

State Personnel System

1 The proposed amendment to the Colorado Constitution:

- 2 ♦ exempts about 140 additional state employees from the state civil
3 service 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
7 Board to the Executive Director of the Department of Personnel and
8 Administration;
- 9 ♦ authorizes the legislature to change some state personnel policies and
10 procedures by law; and
- 11 ♦ expands veterans' preferences to include members of the National
12 Guard.

13 Background

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

20 Currently, there are about 31,000 state employees in the state personnel system.
21 Most are employees of the state's 19 principal departments, and some are employees of
22 state higher education institutions. About 29,000 additional state employees are exempt
23 from the state personnel system including employees of the legislature, the Governor's
24 Office, and the state courts, faculty of public universities, members of state boards and
25 commissions, and heads of principal departments. This proposal exempts an additional
26 one-half percent of the total number of employees in the state personnel system, or about
27 140 senior state officers, including their support staff. Table 1 shows the personnel system
28 employment requirements of current law and this proposal.

Table 1. Current and Proposed State Personnel System

Issue	Current Personnel System	Proposed Personnel System
Hiring and Promotions	Prohibits discrimination based on race, religion, and political affiliation.	Also prohibits discrimination based on sex and age, unless otherwise permitted by law.
Residency	State employees must reside in Colorado.	Requires employees to be United States' residents. Allows the legislature to make exceptions to the residency requirement.
Discipline	The constitution identifies the criteria for disciplining an employee.	Allows the legislature to address disciplinary policies in law.
Temporary Employees	Temporary employees are limited to six months.	Temporary employees are limited 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 executive director and the proposed changes.

Table 2. Oversight of State Personnel System

Issue	Current Personnel System	Proposed Personnel System
Board Membership	Members serve five-year terms. State employees may not serve on the board.	Members are limited to two, five-year terms and state employees may serve on the board.
Board Duties	The board makes rules governing the state personnel system and hears disciplinary appeals from employees and job applicants.	Transfers the board's rule-making authority regarding state personnel system governance to the executive director. 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	Current Personnel System	Proposed Personnel System
Testing	State personnel job applicants prove ability through competitive testing.	Job applicants prove ability through 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	Preference points are added 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 the proposal. Most of this bill will not go into effect if the proposal is rejected. Among other provisions, the bill prohibits more than 15 exempt officers and employees in a 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	Current Personnel System	House Bill 04-1373
Private Contracts	Allowed only for state government functions performed by exempt employees. Contracts may not eliminate a position within the state personnel system.	Repeals current law. Allowed for all state government functions as long as national security is not compromised. Positions may be eliminated as long as employees are relocated.
Contract Administration	Approved by the Department of Personnel and Administration Executive Director.	Approved by a principal department executive director.
Foreign Contractors	Not addressed in law.	Allowed 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 a Governor to appoint about 140 employees that he or she
3 trusts to carry out the administration's policies. The state personnel system has not changed
4 significantly in the past 85 years. The state workforce has grown from about 2,000
5 employees in 1916 to over 31,000 state personnel employees in 2004. However, the
6 Governor's ability to appoint high-level state administrators has not changed. With this
7 proposal, future governors will be able to get off to a quick start on their policy initiatives
8 because political personnel from past administrations can now be easily removed.

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

13 3) The constitution needs to be updated to allow the state's workforce to keep pace
14 with the work environment of the 21st Century. The state will better spend taxpayer
15 money if it can hire the best employees and use more private contracts. This proposal will
16 allow these changes to occur, resulting in an efficient personnel system that provides a
17 high quality workforce.

18 Arguments Against

19 1) This proposal gives the Governor too much power. Not only will the Governor
20 be given about 140 additional political appointments, but the Executive Director of the
21 Department of Personnel and Administration, who is appointed by the Governor, will now
22 have rule-making authority over the personnel system. These two changes combined
23 make state government vulnerable to abuse. Political appointees who previously worked
24 for industries they now regulate may be less willing to act in the public interest.

25 2) Comparative assessments of qualifications, rather than tests, could easily be
26 manipulated to allow state employees to be hired based on their political connections and
27 not on merit. Testing candidates to determine the best candidate for a job is the most
28 efficient and fair way to hire employees.

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

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

1 Estimate of Fiscal Impact

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