

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1296

By: Wright (John)

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5
6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.
8 2001, Section 840-2.27C, as last amended by Section
9 3, Chapter 342, O.S.L. 2007 (74 O.S. Supp. 2008,
10 Section 840-2.27C), which relates to the Oklahoma
11 Personnel Act; modifying reduction-in-force notice
12 requirement; and providing an effective date.

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

14 SECTION 1. AMENDATORY 74 O.S. 2001, Section 840-2.27C,
15 as last amended by Section 3, Chapter 342, O.S.L. 2007 (74 O.S.
16 Supp. 2008, Section 840-2.27C), is amended to read as follows:

17 Section 840-2.27C A. At least sixty (60) days before the
18 scheduled beginning of reduction-in-force separations or as
19 otherwise provided by law, the appointing authority shall post in
20 each office of executive branch agencies affected by the proposed
21 reduction-in-force notice that a reduction-in-force will be
22 conducted in accordance with the Oklahoma Personnel Act and Merit
23 rules. The reduction-in-force implementation plan shall be provided
24 to the Director of State Finance and any state employee association
representing state employees at such time. The notice shall not be

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

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

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

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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
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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
24 shall not be subject to the approval of the Administrator. Any

1 limitation shall be based upon reasonable, written, articulated
2 criteria as certified by the appointing authority. If displacement
3 is limited, the appointing authority shall take action to avoid or
4 minimize any adverse impact on minorities or women.

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

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

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

1 "meets standards" or its equivalent on the most recent service
2 rating.

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

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

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

1 from the agency which the affected employee exercised
2 a displacement privilege in any future reduction-in-
3 force.

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

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

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

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

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

20 K. 1. When the Legislature is not in session, the Contingency
21 Review Board may, upon the request of the Governor, direct and
22 require mandatory furloughs for all state employees whenever it is
23 deemed necessary and proper. The Contingency Review Board shall
24 specify the effective dates for furloughs and shall note any

1 exceptions to state employees affected by same. All classified,
2 unclassified, exempt or nonmerit employees, including those
3 employees of agencies or offices established by statute or the
4 Constitution, shall be affected by such actions.

5 2. Mandatory furlough means the involuntary temporary reduction
6 of work hours or the placement of an employee on involuntary leave
7 without pay. Rules governing leave, longevity pay and participation
8 in the State Employees Group Health, Dental, Disability, and Life
9 Insurance program shall not be affected by mandatory furloughs.
10 Furlough, as provided for in this section or by rules adopted by the
11 Administrator of the Office of Personnel Management, shall not be
12 appealable under the provisions of the 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 L. All agencies directed by the Contingency Review Board to
23 terminate or furlough employees, shall report the cumulative cost
24 savings achieved by the reductions-in-force or furloughs to the

1 Governor, President Pro Tempore of the Senate and Speaker of the
2 House of Representatives on a quarterly basis for one (1) year
3 following the effective date of the action.

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

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

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17 52-1-5945 LRB 12/15/08

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