

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2177

By: Sears and Martin (Scott) of
the House

4 and

5 Myers and Jolley of the
6 Senate

7
8
9 AS INTRODUCED

10 An Act relating to voluntary buy out agreements;
11 amending Section 2, Chapter 179, O.S.L. 2010 (74 O.S.
12 Supp. 2010, Section 84-2.28A), which relates to
13 reimbursements for certain voluntary buy out
14 agreements; modifying date reference; providing an
15 effective date; and declaring an emergency.

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

17 SECTION 1. AMENDATORY Section 2, Chapter 179, O.S.L.
18 2010 (74 O.S. Supp. 2010, Section 840-2.28A), is amended to read as
19 follows:

20 Section 840-2.28A A. As used in this section:

21 1. "Agency" means any state governmental entity, excluding
22 institutions within The Oklahoma State System of Higher Education,
23 making payments to a person accepting a voluntary buyout pursuant to
24 the provisions of Section 840-2.28 of Title 74 of the Oklahoma
Statutes;

1 2. "Eligible employee" means a person who, as of the date the
2 voluntary buyout payment is made by an agency, is eligible for a
3 normal retirement, without any reduction in retirement benefits
4 based on an early retirement, from the public retirement system in
5 which the employee is a participant as of the last day of employment
6 with the agency;

7 3. "Eligible voluntary buyout expenditures" means with respect
8 to any voluntary buyout agreement entered into on or after the
9 effective date of this act for which the agency is able to seek
10 reimbursement from the Voluntary Buyout Agency Reimbursement
11 Revolving Fund:

- 12 a. the cost of health care insurance premium amounts
13 pursuant to subparagraph a of paragraph 1 of
14 subsection A of Section 840-2.28 of Title 74 of the
15 Oklahoma Statutes,
- 16 b. the cost of the longevity pay amount pursuant to
17 subparagraph b of paragraph 1 of subsection A of
18 Section 840-2.28 of Title 74 of the Oklahoma Statutes,
19 and
- 20 c. a maximum of Five Thousand Dollars (\$5,000.00) for
21 payments made pursuant to subparagraph b of paragraph
22 2 of subsection A of Section 840-2.28 of Title 74 of
23 the Oklahoma Statutes; and

1 4. "Normal retirement" means the date upon which an employee
2 may retire with an unreduced benefit from a public retirement system
3 based upon the age of the employee or a combination of the age of
4 the employee and the number of years of service accrued by the
5 employee in the applicable retirement system.

6 B. For eligible voluntary buyout expenditures paid by agencies
7 not later than June 30, ~~2011~~ 2012, pursuant to a voluntary buyout
8 agreement authorized by paragraph 1 of subsection A of Section 840-
9 2.28 of Title 74 of the Oklahoma Statutes and entered into on or
10 after the effective date of this act, but not later than June 30,
11 ~~2011~~ 2012, the paying agency shall be eligible to be reimbursed the
12 amount of the eligible voluntary buyout expenditures from the
13 Voluntary Buyout Agency Reimbursement Revolving Fund created
14 pursuant to Section 3 of this act.

15 C. An agency seeking reimbursement pursuant to the provisions
16 of this section shall make application to the Office of State
17 Finance on such form as may be prescribed by the Office of State
18 Finance for that purpose.

19 D. Before an agency makes a request for reimbursement pursuant
20 to the provisions of this section, the agency shall enter into a
21 contingent agreement with the employee to whom the voluntary buyout
22 payments will be paid. The agreement shall contain the following
23 language which shall be placed at the beginning of the terms of the
24 agreement following any recitations which are not in the nature of a

1 contractual promise to be printed in a font at least as large as the
2 other terms of the agreement and not less than 14-point type
3 regardless of the font size used in other parts of the agreement:

4 "PAYMENT OF FUNDS PURSUANT TO THIS AGREEMENT IS CONTINGENT UPON
5 CONFIRMATION BY THE OFFICE OF STATE FINANCE THAT FUNDS TO REIMBURSE
6 THE AGENCY ENTERING INTO THIS AGREEMENT ARE AVAILABLE. IF THE
7 AGENCY DOES NOT OBTAIN THE REQUIRED CONFIRMATION OR IF THE OFFICE OF
8 STATE FINANCE COMMUNICATES TO THE AGENCY THAT THE FUNDS TO REIMBURSE
9 THE AGENCY ARE NOT AVAILABLE, THIS AGREEMENT SHALL NOT BE
10 ENFORCEABLE AGAINST THE EMPLOYEE BY THE AGENCY OR BY ANY OTHER
11 ENTITY AND SHALL NOT BE ENFORCEABLE BY THE EMPLOYEE OR ANY PERSON OR
12 ENTITY REPRESENTING THE INTEREST OF THE EMPLOYEE AGAINST THE
13 AGENCY."

14 E. If an agency receives the confirmation from the Office of
15 State Finance that the funds for reimbursement are available, the
16 terms of the voluntary buyout agreement executed pursuant to the
17 provisions of this section shall become final and the agreement may
18 be enforced according to its terms.

19 F. An agency which has entered into a contingent agreement as
20 provided by subsection D of this section to make payment to an
21 employee for which the agency is eligible to obtain reimbursement
22 from the Voluntary Buyout Agency Reimbursement Revolving Fund shall
23 notify the Office of State Finance by the fastest method available
24 to the agency, whether by telephone, electronic mail or other form

1 of communication, of the exact amount of funds for which the agency
2 will seek reimbursement based upon payment of eligible voluntary
3 buyout expenses. The Office of State Finance shall develop a system
4 for the receipt of the communications required by this subsection
5 and shall provide a confirmation to the agency of the sufficiency of
6 funds for reimbursement to the agency based upon the total amount of
7 available funds using the fastest method available to the Office of
8 State Finance, whether by telephone, electronic mail or other form
9 of communication. Responses to agency requests shall be made by the
10 Office of State Finance in the order in which the requests were
11 received.

12 G. Applications for reimbursement shall be processed by the
13 Office of State Finance according to the order in which
14 confirmations were provided to agencies and any reimbursement from
15 the Voluntary Buyout Agency Reimbursement Revolving Fund shall be
16 subject to the available balance of the fund. Reimbursement shall
17 be made in the full amount requested, subject to verification of
18 eligibility for the expended amount, unless the balance of the fund
19 is insufficient to make full reimbursement. No payments from the
20 fund shall be made on a pro rata basis and if an agency application
21 for reimbursement cannot be made in the full amount requested based
22 upon the unavailability of funds, the application shall be denied.

23 H. Only payments of eligible voluntary buyout expenditures made
24 to an eligible employee, as defined by paragraph 3 of subsection A

1 of this section, shall be eligible for reimbursement. Any payment
2 of eligible voluntary buyout expenditures made to a person who is
3 not an eligible employee as defined by paragraph 2 of subsection A
4 of this section shall not be eligible for reimbursement.

5 I. As a condition of receiving reimbursement from the Voluntary
6 Buyout Agency Reimbursement Revolving Fund for one or more
7 particular positions, the agency shall agree that its number of
8 full-time-equivalent employees shall be reduced by the number of
9 such positions for a period of not less than thirty-six (36) months.
10 The agency shall report such information to the Office of State
11 Finance as may be necessary for the Office of State Finance to
12 ensure that the provisions of this subsection are enforced. If the
13 Office of State Finance determines that the agency is not
14 substantially in compliance with the provisions of this subsection,
15 the agency shall repay the amount of reimbursement received.

16 J. Notwithstanding the loss of specific employees resulting
17 from a voluntary buyout pursuant to this section, an agency shall
18 preserve such full-time-equivalent positions as may be required in
19 order to perform the duties imposed upon the agency by law and may,
20 subject to the applicable provisions of the Oklahoma Personnel Act,
21 provide for the performance of the duties formerly performed by an
22 employee accepting a voluntary buyout.

23 K. The provisions of this section shall not preclude an agency
24 from entering into a voluntary buyout agreement pursuant to Section

1 840-2.28 of Title 74 of the Oklahoma Statutes which does not provide
2 for any reimbursement of funds.

3 L. Any employee who accepts a voluntary buyout pursuant to the
4 provisions of this section shall be prohibited from being employed
5 by the entity of state government making payment to the employee
6 pursuant to this section for a period of three (3) years from the
7 date as of which the employee is last employed by the state
8 governmental entity making payment to the employee pursuant to the
9 provisions of this section. After the expiration of the three-year
10 period prescribed by this subsection, the former employee may be
11 hired by the state governmental entity which made payment to the
12 employee pursuant to this section. The provisions of this
13 subsection shall also be applicable to a contract for the
14 performance of services by a former employee of the state
15 governmental entity which made payment pursuant to this section for
16 a period of three (3) years from the date as of which the employee
17 is last employed by the state governmental entity making payment to
18 the employee pursuant to the provisions of this section.

19 SECTION 2. This act shall become effective July 1, 2011.

20 SECTION 3. It being immediately necessary for the preservation
21 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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