

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1146

By: Osburn and **Crosswhite Hader**

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8 COMMITTEE SUBSTITUTE

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

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

24 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".

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

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

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

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

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

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

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

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 Division within five (5)
10 business days of the date of when such action occurred and hearings
11 shall take place within twenty five (25) business days of the
12 action.

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

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

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

21 G. Nothing in this section shall apply to:

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

1 2. Elected officials;

2 3. Political appointees; or

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

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

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

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

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

20 Whenever the terms "Ethics and Merit Commission" or "Special Counsel
21 of the Ethics and Merit Commission" appear in the Oklahoma Statutes,
22 they shall mean the Oklahoma Merit Protection Commission or the
23 Executive Director of the Oklahoma Merit Protection Commission as
24 may be appropriate to the context in which they appear. The

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

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

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

6 SECTION 3. This act shall become effective January 1, 2022.
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8 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/24/2021 - DO PASS,
9 As Amended and Coauthored.
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