

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1060

By: Balkman and Calvey

AS INTRODUCED

An Act relating to Oklahoma Personnel Act; amending 74 O.S. 1991, Section 841.15A, as renumbered by Section 54, Chapter 242, O.S.L. 1994 and as amended by Section 20, Chapter 310, O.S.L. 1995 (74 O.S. Supp. 2000, Section 840-6.8), which relates to attorney fees and costs in certain actions; modifying circumstances in which attorney fees and costs are required to be awarded; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 841.15A, as renumbered by Section 54, Chapter 242, O.S.L. 1994, and as amended by Section 20, Chapter 310, O.S.L. 1995 (74 O.S. Supp. 2000, Section 840-6.8), is amended to read as follows:

Section 840-6.8 A. The presiding officer of any hearing or Alternative Dispute Resolution Program proceeding before the Oklahoma Merit Protection Commission may require payment of reasonable attorney fees and costs to the prevailing party if the position of the nonprevailing party was without reasonable basis or was frivolous. If the prevailing party is a state employee in an action against the state, the presiding officer shall require payment of reasonable attorney fees and costs without regard as to whether the position of the nonprevailing party was without reasonable basis or was frivolous.

B. Requests by prevailing parties for payment of attorney fees and costs shall be filed by motion with a copy served on other parties within ten (10) days of the date that the decision is issued. A responsive pleading may be filed within ten (10) days of

the date the motion is filed with the Oklahoma Merit Protection Commission. The motion shall be filed at the office of the Oklahoma Merit Protection Commission to the attention of the presiding officer and the ruling on the motion shall be made in an addendum decision.

C. The motion for fees and costs shall state why the prevailing party believes he or she is entitled to an award under this statute and shall be supported by evidence substantiating the amount of the request. Such evidence shall include the following:

1. Accurate and current time records;

2. A copy of the terms of any fee agreement between the party and the attorney;

3. The attorney's customary billing rate for similar work, provided the attorney has a billing practice to report; and

4. Evidence of the prevailing community rate sufficient to establish a market value for the services rendered.

D. If the Oklahoma Merit Protection Commission determines that the appeal is frivolous, any party may be assessed attorney fees and costs of the action.

E. A petition for judicial review by the Oklahoma Merit Protection Commission of the addendum decision shall be filed in accordance with Article II of the Administrative Procedures Act, within ten (10) days of the issue date of said decision.

SECTION 2. This act shall become effective November 1, 2001.

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