

# An Act

ENROLLED HOUSE  
BILL NO. 1794

By: Osburn of the House

and

Pugh of the Senate

An Act relating to public finance; amending 62 O.S. 2021, Section 34.301, as amended by Section 1, Chapter 243, O.S.L. 2022 (62 O.S. Supp. 2022, Section 34.301), which relates to the Civil Service and Human Capital Modernization Act; allowing for additional documentation or witnesses for disciplinary actions under certain circumstances; providing for the designation of the status of employees; providing for powers and duties of the Human Capital Management Administrator; authorizing promulgation of rules; and providing an effective date.

SUBJECT: Public finance

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

SECTION 1. AMENDATORY 62 O.S. 2021, Section 34.301, as amended by Section 1, Chapter 243, O.S.L. 2022 (62 O.S. Supp. 2022, 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 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 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,

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

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

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

4. Use administrative law judges as independent contractors or administrative law judges provided by the Office of the Attorney General to exercise the provisions of this act;

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

- a. the number of cases, complaints and requests for hearings filed, disposed of and pending with the ~~Division~~ Divisions for each month of the quarter, and
- b. a numerical breakdown of the methods of disposition of such cases, complaints and requests for hearing.

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

6. Create a confidential whistleblower program and serve as the chief administrator of such program whereby a state employee may confidentially report claims of agency or employee mismanagement as well as criminal misuse of state funds or property. Mismanagement includes fraudulent activity or abuse or violation of a well-established, articulated, clear, and compelling public policy. The Office of the Attorney General shall have the authority to investigate and determine whether to prosecute such whistleblower claims. The Attorney General shall also have the power to refer such claims to the appropriate district attorney.

C. Complaints shall be filed with the Civil Service Division within ten (10) business days of the date of when such action

occurred and hearings shall take place within thirty (30) business days from the filing of the complaint.

D. Employees filing a complaint with the Civil Service Division shall prove that there was no reasonable basis for the disciplinary action by the state agency. The review of the merits of the complaint shall be limited to the employee disciplinary file directly at issue. In the event documents needed are not maintained in the disciplinary file, or additional witnesses are requested by the parties, the administrative law judge shall have the discretion to allow additional documentation or witnesses regarding the disciplinary action taken. Complaints relating to punitive transfers shall be administered through mediation first and shall only proceed to a hearing if mediation is unsuccessful. Employees who were offered a relocation incentive as set forth in administrative rule shall not be deemed as being subject to a punitive transfer. Complaints relating to written reprimands shall be administered through mediation exclusively. Mediation may also be available for other disciplinary actions.

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

F. The presiding officer of any proceeding before the Civil Service Division may require payment of reasonable attorney fees and costs to the prevailing party if the position of the nonprevailing party was without reasonable basis or was frivolous.

G. For purposes of this section, "disciplinary actions" means termination, suspension without pay, involuntary demotion, punitive 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. District attorneys, assistant district attorneys or other employees of the district attorney's office, and the District Attorneys Council;

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

6. Not more than five percent (5%) of an agency's employees designated as executive management as determined by the agency director and the agency shall designate the status of the employee as state employee or executive management in the State of Oklahoma's Human Resources Information System, maintained by the Human Capital Management Division;

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

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

9. Employees in a trial period; or

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

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, including, but not limited to, recruitment, retention, promotion, market-based pay analysis, training and development. In addition, state agencies shall develop procedures for screening, hiring and disciplinary actions of state employees subject to guidance and approval by the Division. In collaboration with executive branch agencies, and their human resources personnel, the Human Capital Management Administrator shall establish and define statewide minimum standards for human resource business processes, based on industry standards and statewide best practices, to be followed by all executive branch agencies. The Human Capital Management~~

Administrator has the authority to grant exceptions to the statewide minimum standards. Additionally, the Human Capital Management Administrator shall establish and maintain a statewide job catalog and pay structure for executive branch jobs and establish policies and procedures for a market-based pay system, pay-for-performance system, and dispute resolution process for issues that do not rise to a disciplinary action as provided by the Civil Service and Human Capital Modernization Act. The Human Capital Management Administrator shall promulgate rules necessary to carry out the authority set forth in this section.

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

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

SECTION 2. This act shall become effective November 1, 2023.

Passed the House of Representatives the 20th day of March, 2023.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 24th day of April, 2023.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_