

THE HOUSE OF REPRESENTATIVES  
Thursday, February 5, 2009

House Bill No. 1296

HOUSE BILL NO. 1296 - By: WRIGHT (JOHN) of the House.

An Act relating to state government; amending 74 O.S. 2001, Section 840-2.27C, as last amended by Section 3, Chapter 342, O.S.L. 2007 (74 O.S. Supp. 2008, Section 840-2.27C), which relates to the Oklahoma Personnel Act; modifying reduction-in-force notice requirement; and providing an effective date.

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

1 SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-2.27C, as last  
2 amended by Section 3, Chapter 342, O.S.L. 2007 (74 O.S. Supp. 2008, Section 840-2.27C),  
3 is amended to read as follows:  
4 Section 840-2.27C A. At least sixty (60) days before the scheduled beginning of  
5 reduction-in-force separations or as otherwise provided by law, the appointing authority  
6 shall post in each office of executive branch agencies affected by the proposed reduction-  
7 in-force notice that a reduction-in-force will be conducted in accordance with the  
8 Oklahoma Personnel Act and Merit rules. The reduction-in-force implementation plan  
9 shall be provided to the Director of State Finance and any state employee association  
10 representing state employees at such time. The notice shall not be posted unless  
11 approved by the cabinet secretary for the agency conducting the reduction-in-force. If  
12 there is no incumbent cabinet secretary for the agency, the cabinet-secretary-notice-

1 approval requirement shall not be applicable. If the appointing authority is governed by  
2 an elected official, the cabinet-secretary-notice-approval requirement shall not be  
3 applicable. The approved notice shall be posted in each office affected by the proposed  
4 plan for five (5) days. The appointing authority shall provide a copy of the notice to the  
5 Administrator. A reduction-in-force shall not be used as a disciplinary action.

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

- 14 1. Provide for the appointing authority to determine the specific position or  
15 positions to be abolished within specified units, divisions, facilities, agency-wide or any  
16 parts thereof;
- 17 2. Provide for retention of affected employees based on type of appointment;
- 18 3. Require the separation of probationary classified affected employees in affected  
19 job family levels, except those affected employees on probationary status after  
20 reinstatement from permanent classified status without a break in service, prior to the  
21 separation or displacement of any permanent classified affected employee in an affected  
22 job family level;

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

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

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

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

17           D. The Director of the Office of State Finance shall review the fiscal components of  
18 the reduction-in-force implementation plan and within five (5) business days of receipt  
19 reject any plan that does not:

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

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

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

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

7           E. The appointing authority may limit displacement of affected employees at the  
8 time of a reduction-in-force. Displacement limits shall not be subject to the approval of  
9 the Administrator. Any limitation shall be based upon reasonable, written, articulated  
10 criteria as certified by the appointing authority. If displacement is limited, the  
11 appointing authority shall take action to avoid or minimize any adverse impact on  
12 minorities or women.

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

19           2. If the affected employee has not held within the last five (5) years a position in  
20 the job family level or predecessor class in which the affected employee is otherwise  
21 eligible for a displacement opportunity, the appointing authority may determine that the

1 affected employee does not possess the recent relevant experience for the position and  
2 deny in writing the displacement opportunity.

3 3. An affected permanent classified employee may exercise a displacement  
4 privilege, if one exists, if the affected employee has received an overall rating of at least  
5 “meets standards”, or its equivalent, on the most recent annual service rating. If an  
6 affected employee has not been rated in accordance with the time limits established in  
7 Section 840-4.17 of this title, the employee shall be deemed to have received an overall  
8 rating of at least “meets standards” or its equivalent on the most recent service rating.

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

11 a. be required, as a condition of continued employment by the agency, to  
12 sign an agreement, in a form to be prescribed by the Administrator of  
13 the Office of Personnel Management, acknowledging that the employee  
14 had an opportunity to receive severance benefits and affirmatively  
15 elected to exercise a displacement privilege and to forego such benefits.

16 An affected employee who signs the agreement required by this  
17 subparagraph waives any privilege which might otherwise have been  
18 available to the affected employee pursuant to the agreement for the  
19 provision of severance benefits, and

20 b. not have the right to exercise any subsequent right to receive  
21 severance benefits from the agency for which the affected employee  
22 performs services on the date that the employee exercises a

1 displacement privilege. The provisions of this section shall not  
2 prohibit any person from exercising a displacement privilege in, or  
3 accepting severance benefits from, more than one agency during  
4 employment with the State of Oklahoma or from the agency which the  
5 affected employee exercised a displacement privilege in any future  
6 reduction-in-force.

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

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

1 H. The names of permanent classified affected employees and those affected  
2 employees on probationary status after reinstatement from permanent classified status  
3 without a break in service who have been separated pursuant to the State Government  
4 Reduction-in-Force and Severance Benefits Act, who apply and meet all requirements for  
5 state jobs in the classified service shall be placed on Priority Reemployment  
6 Consideration Rosters in accordance with their individual final earned ratings for a  
7 maximum of eighteen (18) months after the date of separation. Before any vacant  
8 position is filled by any individual eligible for initial appointment from the employment  
9 register, individuals on the Priority Reemployment Consideration Rosters shall be given  
10 priority consideration for reemployment by any state agency within eighteen (18) months  
11 after the date of the reduction-in-force. Upon declination of an offer of reemployment to a  
12 job family level having the same or higher pay band than the job family level from which  
13 the employee was removed, or eighteen (18) months after the date of separation,  
14 whichever is first, this priority consideration for reemployment shall expire. If an agency  
15 has posted a reduction-in-force plan and implementation schedule, all affected employees  
16 in positions covered by the plan and any within the displacement limits established by  
17 the appointing authority of the agency who have been separated shall be eligible for  
18 priority reemployment consideration.

19 I. If an agency or any part thereof is scheduled to be closed or abolished as a result  
20 of legislation or a court order, the affected employees, who would be eligible for Priority  
21 Reemployment Consideration after their separation in accordance with subsection H of  
22 this section, may apply and, if qualified and eligible, shall be accorded Priority

1 Reemployment Consideration not to exceed twelve (12) months before the scheduled date  
2 of separation. If an agency has posted a reduction-in-force plan and implementation  
3 schedule, all affected employees in positions covered by the plan and any within the  
4 displacement limits established by the appointing authority of the agency shall be  
5 eligible for Priority Reemployment Consideration beginning with the date the schedule is  
6 posted, not to exceed twelve (12) months before the scheduled date of separation.

7 J. When the Legislature is not in session, the Contingency Review Board may,  
8 upon the request of the Governor, direct agencies, boards and commissions to reduce the  
9 number of employees working for the agency, board or commission whenever it is deemed  
10 necessary and proper. Such reduction shall be made pursuant to reduction-in-force plans  
11 as provided in this section.

12 K. 1. When the Legislature is not in session, the Contingency Review Board may,  
13 upon the request of the Governor, direct and require mandatory furloughs for all state  
14 employees whenever it is deemed necessary and proper. The Contingency Review Board  
15 shall specify the effective dates for furloughs and shall note any exceptions to state  
16 employees affected by same. All classified, unclassified, exempt or nonmerit employees,  
17 including those employees of agencies or offices established by statute or the  
18 Constitution, shall be affected by such actions.

19 2. Mandatory furlough means the involuntary temporary reduction of work hours  
20 or the placement of an employee on involuntary leave without pay. Rules governing  
21 leave, longevity pay and participation in the State Employees Group Health, Dental,  
22 Disability, and Life Insurance program shall not be affected by mandatory furloughs.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 Furlough, as provided for in this section or by rules adopted by the Administrator of the  
2 Office of Personnel Management, shall not be appealable under the provisions of the  
3 Oklahoma Personnel Act.

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

11 L. All agencies directed by the Contingency Review Board to terminate or furlough  
12 employees, shall report the cumulative cost savings achieved by the reductions-in-force  
13 or furloughs to the Governor, President Pro Tempore of the Senate and Speaker of the  
14 House of Representatives on a quarterly basis for one (1) year following the effective date  
15 of the action.

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

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

3 SECTION 2. This act shall become effective November 1, 2009.

4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated  
5 02-04-09 - DO PASS.