

1 ENGROSSED HOUSE
2 BILL NO. 1146

By: Osburn and Crosswhite Hader
of the House

3 and

4 Treat of the Senate

5
6
7 An Act relating to state employees; creating the
8 Civil Service and Human Capital Modernization Act;
9 directing Office of Management and Enterprise
10 Services to establish and maintain a State Employee
11 Dispute Resolution Program; providing for review of
12 certain complaints; authorizing promulgation of
13 rules; providing for filing of claim by certain time;
14 providing for attorney fees and costs; defining term;
15 providing exceptions; placing state employee
16 positions under the Human Capital Management Division
17 on certain date; amending 74 O.S. 2011, Section 840-
18 1.7, which relates to the Oklahoma Merit Protection
19 Commission; providing termination date; providing for
20 codification; and providing an effective date.

21
22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified
24 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, which may include mediation, to provide dispute resolution
3 services for state agencies and state employees. Actions agreed to
4 through the State Employee Dispute Resolution Program shall be
5 consistent with applicable laws and rules and shall not alter,
6 reduce or modify any existing right or authority as provided by
7 statute or rule;

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

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

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

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

- 21 a. the number of cases, complaints and requests for
22 hearings filed, disposed of and pending with the
23 Division for each month of the quarter, and
24

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

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

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

9 C. Complaints shall be filed with the Human Capital Management
10 Division within five (5) business days of the date of when such
11 action occurred and hearings shall take place within twenty-five
12 (25) business days of the action.

13 D. Employees filing a complaint with the Human Capital
14 Management Division shall prove that there was no reasonable basis
15 for the disciplinary action by the state agency. The review of the
16 merits of the complaint shall be limited to the employee
17 disciplinary file directly at issue. Complaints relating to
18 punitive transfers or written reprimands shall be administrated
19 through mediation. Mediation may also be available for other
20 disciplinary actions.

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

23 F. The presiding officer of any proceeding before the Human
24 Capital Management Division may require payment of reasonable

1 attorney fees and costs to the prevailing party if the position of
2 the nonprevailing party was without reasonable basis or was
3 frivolous.

4 G. For purposes of this section, "disciplinary actions" means
5 termination, suspension without pay, involuntary demotion, punitive
6 transfers or written reprimand.

7 H. Nothing in this section shall apply to:

8 1. Persons employed by the Governor, Lieutenant Governor,
9 Oklahoma House of Representatives, Oklahoma State Senate,
10 Legislative Service Bureau, or the Legislative Office of Fiscal
11 Transparency;

12 2. Elected officials;

13 3. Political appointees;

14 4. District attorneys, assistant district attorneys or other
15 employees of the district attorney's office;

16 5. The state judiciary or persons employed by the state
17 judiciary; or

18 6. Not more than five percent (5%) of an agency's employees
19 designated as executive management as determined by the agency
20 director.

21 I. Except as provided by subsection H of this section,
22 effective January 1, 2022, all state employee positions shall be
23 administered by the Human Capital Management Division of the Office
24

1 of Management and Enterprise Services, without reference to prior
2 classified or unclassified status.

3 J. Under the administration and oversight of the Human Capital
4 Management Division as set forth in subsection I of this section,
5 state agencies shall continue to be responsible for developing and
6 conducting policies and procedures for human resource activities,
7 including, but not limited to, recruitment, retention, promotion,
8 market-based pay analysis, training and development. In addition,
9 state agencies shall develop procedures for screening, hiring and
10 disciplinary actions of state employees subject to guidance and
11 approval by the Division.

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

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

16 Whenever the terms "Ethics and Merit Commission" or "Special Counsel
17 of the Ethics and Merit Commission" appear in the Oklahoma Statutes,
18 they shall mean the Oklahoma Merit Protection Commission or the
19 Executive Director of the Oklahoma Merit Protection Commission as
20 may be appropriate to the context in which they appear. The
21 Oklahoma Merit Protection Commission shall consist of nine (9)
22 members who shall be appointed for a term of three (3) years. The
23 members shall be removable only for cause, as provided by law for
24 the removal of officers not subject to impeachment. Two members of

1 the Commission shall be appointed by the President Pro Tempore of
2 the Senate. Two members of the Commission shall be appointed by the
3 Speaker of the House of Representatives. Five members of the
4 Commission shall be appointed by the Governor. No more than four of
5 the appointments made by the Governor shall be from the same
6 political party. Of the initial appointments made to the
7 Commission, one member appointed by the President Pro Tempore, one
8 member appointed by the Speaker and one member appointed by the
9 Governor shall be for a term of three (3) years; and one member
10 appointed by the President Pro Tempore, one member appointed by the
11 Speaker and one member appointed by the Governor shall be for a term
12 of two (2) years. The remaining three initial appointments by the
13 Governor shall be designated to serve a term of one (1) year. At
14 the expiration of the initial term, each new appointee shall serve a
15 three-year term. All initial appointments shall be made prior to
16 July 1, 1982.

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

20 C. The Commission shall elect a chairman, to serve a two-year
21 term and such other officers as deemed necessary for the performance
22 of their duties. The Commission shall hold regular meetings not
23 less than once a month and such additional meetings as called by the
24 chairman as may be required for the proper discharge of its duties.

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

Passed the House of Representatives the 9th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2021.

Presiding Officer of the Senate