House Engrossed

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 1

HOUSE BILL 2661

AN ACT

AMENDING TITLE 35, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-124; AMENDING TITLE 38, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-618.01; AMENDING SECTIONS 38-619 AND 41-771, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS FOR STATE EMPLOYEE SALARY ADJUSTMENTS; RELATING TO STATE EMPLOYEE COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Legislative intent

It is the intent of the legislature that state employees be granted a pay increase averaging 6.3 per cent of salary consisting of an increase in salary and pay for performance.

Sec. 2. Title 35, chapter 1, article 2, Arizona Revised Statutes, is amended by adding section 35-124, to read:

35-124. Performance pay component; identification

ANY PERFORMANCE PAY THAT IS AUTHORIZED BY THE LEGISLATURE SHALL BE SEPARATELY STATED ON EACH EMPLOYEE'S PAYCHECK RECEIPT AS PERFORMANCE PAY.

Sec. 3. Title 38, chapter 4, article 1, Arizona Revised Statutes, is amended by adding section 38-618.01, to read:

38-618.01. Performance pay for state employees; applicability; definition

A. ALL STATE AGENCIES, DEPARTMENTS, BOARDS AND COMMISSIONS SHALL FOLLOW THE PROCEDURES PRESCRIBED BY THIS SECTION.

B. THE LEGISLATURE MAY AUTHORIZE IN THE GENERAL APPROPRIATIONS ACT A PERCENTAGE INCREASE FOR PERFORMANCE PAY FOR EACH EMPLOYEE IN A GOVERNMENTAL UNIT IF THE GOVERNMENTAL UNIT MEETS OR EXCEEDS PRESCRIBED PERFORMANCE MEASURES.

C. EACH GOVERNMENTAL UNIT SHALL ESTABLISH OR REVISE A LIST OF REASONABLE PERFORMANCE MEASURES THAT ARE DESIGNED TO RESULT IN COST REDUCTION, INCREASED PRODUCTIVITY AND IMPROVED QUALITY OF THE DELIVERY OF STATE SERVICES OR PRODUCTS. THE PERFORMANCE MEASURES SHALL INCLUDE A MEASUREMENT OF THE QUALITY OF SERVICE TO CITIZENS AND OTHER STATE AGENCIES AND EMPLOYEES AS MEASURED BY THE DEGREE OF EXCELLENCE IN PROVIDING THE SERVICE AND MEASUREMENTS OF THE QUALITY OF OPERATIONS AND UNIT COST OF OPERATIONS TO THE EXTENT PRACTICABLE AND APPLICABLE. THE HEAD OF EACH GOVERNMENTAL UNIT SHALL EITHER APPLY THESE PERFORMANCE MEASURES TO THE ENTIRE GOVERNMENTAL UNIT OR APPLY RELEVANT PERFORMANCE MEASURES TO SUBSETS WITHIN THE GOVERNMENTAL UNIT EITHER ON A DEPARTMENT, DIVISION, GROUP, UNIT OR INDIVIDUAL BASIS.

D. EVERY MONTH OR EVERY QUARTER, AT THE DISCRETION OF THE GOVERNMENTAL UNIT, THE GOVERNMENTAL UNIT SHALL REVIEW THE UNIT'S PERFORMANCE AND DETERMINE IF THE PERFORMANCE MEASURES WERE MET. IF THE PERFORMANCE MEASURES ARE MET OR EXCEEDED, THE APPLICABLE EMPLOYEES ARE ENTITLED TO RECEIVE THE PERFORMANCE PAY NO LATER THAN THE END OF EACH MONTH OR THE END OF EACH QUARTER, IF APPLICABLE. IF THE PERFORMANCE MEASURES ARE NOT MET, THE APPLICABLE EMPLOYEE IS NOT ENTITLED TO RECEIVE PERFORMANCE PAY AND MONIES THAT WERE APPROPRIATED FOR PERFORMANCE PAY REVERT TO THE APPROPRIATE STATE FUND. EACH GOVERNMENTAL UNIT SHALL ANNUALLY INFORM THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING AND THE JOINT LEGISLATIVE BUDGET COMMITTEE OF THE RESULTS OF EACH REVIEW OF THE UNIT'S PERFORMANCE.

E. IF THE HEAD OF THE GOVERNMENTAL UNIT APPLIES THE PERFORMANCE MEASURES TO THE ENTIRE GOVERNMENTAL UNIT, ALL EMPLOYEES OF THE GOVERNMENTAL

UNIT ARE ENTITLED TO RECEIVE THE PERFORMANCE PAY IF THE GOVERNMENTAL UNIT MEETS OR EXCEEDS THE GOVERNMENTAL UNIT'S PERFORMANCE MEASURES. IF THE HEAD OF THE GOVERNMENTAL UNIT APPLIES PERFORMANCE MEASURES TO SUBSETS WITHIN THE GOVERNMENTAL UNIT, ALL EMPLOYEES WITHIN THE SUBSET ARE ENTITLED TO RECEIVE THE PERFORMANCE PAY IF THE SUBSET MEETS OR EXCEEDS THAT SUBSET'S PERFORMANCE MEASURES.

F. THE HEAD OF THE GOVERNMENTAL UNIT SHALL FORWARD A COPY OF THE PERFORMANCE MEASURES ESTABLISHED BY THE UNIT TO THE PERFORMANCE BASED INCENTIVES PROGRAM OVERSIGHT COMMITTEE ESTABLISHED BY SECTION 38-619 AND SHALL NOTIFY THE COMMITTEE AS TO THE RESULTS OF ACHIEVING THE PERFORMANCE MEASURES.

G. EACH GOVERNMENTAL UNIT SHALL ANNUALLY CONDUCT A SURVEY OF THE UNIT'S EMPLOYEES ENSURING THAT A SIGNIFICANT SAMPLE OF EMPLOYEES PARTICIPATES. THE SURVEY SHALL ALLOW THE EMPLOYEES TO RATE THE WORKPLACE AS OUTSTANDING, EXCELLENT, GOOD, SATISFACTORY OR POOR. THE SURVEY SHALL PROVIDE A COMMENT SECTION WHERE EMPLOYEES CAN COMMUNICATE WHAT THE GOVERNMENTAL UNIT DOES WELL, AREAS WHERE THE GOVERNMENTAL UNIT CAN IMPROVE AND SUGGESTIONS TO IMPROVE THE GOVERNMENTAL UNIT. THE GOVERNMENTAL UNIT SHALL COMPILE THE DATA OBTAINED PURSUANT TO THIS SUBSECTION AND FORWARD A COPY OF THE COMPILED DATA TO THE PERFORMANCE BASED INCENTIVES PROGRAM OVERSIGHT COMMITTEE AND ON REQUEST MAKE A COPY OF THE COMPILED DATA AVAILABLE TO THE PUBLIC.

H. THIS SECTION DOES NOT APPLY TO:

1. EMPLOYEES WHO ARE APPOINTED OR EMPLOYED BY THE LEGISLATURE OR EITHER HOUSE OF THE LEGISLATURE.

2. EMPLOYEES OF THE GOVERNOR'S OFFICE.

3. EMPLOYEES OF THE JUDICIARY UNLESS THE CHIEF JUSTICE OF THE SUPREME COURT ELECTS TO PARTICIPATE IN THIS SECTION.

4. EMPLOYEES OF THE ARIZONA BOARD OF REGENTS AND EMPLOYEES OF A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

I. FOR THE PURPOSES OF THIS SECTION, "GOVERNMENTAL UNIT" MEANS ALL AGENCIES, DEPARTMENTS, BOARDS AND COMMISSIONS OF THIS STATE.

Sec. 4. Section 38-619, Arizona Revised Statutes, is amended to read:

38-619. <u>Performance based incentives program oversight committee; definition</u>

A. A performance based incentives program oversight committee is established consisting of:

1. The director of the department of administration or the director's designee.

2. The executive director of the Arizona board of regents or the executive director's designee.

3. Two members of the senate who are appointed by the president of the senate. The appointees shall be members of different political parties. One of these appointees shall be designated to cochair the committee.

4. Two members of the house of representatives who are appointed by the speaker of the house of representatives. The appointees shall be members

of different political parties. One of these appointees shall be designated to cochair the committee.

5. An agency director who is appointed by the governor.

6. A representative from the governor's office of equal opportunity who is appointed by the governor.

7. Two public members who have expertise in compensation analysis. The speaker of the house of representatives shall appoint one of these members, and the president of the senate shall appoint one of these members.

B. The committee shall:

1. Develop and adopt guidelines for a state employee performance based incentives program. The guidelines shall include agency or university goals that result in cost reduction, increased productivity and improved quality of the delivery of state services or products.

2. Identify incentives and available resources to provide incentives, such as vacancy savings achieved in each state agency and state university.

3. Coordinate with state agencies and universities participating in the ongoing performance based incentives program to evaluate the success of the program.

4. Review agency and university requests to participate in a pilot incentive program or an established performance based incentive program and make recommendations on those requests to the director of the department of administration or the executive director of the Arizona board of regents.

5. REVIEW PERFORMANCE MEASURES ESTABLISHED PURSUANT TO SECTION 38-618.01 FOR REASONABLENESS AND MONITOR THE EFFECTIVENESS OF THE GOVERNMENTAL UNITS IN MEETING THESE PERFORMANCE MEASURES.

C. The committee may recommend that the director of the department of administration or the executive director of the Arizona board of regents place an approved program on probationary status or terminate an approved program for failing to meet approved goals and objectives.

D. FOR THE PURPOSES OF THIS SECTION, "GOVERNMENTAL UNIT" MEANS ALL AGENCIES, DEPARTMENTS, BOARDS AND COMMISSIONS OF THIS STATE.

Sec. 5. Section 41-771, Arizona Revised Statutes, is amended to read:

41-771. Exemptions

A. This article and article 6 of this chapter do not apply to:

1. Elected state officers.

2. State officers and members of boards and commissions WHO ARE appointed by the legislature or the governor, the employees of the governor's office, the employees of the Arizona legislative council~~,~~ and the employees of the supreme court and the court of appeals.

3. State officers and employees WHO ARE appointed or employed by the legislature or either house ~~thereof~~ OF THE LEGISLATURE.

4. The curator, curatorial aides and tour guides and any other person WHO IS employed to work in the state capitol museum.

5. Officers or employees of state universities and personnel of the Arizona state ~~school~~ SCHOOLS for the deaf and the blind.

6. Patients or inmates WHO ARE employed in state institutions.

7. Officers and enlisted personnel of the national guard of Arizona.

8. The single administrative or executive director and one deputy director of each state department or agency.

9. Not more than two assistants who serve in the office of an elected state officer, ~~where~~ IF that elected state officer is the sole elected head of the department.

10. One administrative assistant who serves a board or commission elected to head a state agency, department or division, and one assistant for each elected member of such A board or commission.

11. Persons ~~reporting~~ WHO REPORT directly to the governor.

12. Employees of the department of emergency and military affairs who occupy Arizona national guard positions identified as mobilization assets.

~~13. EXCEPT AS OTHERWISE REQUIRED BY FEDERAL LAW AND EXCEPT FOR CERTIFIED PEACE OFFICERS AS DEFINED IN SECTION 38-842, CORRECTIONAL OFFICERS AND JUVENILE CORRECTIONAL OFFICERS, STATE OFFICERS AND EMPLOYEES WHO ARE APPOINTED OR EMPLOYED AFTER DECEMBER 31, 2006 AND WHO ARE AT A PAY GRADE OF TWENTY-FOUR OR ABOVE.~~

VETO

~~13.~~ 14. Any other position exempted by law.

B. Except for section 41-772, subsections D, E and F, this article and article 6 of this chapter do not apply to those positions determined by the director to meet any of the following criteria:

1. Top level positions in a department or agency that determine and publicly advocate substantive program policy. This includes those persons WHO ARE engaged in the direction of line operations if they report directly to the director or deputy director of the agency and in large ~~multi-program~~ MULTIPROGRAM agencies those persons who report directly to the head of a primary component of the department or agency.

2. Those persons who are required to maintain a direct confidential working relationship with an exempt official.

3. Persons who provide legal counsel.

4. Positions that are part time.

5. Positions that are temporary~~,~~ AND THAT ARE established for the purpose of conducting a special project, study or investigation.

6. Positions that are essentially for rehabilitation purposes.

7. Positions that are determined by the director to be directly or indirectly engaged in establishing policy or enforcement standards.

8. Directors of all institutions ~~which~~ THAT maintain supervision or care on a twenty-four hour per day basis other than halfway houses or group homes.

1 Sec. 6. Appropriations; state employee salary adjustments

	2005-06	2006-07
Salary adjustments	$51,738,300	$169,079,000
Fund sources:		
State general fund	$39,854,000	$130,241,800
Other appropriated funds	$11,884,300	$ 38,837,200

The other appropriated funds may be allocated from the following funds: board of accountancy fund, acupuncture board of examiners fund, air permits administration fund, air quality fund, antitrust enforcement revolving fund, board of appraisal fund, Arizona arts trust fund, Arizona benefits fund, Arizona health care cost containment system donations fund, Arizona medical board fund, Arizona protected native plant fund, automation operations fund, Arizona automated fingerprint identification system fund, automobile theft authority fund, state aviation fund, board of barbers fund, board of behavioral health examiners fund, bond fund, budget neutrality compliance fund, capital outlay stabilization fund, child abuse prevention fund, child fatality review fund, child support enforcement administration fund, children's health insurance program fund, board of chiropractic examiners fund, citrus, fruit and vegetable revolving fund, collection enforcement revolving fund, commerce and economic development commission fund, commercial feed fund, confidential intermediary and fiduciary fund, agricultural consulting and training fund, consumer protection-consumer fraud revolving fund, corrections fund, board of cosmetology fund, crime laboratory assessment fund, criminal justice enhancement fund, county fair racing fund, court appointed special advocate fund, defensive driving school fund, dental board fund, Arizona deoxyribonucleic acid identification system fund, board of dispensing opticians fund, drug and gang prevention resource center fund, state education fund for committed youth, state education fund for correctional education, state egg inspection fund, emergency medical services operating fund, emissions inspection fund, environmental laboratory licensure revolving fund, environmental special plate fund, estate and unclaimed property fund, Arizona exposition and state fair fund, federal child care and development fund block grant, federal surplus materials revolving fund, federal temporary assistance for needy families block grant, fertilizer materials fund, board of fingerprinting fund, board of funeral directors' and embalmers' fund, fingerprint clearance card fund, game and fish fund, game, nongame, fish and endangered species fund, hazardous waste management fund, state highway fund, Arizona highway patrol fund, highway user revenue fund, board of homeopathic medical examiners fund, housing trust fund, DHS indirect cost fund, ADEQ indirect cost fund, industrial commission administrative fund, information technology fund, interagency service agreements fund, intergovernmental agreements and grants, investment management regulatory and enforcement fund, judicial collection enhancement fund, land conservation fund interest, lease-purchase building operating and maintenance fund, liability set-off fund, long-term care system fund, long-term disability

1 administration account, state lottery fund, board of medical examiners fund,
2 the miners' hospital for disabled miners land fund, motor vehicle liability
3 insurance enforcement fund, motor vehicle pool revolving fund, naturopathic
4 physicians board of medical examiners fund, newborn screening program fund,
5 board of nursing fund, nursing care institution administrators' licensing and
6 assisted living facility managers' certification fund, occupational therapy
7 fund, oil overcharge fund, board of optometry fund, board of osteopathic
8 examiners fund, state parks enhancement fund, penitentiary land fund,
9 personnel division fund, pesticide fund, Arizona state board of pharmacy
10 fund, board of physical therapy fund, podiatry fund, postsecondary education
11 fund, board for private postsecondary education fund, proposition 301 fund,
12 Arizona protected native plant fund, board of psychologist examiners fund,
13 public access fund, public assistance collections fund, racing administration
14 fund, state radiologic technologist certification fund, records services
15 fund, recycling fund, registrar of contractors fund, reservation surcharge
16 revolving fund, residential utility consumer office revolving fund, board of
17 respiratory care examiners fund, state retirement system administration
18 account, risk management revolving fund, safety enforcement and
19 transportation infrastructure fund, Arizona schools for the deaf and the
20 blind fund, securities regulatory and enforcement fund, seed law fund, solid
21 waste fee fund, special administration fund, special employee health
22 insurance trust fund, special services revolving fund, spinal and head
23 injuries trust fund, state aid to the courts fund, Arizona state hospital
24 fund, state board of equalization fund, state surplus materials revolving
25 fund, structural pest control commission fund, substance abuse services fund,
26 teacher certification fund, technical registration fund, telecommunications
27 fund, telecommunication fund for the deaf, telecommunications excise tax
28 fund, tobacco tax and health care fund, transportation department equipment
29 fund, tribal-state compact fund, tourism fund, used oil fund, utility
30 regulation revolving fund, vehicle inspection and title enforcement fund,
31 state veterans' conservatorship fund, state home for veterans' trust fund,
32 veterinary medical examining board fund, victims' rights fund, vital records
33 electronic systems fund, watercraft licensing fund, waterfowl conservation
34 fund, water quality fee fund, and workforce investment act grant.
35 Salary adjustments
36 The salary adjustments include personal services and employee related
37 expenditures for state officers and employees in accordance with this act.
38 Before March 11, 2006, the joint legislative budget committee staff
39 shall determine an amount sufficient to increase the average statewide salary
40 level by 6.3 per cent. Beginning March 11, 2006, state employee salaries
41 shall be adjusted as follows:
42 1. 2.5 per cent of salary, which shall be designated as performance
43 pay and subject to section 38-618.01, Arizona Revised Statutes, as added by
44 this act or for those employees who are not subject to the performance pay
45 provisions of section 38-618.01, Arizona Revised Statutes, as added by this

act, the salary adjustments shall be in accordance with the department's or agency's compensation plan.

2. An increase in salary of $1,650.00 for all state employees.

The increases shall apply to less than full-time employees on a prorated basis.

The joint legislative budget committee staff shall determine and the department of administration shall allocate to each agency or department an amount sufficient to increase the salary level of each employee pursuant to this section.

The joint legislative budget committee staff shall also determine and the department of administration shall allocate adjustments, as necessary, in total expenditure authority to allow implementation of the salary adjustments.

Board and commission members who are paid on a per diem basis and agency heads who are appointed for a fixed term of office are not entitled to receive the salary adjustment prescribed by this section.

Sec. 7. Applicability of performance measure reviews and performance pay

Notwithstanding section 38-618.01, Arizona Revised Statutes, as added by this act, a governmental unit has until December 31, 2006 to establish their performance measures. Once the performance measures have been established, each governmental unit shall begin reviewing the unit's performance against the performance measures, but the review shall not affect the performance pay granted by this act. From and after April 29, 2007, each governmental unit shall begin reviewing their performance against their performance measures and the performance pay granted by this act shall be at risk as prescribed by section 38-618.01, Arizona Revised Statutes, as added by this act.

Sec. 8. Applicability; retroactivity

Notwithstanding section 9 of this act, if this act does not receive the two-thirds vote necessary for emergency enactment, salary increases for fiscal year 2005-2006 shall not be implemented and the salary increases for fiscal year 2006-2007 are effective retroactively to July 1, 2006.

Sec. 9. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR JANUARY 30, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JANUARY 30, 2006.