

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4

AS AMENDED

BILL NO. 1138

By: Ford and Moore of the House

and

Frix of the Senate

An Act relating to law enforcement; amending 62 O.S. 2021, Section 34.301, as last amended by Section 1, Chapter 134, O.S.L. 2023 (62 O.S. Supp. 2024, Section 34.301), which relates to the Civil Service and Human Capital Modernization Act; modifying duties of the Human Capital Management Division and the Civil Service Division of the Office of Management and Enterprise Services; requiring establishment of certain rules; making certain exception; broadening scope of certain review; authorizing certain hearing; 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, as last amended by Section 1, Chapter 134, O.S.L. 2023 (62 O.S. Supp. 2024, 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 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 or
16 administrative law judges provided by the Office of the Attorney
17 General to 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 Divisions 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 criminal misuse of state funds or property. Mismanagement
9 includes fraudulent activity or abuse or violation of a well-
10 established, articulated, clear, and compelling public policy. The
11 Office of the Attorney General shall have the authority to
12 investigate and determine whether to prosecute such whistleblower
13 claims. The Attorney General shall also have the power to refer
14 such claims to the appropriate district attorney; and

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

21 C. Complaints shall be filed with the Civil Service Division
22 within ten (10) business days of the date of when such action
23 occurred and hearings shall take place within thirty (30) business
24

1 days from the filing of the complaint, with the exception of actions
2 filed pursuant to paragraph 7 of subsection B of this section.

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

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

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

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

8 H. Nothing in this section shall apply to:

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

13 2. Elected officials;

14 3. Political appointees;

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

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

20 6. Not more than five percent (5%) of an agency's employees
21 designated as executive management as determined by the agency
22 director and the agency shall designate the status of the employee
23 as state employee or executive management in the State of Oklahoma's
24

1 Human Resources Information System, maintained by the Human Capital
2 Management Division;

3 7. Temporary employees employed to work less than one thousand
4 (1,000) hours in any twelve-month period;

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

7 9. Employees in a trial period; or

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

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

15 J. In collaboration with executive branch agencies, and their
16 human resources personnel, the Human Capital Management
17 Administrator shall establish and define statewide minimum standards
18 for human resource business processes, based on industry standards
19 and statewide best practices, to be followed by all executive branch
20 agencies. The Human Capital Management Administrator has the
21 authority to grant exceptions to the statewide minimum standards.
22 Additionally, the Human Capital Management Administrator shall
23 establish and maintain a statewide job catalog and pay structure for
24 executive branch jobs and establish policies and procedures for a

1 market-based pay system, pay-for-performance system, and dispute
2 resolution process for issues that do not rise to a disciplinary
3 action as provided by the Civil Service and Human Capital
4 Modernization Act. The Human Capital Management Administrator shall
5 promulgate rules necessary to carry out the authority set forth in
6 this section.

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

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND GOVERNMENT
6 RESOURCES

7 April 8, 2025 - DO PASS AS AMENDED
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24