

EHB 1296

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**THE STATE SENATE**  
**Wednesday, March 25, 2009**

**ENGROSSED**

**House Bill No. 1296**

ENGROSSED HOUSE BILL NO. 1296 - By: Wright (John) of the House and  
Ballenger of the Senate.

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:

SECTION 1. AMENDATORY 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), 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 reduction-in-force implementation plan shall be provided  
to the Director of State Finance and any state employee association  
representing state employees at such time. The notice shall not be  
posted unless approved by the cabinet secretary for the agency

(Bold face denotes Committee Amendments)

1 conducting the reduction-in-force. If there is no incumbent cabinet  
2 secretary for the agency, the cabinet-secretary-notice-approval  
3 requirement shall not be applicable. If the appointing authority is  
4 governed by an elected official, the cabinet-secretary-notice-  
5 approval requirement shall not be applicable. The approved notice  
6 shall be posted in each office affected by the proposed plan for  
7 five (5) days. The appointing authority shall provide a copy of the  
8 notice to the Administrator. A reduction-in-force shall not be used  
9 as a disciplinary action.

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

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

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

3           3. Require the separation of probationary classified affected  
4 employees in affected job family levels, except those affected  
5 employees on probationary status after reinstatement from permanent  
6 classified status without a break in service, prior to the  
7 separation or displacement of any permanent classified affected  
8 employee in an affected job family level;

9           4. Provide for retention of permanent classified affected  
10 employees in affected job family levels and those affected employees  
11 on probationary status after reinstatement from permanent classified  
12 status without a break in service based upon consideration of years  
13 of service;

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

19          6. Provide outplacement assistance and employment counseling  
20 from the Oklahoma Employment Security Commission and any other  
21 outplacement assistance and employment counseling made available by  
22 the agency to affected employees regarding the options available  
23 pursuant to the State Government Reduction-in-Force and Severance

1 Benefits Act prior to the date that a reduction-in-force is  
2 implemented.

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

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

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

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

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

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

22 E. The appointing authority may limit displacement of affected  
23 employees at the time of a reduction-in-force. Displacement limits

1 shall not be subject to the approval of the Administrator. Any  
2 limitation shall be based upon reasonable, written, articulated  
3 criteria as certified by the appointing authority. If displacement  
4 is limited, the appointing authority shall take action to avoid or  
5 minimize any adverse impact on minorities or women.

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

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

19 3. An affected permanent classified employee may exercise a  
20 displacement privilege, if one exists, if the affected employee has  
21 received an overall rating of at least "meets standards", or its  
22 equivalent, on the most recent annual service rating. If an  
23 affected employee has not been rated in accordance with the time

1 limits established in Section 840-4.17 of this title, the employee  
2 shall be deemed to have received an overall rating of at least  
3 "meets standards" or its equivalent on the most recent service  
4 rating.

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

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

19 b. not have the right to exercise any subsequent right to  
20 receive severance benefits from the agency for which  
21 the affected employee performs services on the date  
22 that the employee exercises a displacement privilege.  
23 The provisions of this section shall not prohibit any

1 person from exercising a displacement privilege in, or  
2 accepting severance benefits from, more than one  
3 agency during employment with the State of Oklahoma or  
4 from the agency which the affected employee exercised  
5 a displacement privilege in any future reduction-in-  
6 force.

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

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

1 employee was removed or eighteen (18) months after the date of  
2 removal from the job family level, whichever is first, this right to  
3 be recalled shall expire.

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

1 and any within the displacement limits established by the appointing  
2 authority of the agency who have been separated shall be eligible  
3 for priority reemployment consideration.

4 I. If an agency or any part thereof is scheduled to be closed  
5 or abolished as a result of legislation or a court order, the  
6 affected employees, who would be eligible for Priority Reemployment  
7 Consideration after their separation in accordance with subsection H  
8 of this section, may apply and, if qualified and eligible, shall be  
9 accorded Priority Reemployment Consideration not to exceed twelve  
10 (12) months before the scheduled date of separation. If an agency  
11 has posted a reduction-in-force plan and implementation schedule,  
12 all affected employees in positions covered by the plan and any  
13 within the displacement limits established by the appointing  
14 authority of the agency shall be eligible for Priority Reemployment  
15 Consideration beginning with the date the schedule is posted, not to  
16 exceed twelve (12) months before the scheduled date of separation.

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

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

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

18           3. Notwithstanding existing laws or provisions to the contrary,  
19 members of state boards and commissions shall not receive per diem  
20 expenses during periods of mandatory furlough. The Contingency  
21 Review Board shall additionally call upon elected officials, members  
22 of the judiciary, and other public officers whose salary or  
23 emoluments cannot be altered during current terms of office, to

1 voluntarily donate to the General Revenue Fund any portion of their  
2 salary which would otherwise have been affected by a mandatory  
3 furlough.

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

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 3-23-09  
23 - DO PASS.