House Engrossed

FILED
JANICE K. BREWER
SECRETARY OF STATE

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

CHAPTER 11

HOUSE BILL 2231

AN ACT

AMENDING SECTION 41-783, ARIZONA REVISED STATUTES; RELATING TO STATE PERSONNEL RULES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 41-783, Arizona Revised Statutes, is amended to read:

41-783. Personnel rules

The personnel rules shall provide for:

1. A position classification plan for all positions in the state service.

2. Competitive examinations to test the relative qualifications of applicants for positions in state service. All competitive examinations shall be given statewide. For THE purposes of this paragraph, "statewide" means that a competitive examination shall be given in an office of the department of economic security in each city or town of the state in which such office is located, unless the director designates another location within such city or town.

3. Evaluation of performance of employees for the purpose of improving staff effectiveness.

4. Promotions or transfers between classes that give appropriate consideration to the applicant's qualifications, record of performance and conduct.

5. Establishment of eligibility lists for appointment and promotion, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in their respective examinations.

6. Rejection of candidates for appointment or promotion who fail to fulfill reasonable requirements.

7. Delivery of a list of qualified applicants to any state agency requiring it. The state agency may select and hire an employee from this list.

8. A minimum period of original probationary service following initial appointment. During a period of original probationary service, the probationary employee shall perform the actual duties of the position and may be discharged without cause. A period of promotional probation service shall be established by the director.

9. A reasonable period of provisional employment without competitive examination if there is no eligibility list available for the position.

10. Emergency appointments for not more than thirty days with or without examination as provided by the rules.

11. Temporary appointments to positions that occur, terminate and recur periodically regardless of the duration of the position.

12. Transfer from a position in one department to a similar position in another department involving similar qualifications, duties, responsibilities and salary ranges.

13. Reinstatement to an eligibility list of previous employees who have resigned in good standing or who were separated from their positions without fault on their part.

14. Reduction in force by reason of lack of funds or work, abolition of a position or material change in duties or organization, and for reemployment of employees separated by reduction in force as provided in section 41-763.04.

15. The circumstances under which an employee may be suspended without pay.

16. Establishment of a plan for resolving employee grievances and complaints and in cases of alleged discrimination for referral to the appropriate agency if an employee is not otherwise satisfied with the final grievance resolution.

17. Attendance, including hours of employment, annual leave, sick leave and special leaves of absence, with or without pay or with reduced pay. Rules on hours of employment shall provide for the implementation of flexible hours of employment as an option for employees if the director of an employing agency decides, in the director's discretion, that existing services can be maintained. Rules shall provide:

(a) For the transfer of accumulated annual leave from one employee to another employee in the same agency and for transfer of accumulated annual leave from one employee to another employee in another agency if the employees are members of the same family. Such transfers may occur if the employee to whom the leave is transferred has a seriously incapacitating and extended illness or injury OR A SERIOUSLY INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY PREGNANCY OR CHILDBIRTH or a member of the employee's immediate family has a seriously incapacitating and extended illness or injury OR A SERIOUSLY INCAPACITATING AND EXTENDED DISABILITY THAT IS CAUSED BY PREGNANCY OR CHILDBIRTH and the employee has exhausted all available leave balances. Transferred annual leave shall be increased or reduced proportionally by the difference in the salaries of the employees as determined by department rule. For the ~~purpose~~ PURPOSES of this subdivision, "family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew or niece.

(b) That an employee who receives transferred annual leave as provided in subdivision (a) of this paragraph is limited to using six consecutive months of transferred leave per occurrence unless the employee has applied for long-term disability insurance as provided by rule.

(c) That if a permanent status employee is unable to work due to a non-job related, seriously incapacitating and extended illness or injury, as certified by a physician of the employee subject to confirmation by a physician chosen by the agency, and the employee has exhausted all leave balances and any leave transferred pursuant to subdivision (a) of this paragraph, the employee shall be placed on leave without pay status for up to one hundred eighty days or until able to return to work, whichever is sooner.

18. Development of policies and procedures for the employment of qualified disabled job applicants.

19. Establishment of a clerical pool in any locality where the demand for temporary clerical help warrants.

20. Leaves of absence to allow employees in state service to accept appointment to nonelective positions in state employment that are exempt from the terms of this article and article 5 of this chapter.

21. The adoption of special rules applicable solely to special classes of employees whose duties, as determined by the director, justify the adoption of rules applicable only to a specific class of employees.

22. The establishment of standards of ethical conduct for employees.

23. Reasonable public notice to be given of the examinations for a position and the examination dates.

24. Authorization to publish and make available to all employees a handbook outlining pertinent rules.

25. A determination as to which positions in state employment shall qualify the employee to receive overtime pay. In making this determination the director shall consider all employees who are covered under the fair labor standards act of 1938 (52 Stat. 1060; 29 United States Code sections 201 through 219), as amended and interpreted, and shall exclude all employees who meet exemption requirements as defined in such act, as amended and interpreted. No overtime or compensatory time may be granted to the following positions and persons:

(a) All elected positions.

(b) All positions which are appointed pursuant to section 38-211.

(c) All professional positions as defined by the director.

(d) Persons whose primary duty is to manage the state agency or state agency subdivisions, and:

(i) Who use discretionary powers.

(ii) Who direct the work of at least two other employees.

(iii) Who have the authority to hire and fire.

26. Compensatory time off for employees, except those employees in positions prescribed in paragraph 25 of this section.

27. Approving overtime pay for positions eligible for compensatory time off pursuant to paragraph 26 of this section because their primary duty is management when either of the following criteria is met:

(a) The practice is determined by the director to be a prevailing condition in the Arizona labor market and when pay differentials between subordinates and supervisors are reduced by overtime pay received by the nonexempt subordinates to the extent that it is no longer an incentive to remain in the supervisory position.

(b) When temporary emergency conditions arise that make it more practical to pay overtime than to grant compensatory leave.

28. Establishment of a plan for the impartial review of complaints.

APPROVED BY THE GOVERNOR MARCH 24, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2006.