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February 22, 2022

By: Howard and Treat

An Act relating to the Attorney General; amending 62 O.S. 2021, Section 34.301, which relates to the Civil Service and Human Capital Modernization Act; creating certain exemption; amending 74 O.S. 2021, Section 28c, which relates to appointment of Attorney General Assistants and employees; exempting certain persons from Civil Service and Human Capital Modernization Act; updating statutory language; making language gender neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 62 O.S. 2021, Section 34.301, is amended to read as follows:

Section 34.301. 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. Establish and maintain a State Employee Dispute Resolution Program, which may include mediation, to provide dispute resolution services for state agencies and state employees. Actions agreed to through the State Employee Dispute Resolution Program shall be consistent with applicable laws and rules and shall not alter,

1 reduce or modify any existing right or authority as provided by
2 statute or rule;

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

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

10 4. Use administrative law judges as independent contractors to
11 exercise the provisions of this ~~act~~ section;

12 5. Submit quarterly reports on workload statistics to the
13 Governor, the Speaker of the ~~Oklahoma~~ House of Representatives and
14 the President Pro Tempore of the ~~Oklahoma State~~ Senate containing
15 the following information:

16 a. the number of cases, complaints and requests for
17 hearings filed, disposed of and pending with the
18 Division for each month of the quarter, and

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

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

23 6. Create a confidential whistleblower program and serve as the
24 chief administrator of such program whereby a state employee may

1 confidentially report claims of agency or employee mismanagement as
2 well as misuse of state funds or property.

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

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

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

17 F. The presiding officer of any proceeding before the Human
18 Capital Management Division may require payment of reasonable
19 attorney fees and costs to the prevailing party if the position of
20 the nonprevailing party was without reasonable basis or was
21 frivolous.

22 G. For purposes of this section, "disciplinary actions" means
23 termination, suspension without pay, involuntary demotion, punitive
24 transfers or written reprimand.

H. Nothing in this section shall apply to:

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

2. Elected officials;

3. Political appointees;

4. Assistants or employees of the Attorney General;

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

~~5.~~ 6. The state judiciary or persons employed by the state judiciary; or

~~6.~~ 7. Not more than five percent (5%) of an agency's employees designated as executive management as determined by the agency director.

I. Except as provided by subsection H of this section, effective January 1, 2022, all state employee positions shall be administered by the Human Capital Management Division of the Office of Management and Enterprise Services, without reference to prior classified or unclassified status.

J. Under the administration and oversight of the Human Capital Management Division as set forth in subsection I of this section, state agencies shall continue to be responsible for developing and conducting policies and procedures for human resource activities,

1 including, but not limited to, recruitment, retention, promotion,
2 market-based pay analysis, training and development. In addition,
3 state agencies shall develop procedures for screening, hiring and
4 disciplinary actions of state employees subject to guidance and
5 approval by the Division.

6 SECTION 2. AMENDATORY 74 O.S. 2021, Section 28c, is
7 amended to read as follows:

8 Section 28c. The Attorney General ~~is hereby authorized to~~ may
9 appoint the Assistants and employees created in this act, in
10 addition to those now authorized by law, ~~and they.~~ Notwithstanding
11 the Civil Service and Human Capital Modernization Act or any other
12 state law, an Assistant or employee appointed pursuant to this
13 section shall hold ~~their offices and positions~~ his or her office or
14 position at the pleasure and discretion of the Attorney General.

15 SECTION 3. This act shall become effective November 1, 2022.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
17 February 22, 2022 - DO PASS
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