

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 1146

By: Osburn

COMMITTEE SUBSTITUTE

An Act relating to state employees; creating the Civil Service and Human Capital Modernization Act; directing Office of Management and Enterprise Services to establish and maintain a State Employee Dispute Resolution Program; providing for review of certain complaints; providing for filing of claim by certain time; authorizing promulgation of rules; defining term; providing exception; placing state employee positions under the Human Capital Management Division on certain date; amending 74 O.S. 2011, Section 840-1.7, which relates to the Oklahoma Merit Protection Commission; providing termination date; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34.301 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Civil Service and Human Capital Modernization Act".

B. The Human Capital Management Division of the Office of Management and Enterprise Services shall:

1        1. Establish and maintain a State Employee Dispute Resolution  
2 Program to provide dispute resolution services for state agencies  
3 and state employees. Actions agreed to through the State Employee  
4 Dispute Resolution Program shall be consistent with applicable laws  
5 and rules and shall not alter, reduce or modify any existing right  
6 or authority as provided by statute or rule;

7        2. Establish rules pursuant to the Administrative Procedures  
8 Act as may be necessary to perform the duties and functions of this  
9 act, including creating an Office of Veterans Placement to offer  
10 counseling, assessment and assistance to veterans seeking state  
11 employment;

12        3. Receive and only act on complaints arising from disciplinary  
13 actions by state employees;

14        4. Use administrative law judges as independent contractors to  
15 exercise the provisions of this act;

16        5. Submit quarterly reports on workload statistics to the  
17 Governor, the Speaker of the Oklahoma House of Representatives and  
18 the President Pro Tempore of the Oklahoma State Senate containing  
19 the following information:

20            a. the number of cases, complaints and requests for  
21                hearings filed, disposed of and pending with the  
22                Division for each month of the quarter, and

23            b. a numerical breakdown of the methods of disposition of  
24                such cases, complaints and requests for hearing.

1 Quarterly reports shall be submitted within thirty (30) days  
2 following the last day of the month of the appropriate quarter; and

3 6. Create a confidential whistleblower program and serve as the  
4 chief administrator of such program whereby a state employee may  
5 confidentially report claims of agency or employee mismanagement as  
6 well as misuse of state funds or property.

7 C. Complaints shall be filed with the Division within five (5)  
8 business days of the date of when such action occurred and hearings  
9 shall take place within twenty five (25) business days of the  
10 action.

11 D. Employees filing a complaint to be heard before an  
12 administrative law judge shall provide evidence that the action was  
13 the result of a disciplinary action by the state agency.

14 E. Claimants shall be permitted to secure and utilize  
15 representation during the adverse action process.

16 F. For purposes of this section, "disciplinary actions" means  
17 termination, suspension, demotion, punitive transfers or written  
18 reprimand.

19 G. Nothing in this section shall apply to:

20 1. Persons employed by the Governor, Lieutenant Governor,  
21 Speaker of the Oklahoma House of Representatives or President Pro  
22 Tempore of the Oklahoma State Senate;

23 2. Elected officials;

24 3. Political appointees; or

1        4. Not more than five percent (5%) of an agency's executive  
2 management as defined by administrative rules.

3        H. Except as provided by subsection G of this section,  
4 effective January 1, 2022, all state employee positions shall be  
5 administered by the Human Capital Management Division of the Office  
6 of Management and Enterprise Services.

7        I. State agencies shall continue to be responsible for  
8 developing and conducting policies and procedures for human resource  
9 activities, including, but not limited to, recruitment, retention,  
10 promotion, market-based pay analysis, training and development. In  
11 addition, state agencies shall develop procedures for screening,  
12 hiring and disciplinary actions of state employees subject to  
13 guidance and approval by the Division.

14        SECTION 2.        AMENDATORY        74 O.S. 2011, Section 840-1.7, is  
15 amended to read as follows:

16        Section 840-1.7 A. There is hereby created the Oklahoma Merit  
17 Protection Commission, to continue until December 31, 2022.

18 Whenever the terms "Ethics and Merit Commission" or "Special Counsel  
19 of the Ethics and Merit Commission" appear in the Oklahoma Statutes,  
20 they shall mean the Oklahoma Merit Protection Commission or the  
21 Executive Director of the Oklahoma Merit Protection Commission as  
22 may be appropriate to the context in which they appear. The  
23 Oklahoma Merit Protection Commission shall consist of nine (9)  
24 members who shall be appointed for a term of three (3) years. The

1 members shall be removable only for cause, as provided by law for  
2 the removal of officers not subject to impeachment. Two members of  
3 the Commission shall be appointed by the President Pro Tempore of  
4 the Senate. Two members of the Commission shall be appointed by the  
5 Speaker of the House of Representatives. Five members of the  
6 Commission shall be appointed by the Governor. No more than four of  
7 the appointments made by the Governor shall be from the same  
8 political party. Of the initial appointments made to the  
9 Commission, one member appointed by the President Pro Tempore, one  
10 member appointed by the Speaker and one member appointed by the  
11 Governor shall be for a term of three (3) years; and one member  
12 appointed by the President Pro Tempore, one member appointed by the  
13 Speaker and one member appointed by the Governor shall be for a term  
14 of two (2) years. The remaining three initial appointments by the  
15 Governor shall be designated to serve a term of one (1) year. At  
16 the expiration of the initial term, each new appointee shall serve a  
17 three-year term. All initial appointments shall be made prior to  
18 July 1, 1982.

19 B. Members of the Commission shall be entitled to reimbursement  
20 for expenses incurred in the performance of their duties as provided  
21 in the State Travel Reimbursement Act.

22 C. The Commission shall elect a chairman, to serve a two-year  
23 term and such other officers as deemed necessary for the performance  
24 of their duties. The Commission shall hold regular meetings not

1 less than once a month and such additional meetings as called by the  
2 chairman as may be required for the proper discharge of its duties.

3 SECTION 3. This act shall become effective January 1, 2022.  
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