

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1138

By: Moore and Ford

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5
6 AS INTRODUCED

7 An Act relating to law enforcement; amending 62 O.S.
8 2021, Section 34.301, as last amended by Section 1,
9 Chapter 134, O.S.L. 2023 (62 O.S. Supp. 2024, Section
10 34.301), which relates to the Civil Service and Human
11 Capital Modernization Act; modifying duties of the
12 Human Capital Management Division and the Civil
13 Service Division of the Office of Management and
14 Enterprise Services; requiring establishment of
15 certain rules; making certain exception; broadening
16 scope of certain review; authorizing certain hearing;
17 and providing an effective date.

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

19 SECTION 1. AMENDATORY 62 O.S. 2021, Section 34.301, as
20 last amended by Section 1, Chapter 134, O.S.L. 2023 (62 O.S. Supp.
21 2024, Section 34.301), is amended to read as follows:

22 Section 34.301. A. This act shall be known and may be cited as
23 the "Civil Service and Human Capital Modernization Act".

24 B. The Human Capital Management Division and the Civil Service
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

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

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

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

13 4. Use administrative law judges as independent contractors or
14 administrative law judges provided by the Office of the Attorney
15 General to 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 Divisions 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 criminal misuse of state funds or property. Mismanagement
7 includes fraudulent activity or abuse or violation of a well-
8 established, articulated, clear, and compelling public policy. The
9 Office of the Attorney General shall have the authority to
10 investigate and determine whether to prosecute such whistleblower
11 claims. The Attorney General shall also have the power to refer
12 such claims to the appropriate district attorney; and

13 7. Receive and act upon complaints from disciplinary action and
14 grievances filed by state employees employed to perform duties as
15 outlined in paragraph 6 of subsection E in Section 3311 of Title 70,
16 Section 510 of Title 57, and Section 2-105 of Title 47 of the
17 Oklahoma Statutes and to establish rules pursuant to the
18 Administrative Procedures Act as may be necessary to carry out this
19 objective and the right to be heard.

20 C. Complaints shall be filed with the Civil Service Division
21 within ten (10) business days of the date of when such action
22 occurred and hearings shall take place within thirty (30) business
23 days from the filing of the complaint, with the exception of actions
24 filed pursuant to paragraph 7 of subsection B of this section.

1 D. Employees filing a complaint with the Civil Service Division
2 shall prove that there was no reasonable basis for the disciplinary
3 action by the state agency. The review of the merits of the
4 complaint ~~shall~~ may be limited to the employee disciplinary file
5 directly at issue. In the event documents needed are not maintained
6 in the disciplinary file, or additional witnesses are requested by
7 the parties, the administrative law judge shall have the discretion
8 to allow additional documentation or witnesses regarding the
9 disciplinary action taken. Complaints relating to punitive
10 transfers shall be administrated through mediation first and shall
11 only proceed to a hearing if mediation is unsuccessful. Employees
12 who were offered a relocation incentive as set forth in
13 administrative rule shall not be deemed as being subject to a
14 punitive transfer. Complaints relating to written reprimands shall
15 be administered through mediation exclusively, state employees
16 employed to perform duties as outlined in paragraph 6 of subsection
17 E in Section 3311 of Title 70, Section 510 of Title 57, and Section
18 2-105 of Title 47 of the Oklahoma Statutes shall be permitted to
19 proceed to a hearing if mediation is unsuccessful. Mediation may
20 also be available for other 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 Civil
24 Service Division may require payment of reasonable attorney fees and

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

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

6 H. Nothing in this section shall apply to:

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

11 2. Elected officials;

12 3. Political appointees;

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

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

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 and the agency shall designate the status of the employee
21 as state employee or executive management in the State of Oklahoma's
22 Human Resources Information System, maintained by the Human Capital
23 Management Division;

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1 7. Temporary employees employed to work less than one thousand
2 (1,000) hours in any twelve-month period;

3 8. Seasonal employees employed to work less than one thousand
4 six hundred (1,600) hours in any twelve-month period;

5 9. Employees in a trial period; or

6 10. State employees whose employment status is otherwise
7 provided by law.

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

13 J. In collaboration with executive branch agencies, and their
14 human resources personnel, the Human Capital Management
15 Administrator shall establish and define statewide minimum standards
16 for human resource business processes, based on industry standards
17 and statewide best practices, to be followed by all executive branch
18 agencies. The Human Capital Management Administrator has the
19 authority to grant exceptions to the statewide minimum standards.
20 Additionally, the Human Capital Management Administrator shall
21 establish and maintain a statewide job catalog and pay structure for
22 executive branch jobs and establish policies and procedures for a
23 market-based pay system, pay-for-performance system, and dispute
24 resolution process for issues that do not rise to a disciplinary

1 action as provided by the Civil Service and Human Capital
2 Modernization Act. The Human Capital Management Administrator shall
3 promulgate rules necessary to carry out the authority set forth in
4 this section.

5 K. The Civil Service Division is authorized to employ attorneys
6 or contract with private attorneys to serve as legal counsel to the
7 Civil Service Division. The attorneys shall be authorized to appear
8 for and represent the Civil Service Division in all litigation that
9 may arise from the discharge of its duties, including the
10 representation of the Civil Service Division when its decisions are
11 appealed to higher courts. Attorneys employed by the Office of
12 Management and Enterprise Services to represent the Civil Service
13 Division shall represent the Civil Service Division notwithstanding
14 its representation of the Office of Management and Enterprise
15 Services in the same or related matters pending before the Civil
16 Service Division or before any court. The Office of Management and
17 Enterprise Services shall establish internal administrative
18 procedures to ensure that all departments within the Office of
19 Management and Enterprise Services are provided independent legal
20 representation, and such simultaneous representation shall not, of
21 itself, be deemed to constitute a conflict of interest.

22 L. The Civil Service Division shall be exempt from the
23 requirements set forth in Section 20i of Title 74 of the Oklahoma
24 Statutes when carrying out the duties and functions of this act.

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SECTION 2. This act shall become effective November 1, 2025.

60-1-10917 JBH 12/27/24