

**FLOOR AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1146 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Mike Osburn

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

FLOOR SUBSTITUTE  
FOR

HOUSE BILL NO. 1146

By: Osburn and Crosswhite Hader

FLOOR 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 for attorney fees and costs; 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, 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  
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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.

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

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