

## **SUBJECT INDEX**

### **Human Resources**

H.B. 3420

H.B. 3422

### **Legal**

S.B. 984

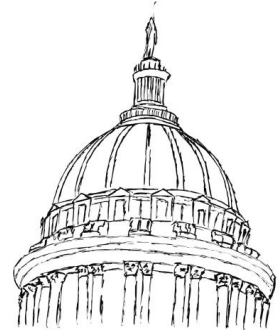
### **Operations**

H.B. 4080

S.B. 1567

### **State Travel**

H.B. 4188



## **H.B. 3420**

RE: H.B. 3420

SUBJECT: State employees

[House Bill 3420](#) becomes effective May 11, 2022. This bill updates numerous provisions of the Civil Service and Human Capital Modernization Act and builds on the reforms enacted in H.B. 1146 (2021). It revises human capital procedures, including whistleblowers, employee complaints, pay changes, leave sharing, reductions-in-force, and removes outdated statutes.

Existing law provides for a State Employee Dispute Resolution Program within the Office of Management and Enterprise Services (OMES) to include all state employees except five percent of each agency's executive management at the agency's discretion.

- Section 1(B)(4): Authorizes OMES to use administrative law judges provided by the Attorney General's Office to arbitrate employee disputes.
- Section 1(B)(6): Clarifies that the state employee whistleblower program for reporting employee mismanagement and/or misuse of state funds or property be specific to "criminal" misuse. Includes fraudulent activity or abuse or violation of a well-established, articulated, clear, and compelling public policy under the program. Authorizes the Attorney General to investigate and determine whether to prosecute whistleblower claims and to refer claims to the appropriate district attorney.
- Section 1(C): Requires complaints to be filed with the Civil Service Division within ten business days of the date of the action with hearings to take place within 30 business days from the filing of the complaint.
- Section 1(D): Requires employee complaints relating to punitive transfers to be administered through mediation first, and only proceed to a hearing if mediation is unsuccessful. Clarifies that employees offered an allowable relocation incentive does not constitute a punitive transfer. Requires complaints relating to written reprimands to be administered exclusively through mediation.
- Section 1(H): Adds the following groups of employees to the list of state employees exempt from the Human Capital Modernization Act:
  - Temporary employees scheduled to work less than 1,000 hours in any 12-month period;
  - Seasonal employees employed to work less than 1,600 hours in any 12-month period;

- Employees in a trial period;
- State employees whose employment status is otherwise provided by law.
- Section 1(K): Authorizes the Civil Services Division to employ or contract with attorneys to represent the Division and serve as legal counsel upon an appeal of a decision to a higher court.
- Section 1(L): Exempts the Civil Services Division from the requirements established by S.B. 984 (2022), including selecting legal representation from a pre-approved list and capping attorney contingency fees.
- Section 5: Abolishes the Merit Protection Commission on December 31, 2022 and assigns its resources and duties to OMES.
- Section 13(B): Simplifies provisions for agencies to make employee pay adjustments consistent with OMES compensation levels.
- Section 18: Eliminates the possibility for state leave sharing for an employee who has exhausted all types of paid leave due to a presidentially declared national disaster in Oklahoma.
  - Defines “state employee” for the purposes of the leave sharing program to include employees afforded protections under the Civil Service and Human Capital Modernization Act and exempted employees.
- Section 20: Makes several changes to state reduction-in-force (RIF) policies including:
  - Requires an agency’s chief administrative officer to post a notice in each office of an agency affected by a RIF 30 days, changed from 60, prior to the RIF;
  - Eliminates the requirement that RIF implementation plans provide for retention of affected employees based on type of appointment;
  - Eliminates the requirement that agencies implementing a RIF give preference to veterans over non-veterans;
  - Eliminates an agency’s authority to limit displacement of affected employees during a RIF; and
  - Eliminates provision that granted employees of closed or abolished agencies Priority Reemployment Consideration with the state.
- Section 21(A)(2): Requires agencies to provide severance benefits packages to employees impacted by a RIF to including up to one week of pay, a lump-sum payment of \$5,000, or partial payment for accumulated sick leave. Authorizes agencies to provide severance

benefit packages to separating employees **not** subject to a RIF, provided such employees execute a release of all claims against the agency and the State.

- Section 22: Clarifies that agencies have sole authority to determine where employees perform their duties, except when the action is for disciplinary reasons. Requires payment for the cost of moving an employee upon a transfer by the agency ranging from \$2,500 to 20 percent of the employee's current salary.
- Section 23: Requires teachers at the Oklahoma School for the Blind and the Oklahoma School for the Deaf to be considered state employees.
- Section 24(C): Eliminates a provision protecting any rights or benefits for state employees leased to a federally recognized tribe or nation.
- Section 26: Authorizes and outlines the process for the OMES Civil Service Director to delegate authority to issue final agency orders relating to employee/agency arbitration to an agency administrative law judge.
- Section 27: Repeals various sections Oklahoma Personnel Act that were superseded by the Human Capital Modernization Act.

NOTE: Only sections of this bill most relevant to OSDE operations are included in this summary with some sections being condensed.

Should you have any questions related to this bill, please contact Ms. Susan Miller, Chief Human Resource Officer, at (405) 521-3977 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 62 O.S. § 34.301, 74 O.S. § 840-1.3, 840-1.6, 840-1.6A, 840-1.7, 840-1.18, 840-1.20, 840-2.9, 840-2.10a, 840-2.13, 840-2.14, 840-2.16, 840-2.17, 840-2.18, 840-2.19, 840-2.20, 840-2.21, 840-2.23, 840-2.25, 840-2.27C, 840-2.27D, 840-4.19, 840-5.3, 840-7.1, 5003.5

New law at: 75 O.S. § 311.2

Helpful statutory reference: 74 O.S. § 20i



## **H.B. 3422**

RE: H.B. 3422

SUBJECT: State government

[House Bill 3422](#) becomes effective July 1, 2022. This bill requires two studies to evaluate the state workforce and state human resource functions beginning in FY 2023.

- Section 2(C): Requires a study examining the compensation for all state positions, including an analysis of the overall state workforce and recommendations for any increase or decrease in specified areas, to be submitted to the Governor, Speaker and Senate Pro Temp by December 31, 2022 and every four years thereafter.
- Section 2(D): Requires a study to examine overall human resources functions throughout the state, including an analysis of how statewide human resources functions can be consolidated and recommendations to do so beginning in fiscal year 2023.
- Section 2(E): Allows the studies to be done by a single vendor and under a single contract.

Should you have any questions related to this bill, please contact Ms. Susan Miller, Chief Human Resource Officer, at (405) 521-3977 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 74 O.S. § 840-2.17, 840-4.6



## H.B. 4080

RE: H.B. 4080

SUBJECT: Public buildings and public works

[House Bill 4080](#) becomes effective November 1, 2022. This bill makes comprehensive revisions to the requirements and procedures regulating the bonding, contracting, construction, maintenance and sale of public buildings and works.

- Section 1: Raises the threshold from \$50,000 to \$100,000 in order for certain requirements to be met on contracts for construction or repair of a public or private building, structure or improvement on real property. For such a contract, it is no longer required that the person receiving the award provide an irrevocable letter of credit for the benefit of the state. Furthermore, whereas the law previously required for contracts not exceeding \$50,000, in lieu of a bond or irrevocable letter of credit, a contractor to provide an affidavit for payments of all indebtedness, this requirement is not removed.
- Section 5: Requires all plans and specifications for new public buildings be submitted to the State Fire Marshal or other authority having jurisdiction before the bidding process.
- Section 14: Eliminates exemption from the Public Competitive Bidding Act of 1974 for contracts between a state agency and a school district for the purpose of emergency asbestos abatement.
- Section 16: Requires public agencies, which includes school districts, seeking bids for a public construction contract to provide notice *electronically* (and by previously established means, including publication in a newspaper) to the public and respective bidders.
- Section 17: Requires bid notices for public construction contracts to contain information needed to submit bids electronically.
- Section 18: Requires complete bidding documents for public construction contracts to be broadly available to the public at least 20 days prior to the date for opening bids, while eliminating the specific requirement to have the documents on file in the awarding public agency's main office.
- Section 20: Prohibits any bid received after the time set for opening bids from being opened or considered by the public agency, eliminating the prohibition that bids submitted within 96 hours prior to bid opening not be considered.

- Section 21: Prohibits electronic bids from being viewable prior to the time listed for opening bid documents. Allows electronic bids to be opened in public in the same way as paper bids or be published on the public agency website at time of bid opening.
- Section 24: Requires the retainage amount for public construction contracts to be lowered to 2.5% from 5% once the awarding agency determines that the project is at least 50% complete.
- Section 27: Allows the Office of Management and Enterprise Services (OMES) Risk Management Administrator to declare an emergency exemption from the Public Competitive Bidding Act of 1974 on behalf of a public agency when an insurable loss has occurred that would lead to more economic loss or additional property damage if not addressed promptly.
- Section 29: Eliminates requirement that OMES create a master plan for the utilization and constriction of state buildings, capital improvements, and utilization of land owned by the State.
- Section 39: Requires OMES to publish notices of land leases and sales of oil/gas mineral leases on a state website in addition to newspaper publication and directs all royalties, bonuses and rental from said leases or sales to be credited to the Maintenance of State Buildings Revolving Fund, rather than the General Revenue Fund.
- Section 51: Repeals requirement that state agencies and governmental bodies purchase of American-made products over foreign-made products with certain exemptions.

NOTE: Only the sections of these bills most relevant to k-12 education are included in this summary with some sections being condensed.

Should you have any questions related to this bill, please contact Mr. Tom Bogdanowicz, Chief of Operations, at (405) 522-2034 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 61 O.S. §§ 1, 4, 6, 11, 12, 60, 61, 62, 62.2, 63, 65, 84, 102, 103.4, 103.7, 104, 105, 106, 107, 109, 110, 112, 113, 113.1, 119.1, 121, 130, 202, 204, 207.2, 208, 208.1, 208.2, 209, 210, 211, 212, 308, 309, 311, 312, 316, 317, 323, 324, 326, 327, 327.1, 330.1,

Repeals: 61 O.S. § 8, 9, 10, 51, 103.8, 203, 315

Helpful statutory reference: 61 O.S. § 101 *et seq.*



## H.B. 4188

RE: H.B. 4188

SUBJECT: State government

[House Bill 4188](#) becomes effective November 1, 2022. This bill modifies the guidelines and processes for expense reimbursement of officials and state employees traveling both in-state and out-of-state on official state business.

- Section 2(C): Requires travel claim reimbursement within the state using a privately-owned vehicle to be based on actual business miles using a global positioning system (GPS) **or** based on map and vicinity business mileage.
- Section 3: Eliminates reimbursement for use of a leased vehicle from a car rental agency or private party.
- Section 4: Requires per diem reimbursement calculations to be based off the calendar day, rather than a 24-hour period, with the first and last days of travel calculated at 75 percent of full-day per diem. Prohibits per diem for periods which do not include overnight status.
- Section 5(D): Prohibits reimbursement for meals and lodging on out-of-state trips from beginning more than one calendar day before the meeting and ending not more than one calendar day after, rather than 24-hours.
- Section 5(E): Prohibits reimbursement for meals and lodging on out-of-country trips from beginning more than two calendar days before the objective of the trip and ending not more than two calendar days after, rather than 48-hours.
- Section 6: Clarifies that reimbursement for state air travel may not exceed the cost of “economy class” air fare.
- Section 6(C): Requires travel claim reimbursement outside the state using a privately-owned vehicle to be computed using a global positioning system (GPS) **or** based on map and vicinity business mileage.
- Section 7: Removes prohibition on travel claims being awarded if the claim filer has benefited from the personal receipt of frequent travel miles unless those miles are used to offset future state travel claims.



- Section 8: Requires the Director of the Office of Management and Enterprise Services (OMES) to prescribe the method, forms or systems for submitting travel reimbursement claims.
- Section 10: Repeals the requirement that all state departments, boards, commissions and institutions make a quarterly review of its travel expenditures during the previous quarter year, and that the head of the agency be authorized to make reductions in the per diem if necessary.

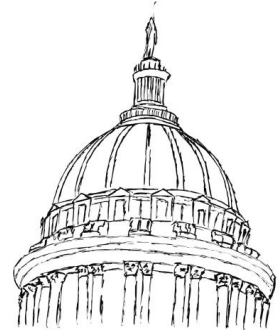
NOTE: Only the sections of the bill pertinent to OSDE operations are included in this summary.

Should you have any questions related to this bill, please contact Ms. Mathangi Shankar, Chief Financial Officer, at (405) 522-0162 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 74 O.S. § 500.2, 500.4, 500.5, 500.8, 500.9, 500.11, 500.15, 500.16, 500.18

Repeals: 74 O.S. § 500.17

Helpful statutory reference: Federal Travel Regulation (FTR) 42 CFR § 300-1.1 *et seq.*



## S.B. 984

RE: S.B. 984

SUBJECT: Contracts for legal representation

[Senate Bill 984](#) becomes effective November 1, 2022. This bill allows state agencies to select a law firm to represent the agency from an approved list compiled by the Attorney General and requires the Attorney General to create a publicly available fee schedule for each approved attorney and firm. It caps contingency fees paid to selected attorneys/firms and establishes additional transparency measures pertaining to legal representation.

- Section 1(B): Requires the Attorney General to develop a schedule of fees for each attorney and law firm desiring to furnish services for an agency or official of the executive branch and make the schedule publicly available.
- Section 1(C): Authorizes an agency or state official to deviate from the Attorney General's approved fee schedule with approval of the Attorney General.
- Section 1 (D): Limits the contracted fee schedule or other representation to the following aggregate contingency fees:
  - 25 percent of any amount recovered that is \$10,000,000 or less;
  - 20 percent of any amount recovered between \$10,000,000 and \$15,000,000;
  - 15 percent of any amount recovered between \$15,000,000 and \$20,000,000;
  - Ten percent of any amount recovered that is between \$20,000,000 and \$25,000,000.00; and
  - Five percent of any amount recovered that is more than \$25,000,000.
- Section 1(E): Cap any contingency fee payment at \$50,000,000 excluding any costs and expenses provided by and incurred under the contract regardless of the number of proceedings or attorneys retained in a given legal matter.
- Section 1(F): Requires the Attorney General to develop a standard clause to be included in every contingency fee contract for attorney services, describing in detail what is expected of both the contracted attorney(s) and the state.
- Section 1(G): Requires copies of contingency fee contracts with private attorneys to be posted on the Attorney General's website within five business days of execution and for the duration of the contract, including any extensions or amendments. Requires payment

of contingency fees to be posted on the Attorney General's website within 15 days and remain posted for at least 365 days.

- Section 1(H): Requires any private attorney or law firm under contract to provide services to the state on a contingency fee basis to maintain detailed current records including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices and other financial transactions related to the attorney services from the inception of the contract and for four years after its expiration or termination. Requires the attorney or firm to maintain detailed contemporaneous time records for the attorneys and paralegals in increments of 1/10 of an hour. Requires all records be available for inspection and copying upon request by the Attorney General.
- Section 1(I): Requires an agency seeking to enter a contract for private legal representation to provide information to the Attorney General on any relationship between the attorney/firm and the agency, the reasons for the contingency fee arrangement, and justification for the selected firm/attorney along with the contract and other required information.
- Section 1(J): Requires the Attorney General, upon approval, to publish the required contract information provided by the agency on the Attorney General's website.
- Section 1(K): Requires an agency **before** contracting for private legal representation for matters that may equal or exceed **\$1,000,000**, to initiate a request for proposal from **at least three** qualified private attorneys or firms, when possible, engaged in providing such services.
- Section 1(K): Requires an agency after contracting for private legal representation for matters that may equal or exceed \$1,000,000 to submit a copy of the contract to the Legislative Oversight Committee overseeing the operations of the Legislative Office of Fiscal Transparency (LOFT) along with a description of the litigation, the reason for not using an attorney of the state, the justification for selecting the contracted attorney/firm, and an estimate of the anticipated duration of the contract.
- Section 1(M): Prohibits a settlement agreement from contemplating the use and destination of recovered funds unless the use and destination complies with the prescribed duty of the Attorney General to transfer recovered state funds to the State Treasury.
- Section 1(N): Requires an agency within ten days of entering a settlement agreement based on a contingency fee contract equal to or greater than \$1,000,000 to present the settlement agreement to the Legislative Oversight Committee.
- Section 1(P): Repeals requirement for the Attorney General to file an annual report with the Legislature regarding agencies contracting with the Attorney General's Office for legal representation.

- Section 1(Q): Authorizes the Governor, Senate Pro Tempore and Speaker to exempt a legal matter from these requirements upon request by an agency or official if deemed to be in the best interest of the state. Requires an exemption to be issued at the discretion of the designated parties, in writing and by unanimous consent, and be submitted to LOFT.
- Section 1(R): Requires the Attorney General to submit an annual report by February 1 to the Governor and Legislature describing the use of contracts with private attorneys or law firms in the preceding calendar year. Requires the report to identify all new contracts and all previously executed contracts that remain current during any part of the calendar year. Requires the report to contain the following information for each contract:
  - The name of the private attorney with whom the agency has contracted including the name of the attorney's law firm;
  - The nature and status of the legal matter;
  - The name of the parties to the legal matter;
  - The amount of any recovery;
  - The amount of any hourly rate; and
  - The amount of any contingency fee paid, if applicable.
- Section 1(S): Exempts from the bill's requirements any agency that invests funds on behalf of its beneficiaries and, as part of its fiduciary duty, retains one or more private attorneys or law firms to pursue individual, derivative or class litigation concerning its investments or assets.
- Section 1(T): Exempts the Oklahoma State Regents for Higher Education and any board of an institution within the State System of Higher Education from the bill's provisions.

Should you have any questions related to this bill, please contact Mr. Brad Clark, General Counsel, at (405) 522-3274 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 74 O.S. § 20i

Helpful statutory reference: 75 O.S. § 250.4



## S.B. 1567

RE: S.B. 1567  
SUBJECT: State use

[Senate Bill 1567](#) becomes effective November 1, 2022. This bill modifies provisions of the State Use Program, including membership of the advisory council, the procurement schedule for qualified organizations, and requires OMES to annually submit a strategic plan for the Program.

- Section 1(A): Modifies the membership of the of the State Use Advisory Council, formerly State Use Committee, under the Office of Management and Enterprise Services (OMES) to include:
  - One member who is a state use provider appointed by the Senate Pro Tempore;
  - One member who is a parent or guardian of an individual with significant disabilities participating in vocational programming with a qualified nonprofit agency appointed by the Speaker of the House;
  - Eliminates the member who is a certified procurement officer from any state agency selected by the State Purchasing Director; and
  - One member who is a contracting officer in the Central Purchasing Division appointed by the State Purchasing Director.
- Section 1(B): Eliminates the positions of Chair and Vice Chair.
- Section 1(D): Requires the Council to meet a minimum of twice per year for the purpose of exchanging ideas to market and improve the State Use Program.
- Section 2: Authorizes the State Purchasing Director to administer and oversee the State Use Program including but not limited to promulgating rules, qualification of participating organizations and contracting for services.
- Section 3: Updates definitions to reflect changes to the name of the Council and outdated language referring to individuals with disabilities.
  - Defines “central nonprofit agency (CNA)” to mean a qualified 501(c)3 nonprofit entity meeting the qualifications in the Request for Procurement (RFP) issued by OMES selected to administer and oversee the State Use Program.

- Defines “procurement schedule” to mean a designated schedule of products and services to procure from qualified participating organizations.
- Section 4: Requires Central Purchasing to designate and distribute a procurement schedule of the products or services provided by persons with significant disabilities or nonprofit agencies employing such persons.
- Section 5: Authorizes the State Purchasing Director to enter or award contracts for products or services to a qualified non-profit organization and assess a contract management fee or levy to be deposited in the State Advisory Council Revolving Fund. Allows funding to be used for annual trainings, professional association memberships, qualified agency operational improvement grants, periodic economic advantage study, and costs incurred in developing the annual state use strategic plan.
- Section 7: Requires Central Purchasing to determine the fair market price of all products and services included in the procurement schedule and to revise prices in response to market conditions.
- Section 8: Authorizes the State Purchasing Director to contract with a CAN for:
  - Management of the day-to-day operations of the program;
  - The facilitation, promotion, and the distribution of orders of the state for products or services on the procurement schedule among qualified nonprofit agencies for people with significant disabilities;
  - Scheduling and conducting annual training sessions;
  - Publishing the approved State Use Procurement schedule;
  - Promotion of the State Use Program; and
  - All other duties assigned by the RFP through OMES.
- Section 9(A): Requires state agencies to procure products and services from the procurement schedule provided the product or service is available within the period required by the agency **and** meets the agency’s specifications.
- Section 9(D): Authorizes any state municipality or county agency to purchase products and services from any organization qualifying to participate in the State Use Program. The qualified organization must be able to meet the needs and specifications for the products or services required by the purchasing body at the fair market price. Exempts such procurements from competitive bidding requirements.

- Section 10(B): Requires Central Purchasing to conduct an annual pricing review for all products and services approved and designated on the procurement schedule for each qualified organization.
- Section 10(C): Allows the State Use contracting officer to grant a requesting agency a temporary exception allowing procurement of a product or service outside of the State Use Program when OMES determines the State Use price for a given item exceeds the current market price.
- Section 11: Requires OMES to promulgate rules for the State Use Program to include:
  - Annual publishing of a catalog listing goods, services and jobs that qualified agencies employing people with significant disabilities can provide the state; and
  - Conducting meetings of the State Use Advisory Council in compliance with the Open Meeting Act.

Requires OMES to transmit a strategic plan for the State Use Program annually to the Legislature and the Governor within 60 days of the close of the fiscal year.

- Section 12: Repeals language duplicated by amendments.

Should you have any questions related to this bill, please contact Mr. Tom Bogdanowicz, Chief of Operations, at (405) 522-2034 or Ms. Carolyn Thompson, Chief of Government Affairs, at (405) 522-3520.

Amendment to: 74 O.S. § 3001, 3003, 3004, 3004.1, 3004.2, 3005, 3006, 3007, 3008, 3009,

Repeals: 74 O.S. § 3010

New law at: 74 O.S. § 3001.1

Helpful statutory reference: 61 O.S. § 101 *Et seq.*