

## State Personnel System

### 1     **The proposed amendment to the Colorado Constitution:**

- 2             ♦       exempts about 140 additional state employees from the state civil service  
3                     system, also known as the state personnel system;
- 4             ♦       changes testing and hiring procedures for filling vacancies in the state  
5                     personnel system;
- 6             ♦       transfers certain oversight responsibilities from the State Personnel Board  
7                     to the Executive Director of the Department of Personnel and  
8                     Administration;
- 9             ♦       authorizes the legislature to change certain state personnel policies and  
10                    procedures by law; and
- 11            ♦       expands veterans' preferences to include members of the National Guard.

### 12    **Background**

13            *What is the state personnel system?* The state personnel system was adopted by  
14    Colorado voters in 1918 to require that state employees be competent and to limit the  
15    influence of political connections in awarding state jobs and promotions. The personnel  
16    system is defined in the state constitution. This proposal makes a number of changes to the  
17    constitution and in certain instances gives the legislature the authority to change the  
18    personnel system.

19            Currently, there are about 31,000 state employees in the state personnel system.  
20    Most are employees of the state's 19 principal departments, and some are employees of  
21    state higher education institutions. About 29,000 additional state employees are exempt  
22    from the state personnel system, including heads of principal departments, faculty of public  
23    universities, and employees of the legislature, the Governor's Office, and the state courts.  
24    This proposal exempts an additional 0.45 percent of the total number of employees in the  
25    state personnel system, or about 140 senior state officers and their support staff. Table 1  
26    shows the personnel system employment requirements under current law and this proposal.

**Table 1: Current and Proposed State Personnel System**

Issue	The Current Personnel System:	The Proposed Personnel System:
Hiring and Promotions	Prohibits discrimination based on race, religion, and political affiliation.	Adds prohibitions on discrimination based on sex and age, unless otherwise permitted by law.
Residency	Requires state employees to reside in Colorado.	Allows the legislature to make exceptions to the Colorado residency requirement, provided employees are United States' residents.
Discipline	Sets criteria for disciplining an employee in the constitution.	Allows the legislature to address certain disciplinary policies in law.
Temporary Employees	Limits temporary employment to six months.	Limits temporary employment to nine months in any 12-month period.

***How is the state personnel system governed?*** The five-member State Personnel Board sets the policy for the state personnel system and the Executive Director of the Department of Personnel and Administration takes care of day-to-day operations. Table 2 describes the current duties of the board and the executive director and the proposed changes.

**Table 2: Oversight of State Personnel System**

Issue	The Current Personnel System:	The Proposed Personnel System:
Board Membership	Limits members' terms to five years. Prohibits state employees from serving on the board.	Limits members' terms to two five-year terms. Allows state employees to serve on the board.
Board Duties	Requires the board to make rules governing the state personnel system and hear appeals from job applicants and employees concerning discipline and other issues.	Transfers the board's rule-making authority over hiring, job classifications, compensation, performance standards, and voluntary separations to the executive director. Retains the board's powers over grievances, discipline, involuntary separations, and appeals. Allows the legislature to transfer duties between the board and executive director.
Executive Director Duties	Administers the state personnel system and approves temporary employment of up to six months.	Expands the duties to include rule-making over hiring, job classifications, salaries, performance standards, and voluntary departures.

***How are job applicants hired?*** Current law identifies how employees are hired and promoted. Table 3 describes current law pertaining to testing and hiring procedures and the proposed changes.

**Table 3: Hiring of State Personnel System Employees**

Issue	The Current Personnel System:	The Proposed Personnel System:
Testing	Requires employers to hire applicants for jobs in the state personnel system based on competitive testing.	Requires employers to hire job applicants based on a comparison of qualifications, as determined by the legislature.
Interview Eligibility List	Limits the eligibility list to the three highest scoring applicants.	Increases the eligibility list to six applicants.
Veterans' Preference	Adds preference points to the passing test scores of veterans who served during war time.	Extends the preference to National Guard veterans who served during war time.

***How will this proposal be implemented?*** During the 2004 legislative session, a state law was passed that defines procedures and sets limits on issues addressed in this proposal. Most of the law will not go into effect if this proposal is rejected. Among other provisions, the bill prohibits more than 15 exempt officers and employees in any department and changes the laws regulating private contracts. Table 4 shows the current limits on such contracts and the new requirements.

**Table 4: Private Contracts**

Issue	The Current Personnel System:	House Bill 04-1373:
Private Contracts	Permits contracting only for state government functions not traditionally performed by employees in the state personnel system. Prohibits contracts that eliminate a position within the state personnel system.	Repeals current law pertaining to contracts. Allows contracts for all state government functions as long as national security is not compromised. Allows positions to be eliminated as long as employees are moved to new positions.
Contract Administration	Requires approval by the Department of Personnel and Administration Executive Director.	Requires approval by a principal department executive director.
Foreign Contractors	Not addressed in law.	Permits if the contract maintains quality of service, protects privacy, and discloses work performed outside the United States.

1     **Arguments For**

2             1) This proposal allows the Governor to select about 140 more trusted individuals  
3     to carry out the administration's policies. The state personnel system has grown from about  
4     2,000 employees in 1920 to over 31,000 in 2004. However, the Governor's ability to  
5     appoint high-level state administrators has not changed. With this proposal, future  
6     governors will be able to get off to a quick start on their policy initiatives because political  
7     personnel from past administrations can now be easily removed.

8             2) Taxpayer money should be used to hire the best candidate for a job. The current  
9     personnel system favors people who are the best test takers, not necessarily the most  
10    qualified candidates. Expanding the pool of eligible candidates also helps ensure that the  
11    best candidate is hired.

12            3) The constitution needs to be updated to allow the state's workforce to keep pace  
13    with the work environment of the 21<sup>st</sup> Century. The state personnel system has not changed  
14    significantly in the past 85 years. This proposal increases the flexibility of the personnel  
15    system by eliminating unnecessary detail from the constitution and allowing the legislature  
16    to adjust the system to respond to changing circumstances. Requiring a vote of the people  
17    every time an aspect of the system becomes outdated or unworkable is inefficient.

18            4) The state will better spend taxpayer money if it can hire the best employees and  
19    use more private contracts. This proposal allows this to occur, resulting in an efficient  
20    personnel system that provides a high quality workforce. Further, all state contracts will  
21    continue to be subject to current purchasing, financial, and other disclosure requirements.  
22    These requirements protect the new system against political favors.

23    **Arguments Against**

24            1) This proposal gives the Governor and political appointees too much power to  
25    control state government. Not only will the Governor be given about 140 additional  
26    appointments, doubling the current number, but the Executive Director of the Department  
27    of Personnel and Administration, who is appointed by the Governor, will now have  
28    rule-making authority over the personnel system. These two changes combined make state  
29    government vulnerable to abuse.

30            2) Comparing applicant qualifications, rather than testing, could be manipulated to  
31    allow state employees to be hired based on their political connections and not on merit.  
32    Testing candidates to determine the best candidate for a job is the most efficient and fair  
33    way to hire employees.

34            3) Weakening current contracting laws could shift jobs out of Colorado to other  
35    states and countries. Also, there is no guarantee that unregulated contract workers will  
36    provide services to the state in the most cost-effective manner. State contracts awarded by  
37    political appointees may lead to abuses if contracts are used as political favors.

1           4) More political appointees in management positions may not lead to better state  
2 government. Instead, institutional memory and knowledge will be lost as senior personnel  
3 system employees are displaced by political appointees who may not have the necessary  
4 skills to perform the job.

5       **Estimate of Fiscal Impact**

6           This proposal is not expected to significantly increase state or local expenditures.