

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 HOUSE BILL 1138

By: Ford and **Moore** of the House

5 and

6 **Frix** of the Senate

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8
9 AS INTRODUCED

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

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

24 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".

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

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

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

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

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

20 5. Submit quarterly reports on workload statistics to the
21 Governor, the Speaker of the Oklahoma House of Representatives and
22 the President Pro Tempore of the Oklahoma State Senate containing
23 the following information:
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1 a. the number of cases, complaints and requests for
2 hearings filed, disposed of and pending with the
3 Divisions for each month of the quarter, and

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

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

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

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

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

6 D. Employees filing a complaint with the Civil Service Division
7 shall prove that there was no reasonable basis for the disciplinary
8 action by the state agency. The review of the merits of the
9 complaint ~~shall~~ may be limited to the employee disciplinary file
10 directly at issue. In the event documents needed are not maintained
11 in the disciplinary file, or additional witnesses are requested by
12 the parties, the administrative law judge shall have the discretion
13 to allow additional documentation or witnesses regarding the
14 disciplinary action taken. Complaints relating to punitive
15 transfers shall be administrated through mediation first and shall
16 only proceed to a hearing if mediation is unsuccessful. Employees
17 who were offered a relocation incentive as set forth in
18 administrative rule shall not be deemed as being subject to a
19 punitive transfer. Complaints relating to written reprimands shall
20 be administered through mediation exclusively, state employees
21 employed to perform duties as outlined in paragraph 6 of subsection
22 E in Section 3311 of Title 70, Section 510 of Title 57, and Section
23 2-105 of Title 47 of the Oklahoma Statutes shall be permitted to
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1 proceed to a hearing if mediation is unsuccessful. Mediation may
2 also be available for other disciplinary actions.

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

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

9 G. For purposes of this section, "disciplinary actions" means
10 termination, suspension without pay, involuntary demotion, punitive
11 transfers or written reprimand.

12 H. Nothing in this section shall apply to:

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

17 2. Elected officials;

18 3. Political appointees;

19 4. District attorneys, assistant district attorneys or other
20 employees of the district attorney's office, and the District
21 Attorneys Council;

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

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

7 7. Temporary employees employed to work less than one thousand
8 (1,000) hours in any twelve-month period;

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

11 9. Employees in a trial period; or

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

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

19 J. In collaboration with executive branch agencies, and their
20 human resources personnel, the Human Capital Management
21 Administrator shall establish and define statewide minimum standards
22 for human resource business processes, based on industry standards
23 and statewide best practices, to be followed by all executive branch
24 agencies. The Human Capital Management Administrator has the

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

11 K. The Civil Service Division is authorized to employ attorneys
12 or contract with private attorneys to serve as legal counsel to the
13 Civil Service Division. The attorneys shall be authorized to appear
14 for and represent the Civil Service Division in all litigation that
15 may arise from the discharge of its duties, including the
16 representation of the Civil Service Division when its decisions are
17 appealed to higher courts. Attorneys employed by the Office of
18 Management and Enterprise Services to represent the Civil Service
19 Division shall represent the Civil Service Division notwithstanding
20 its representation of the Office of Management and Enterprise
21 Services in the same or related matters pending before the Civil
22 Service Division or before any court. The Office of Management and
23 Enterprise Services shall establish internal administrative
24 procedures to ensure that all departments within the Office of

1 Management and Enterprise Services are provided independent legal
2 representation, and such simultaneous representation shall not, of
3 itself, be deemed to constitute a conflict of interest.

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

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

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9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
10 03/06/2025 - DO PASS, As Coauthored.

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