

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2812

By: Downing

6 AS INTRODUCED

7 An Act relating to state government; amending 74 O.S.  
8 2011, Section 840-2.27C, as amended by Section 884,  
Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section  
9 840-2.27C), which relates to the State Government  
Reduction-in-Force and Severance Benefits Act;  
10 applying certain notice to specific employees; and  
providing an effective date.

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

14 SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-2.27C,  
15 as amended by Section 884, Chapter 304, O.S.L. 2012 (74 O.S. Supp.  
16 2017, Section 840-2.27C), is amended to read as follows:

17 Section 840-2.27C A. 1. 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 the Office of Management and Enterprise Services

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

13 2. The sixty-day notice provision contained in paragraph 1 of  
14 subsection A of this section shall apply to both classified and  
15 unclassified employees that receive severance benefits pursuant to  
16 Section 840-2.27D of this title.

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

1 days after posting of the reduction-in-force notice. The reduction-  
2 in-force implementation plan shall:

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

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

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

14 4. Provide for retention of permanent classified affected  
15 employees in affected job family levels and those affected employees  
16 on probationary status after reinstatement from permanent classified  
17 status without a break in service based upon consideration of years  
18 of service;

19 5. Provide for exercise of displacement opportunities by  
20 permanent classified affected employees and those affected employees  
21 on probationary status after reinstatement from permanent classified  
22 status without a break in service if any displacement opportunities  
23 exist; and  
24

1       6. Provide outplacement assistance and employment counseling  
2 from the Oklahoma Employment Security Commission and any other  
3 outplacement assistance and employment counseling made available by  
4 the agency to affected employees regarding the options available  
5 pursuant to the State Government Reduction-in-Force and Severance  
6 Benefits Act prior to the date that a reduction-in-force is  
7 implemented.

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

11       D. The Director of the Office of Management and Enterprise  
12 Services shall review the fiscal components of the reduction-in-  
13 force implementation plan and within five (5) business days of  
14 receipt reject any plan that does not:

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

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

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

22       If the reduction-in-force is conducted pursuant to a  
23 reorganization, the fiscal components of the reduction-in-force  
24 implementation plan shall contain reasons for the reorganization,

1 which may include, but not be limited to, increased efficiency,  
2 improved service delivery, or enhanced quality of service.

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

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

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

23 3. An affected permanent classified employee may exercise a  
24 displacement privilege, if one exists, if the affected employee has

1 received an overall rating of at least "meets standards", or its  
2 equivalent, on the most recent annual service rating. If an  
3 affected employee has not been rated in accordance with the time  
4 limits established in Section 840-4.17 of this title, the employee  
5 shall be deemed to have received an overall rating of at least  
6 "meets standards" or its equivalent on the most recent service  
7 rating.

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

- 10 a. be required, as a condition of continued employment by  
11 the agency, to sign an agreement, in a form to be  
12 prescribed by the Director of the Office of Management  
13 and Enterprise Services, acknowledging that the  
14 employee had an opportunity to receive severance  
15 benefits and affirmatively elected to exercise a  
16 displacement privilege and to forego such benefits.  
17 An affected employee who signs the agreement required  
18 by this subparagraph waives any privilege which might  
19 otherwise have been available to the affected employee  
20 pursuant to the agreement for the provision of  
21 severance benefits, and
- 22 b. not have the right to exercise any subsequent right to  
23 receive severance benefits from the agency for which  
24 the affected employee performs services on the date

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

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

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

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

5 H. The names of permanent classified affected employees and  
6 those affected employees on probationary status after reinstatement  
7 from permanent classified status without a break in service who have  
8 been separated pursuant to the State Government Reduction-in-Force  
9 and Severance Benefits Act, who apply and meet all requirements for  
10 state jobs in the classified service shall be placed on Priority  
11 Reemployment Consideration Rosters 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  
24 and any within the displacement limits established by the appointing



1 authority of the agency who have been separated shall be eligible  
2 for priority reemployment consideration.

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

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

22 K. 1. When the Legislature is not in session, the Contingency  
23 Review Board may, upon the request of the Governor, direct and  
24 require mandatory furloughs for all state employees whenever it is

1 deemed necessary and proper. The Contingency Review Board shall  
2 specify the effective dates for furloughs and shall note any  
3 exceptions to state employees affected by same. All classified,  
4 unclassified, exempt or nonmerit employees, including those  
5 employees of agencies or offices established by statute or the  
6 Constitution, shall be affected by such actions.

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

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

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

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

18 SECTION 2. This act shall become effective November 1, 2018.  
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