from the agency which the affected employee exercised
22 a displacement privilege in any future reduction-in-
23 force.

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

7 ~~F.~~ G. Permanent classified affected employees and those
8 affected employees on probationary status after reinstatement from
9 permanent classified status without a break in service removed from
10 a job family level by taking a position in another job family level
11 through displacement or separated after foregoing severance benefits
12 shall be recalled by the agency to the job family level from which
13 removed in inverse order of removal before the agency may appoint
14 other persons to the job family level, from the employment register,
15 by internal action or from Priority Reemployment Consideration
16 Rosters as provided by this section. Upon declination of an offer
17 of reappointment to the job family level from which removed or
18 eighteen (18) months after the date of removal from the job family
19 level, whichever is first, this right to be recalled shall expire.

20 ~~G.~~ H. The names of permanent classified affected employees and
21 those affected employees on probationary status after reinstatement
22 from permanent classified status without a break in service who have
23 been separated pursuant to the State Government Reduction-in-Force

1 and Severance Benefits Act, who apply and meet all requirements for
2 state jobs in the classified service shall be placed on Priority
3 Reemployment Consideration Rosters in accordance with their
4 individual final earned ratings for a maximum of eighteen (18)
5 months after the date of separation. Before any vacant position is
6 filled by any individual eligible for initial appointment from the
7 employment register, individuals on the Priority Reemployment
8 Consideration Rosters shall be given priority consideration for
9 reemployment by any state agency within eighteen (18) months after
10 the date of the reduction-in-force. Upon declination of an offer of
11 reemployment to a job family level having the same or higher pay
12 band than the job family level from which removed, or eighteen (18)
13 months after the date of separation, whichever is first, this
14 priority consideration for reemployment shall expire. If an agency,
15 including but not limited to the University Hospitals Authority, has
16 posted a reduction-in-force plan and implementation schedule, all
17 affected employees in positions covered by the plan and any within
18 the displacement limits established by the appointing authority of
19 the agency who have been separated shall be eligible for priority
20 reemployment consideration.

21 ~~H.~~ I. If an agency or any part thereof is scheduled to be
22 closed or abolished as a result of legislation or a court order, the
23 affected employees, who would be eligible for Priority Reemployment

1 Consideration after their separation in accordance with subsection ~~G~~
2 H of this section, may apply and, if qualified and eligible, shall
3 be accorded Priority Reemployment Consideration not to exceed twelve
4 (12) months before the scheduled date of separation. If an agency,
5 including but not limited to the University Hospitals Authority, has
6 posted a reduction-in-force plan and implementation schedule, all
7 affected employees in positions covered by the plan and any within
8 the displacement limits established by the appointing authority of
9 the agency shall be eligible for Priority Reemployment Consideration
10 beginning with the date the schedule is posted, not to exceed twelve
11 (12) months before the scheduled date of separation.

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

18 ~~F.~~ K. 1. When the Legislature is not in session, the
19 Contingency Review Board may, upon the request of the Governor,
20 direct and require mandatory furloughs for all state employees
21 whenever it is deemed necessary and proper. The Contingency Review
22 Board shall specify the effective dates for furloughs and shall note
23 any exceptions to state employees affected by same. All classified,

1 unclassified, exempt or nonmerit employees, including those
2 employees of agencies or offices established by statute or the
3 Constitution, shall be affected by such actions.

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

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

22 ~~K.~~ L. All agencies directed by the Contingency Review Board to
23 terminate or furlough employees, shall report the cumulative cost

1 savings achieved by the reductions-in-force or furloughs to the
2 Governor, President Pro Tempore of the Senate and Speaker of the
3 House of Representatives on a quarterly basis for one (1) year
4 following the effective date of the action.

5 ~~L.~~ M. The appointing authority of an agency which has an
6 approved reduction-in-force plan pursuant to the State Government
7 Reduction-in-Force and Severance Benefits Act may request the
8 Administrator of the Office of Personnel Management to appoint an
9 interagency advisory task force for the purpose of assisting the
10 agency and its employees with the implementation of the reduction-
11 in-force. The appointing authority of state agencies requested by
12 the Administrator to participate on a task force shall assign
13 appropriate administrative personnel necessary to facilitate the
14 necessary assistance required for the efficient implementation of
15 the approved reduction-in-force.

16 ~~M.~~ N. Except as otherwise provided, the University Hospitals
17 Authority shall not be subject to the provisions of this section.
18 Beginning August 25, 1995, the provisions of subsection ~~F.~~ G. of this
19 section regarding priority reemployment consideration shall apply to
20 any employee of the University Hospitals Authority who was employed
21 on or became employed after February 1, 1995, and who is separated
22 from state service as a result of a reduction-in-force. The
23 University Hospitals Authority shall conduct a reduction-in-force to

1 terminate employees, regardless of status, whose positions are
2 eliminated because of a contract with a private nongovernmental
3 entity for the lease and operations of the University Hospitals
4 pursuant to the University Hospitals Authority Act.

5 SECTION 2. This act shall become effective November 1, 2004.

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-11-04 - DO
7 PASS, As Amended and Coauthored.