

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 ♦ allows the legislature to change certain state personnel policies and
10 procedures by law; and
- 11 ♦ expands veterans' hiring preferences to include members of the National
12 Guard.

13 **Background**

14 *What is the state personnel system?* Colorado voters amended the state
15 constitution in 1918 to create the state personnel system. It requires that state employees
16 be hired and promoted according to merit. This proposal makes a number of changes to
17 the 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 departments, and some are employees of state higher
21 education institutions. About 29,000 additional state employees are exempt from the state
22 personnel system, including department heads, faculty of public universities, and employees
23 of the legislature, the Governor's Office, and the state courts. This proposal exempts an
24 additional 0.45 percent of the number of employees in the state personnel system, or about
25 140 senior state officers and support staff combined. Table 1 shows the personnel system
26 employment requirements under the constitution 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 to hear appeals from employees and job applicants.	Transfers the board's rule-making authority over hiring, job classifications, compensation, performance standards, and voluntary departures to the executive director. Retains the board's powers over grievances, discipline, involuntary dismissals, and appeals. Allows the legislature to transfer duties between the board and executive director.
Executive Director Duties	Manages the state personnel system and approves temporary employment of up to six months.	Expands the executive director's duties to include rule-making over hiring, job classifications, compensation, 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 applicants for jobs in the state personnel system to be hired based on competitive testing.	Requires job applicants to be hired based on a comparison of qualifications. Requires the legislature to determine the methods for comparing applicants.
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. Requires that all veterans who served during war time be interviewed if scored testing is not used.

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 go into effect only if this proposal is adopted. Among other provisions, the bill prohibits more than 15 exempt officers and employees in any department and changes the laws regulating contracts for services. Table 4 shows the current limits on such contracts and the new requirements.

Table 4: Contracts for Services

Issue	Current Service Contract Law:	House Bill 04-1373:
Service 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 when the state may use contracts for services. 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 within the state personnel system.
Contract Oversight	Requires contract approval by the Department of Personnel and Administration Executive Director.	Requires approval by the contracting department's executive director.

Issue	Current Service Contract Law:	House Bill 04-1373:
Foreign Contractors	Not addressed in law.	Permits, if the contract maintains quality of service, protects privacy, and discloses work performed outside the United States.

Arguments For

1) The constitution needs to be updated to allow the state's workforce to keep pace with the work environment of the 21st Century. The state personnel system has not changed significantly in the past 85 years. This proposal increases the flexibility of the personnel system by eliminating unnecessary detail from the constitution and allowing the legislature to adjust the system to respond to changing circumstances. Colorado is one of only 15 states whose personnel system is tied to the state constitution. Requiring a vote of the people every time an aspect of the system becomes outdated or unworkable is inefficient.

2) Taxpayer money should be used to hire the best candidate for a job. The current personnel system favors people who are the best test takers, not necessarily the most qualified candidates. This proposal helps ensure that the best candidate is hired by expanding the pool of eligible candidates and allowing a more effective comparison of desired job qualifications.

3) This proposal allows the Governor's administration to select about 140 more individuals who share the Governor's values to carry out the administration's policies. The state personnel system has grown from about 1,000 employees in 1916 to over 31,000 in 2004. However, the ability of the Governor's administration to appoint high-level state administrators has not changed. With this proposal, future governors will be able to get off to a quick start on their policy initiatives because senior personnel from past administrations can be easily replaced.

4) The state will better spend taxpayer money if it can hire the best employees and improve the use of service contracts, resulting in an efficient personnel system that provides high quality services. Further, all state contracts will continue to be subject to current purchasing, financial, employee conduct, and disclosure requirements. These requirements protect the new system against awarding contracts as political favors.

Arguments Against

1) This proposal gives the Governor and political appointees too much power to control state government. The Governor's administration will be given about 140 additional appointments, doubling the current number. Also, the Executive Director of the Department of Personnel and Administration, appointed by the Governor, will now have policy-making authority over areas of the personnel system that the state personnel board

1 has traditionally overseen. Those areas include hiring, job classifications, compensation,
2 performance standards and voluntary departures. The proposal also allows the legislature
3 to shift further power from the state personnel board to the executive director. Making the
4 personnel system subject to annual changes by the legislature could disrupt the personnel
5 system. These changes combined may make the state personnel system less predictable and
6 vulnerable to abuse.

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

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

15 4) More political appointees in management positions may not lead to better state
16 government. Instead, institutional knowledge will be lost as experienced senior personnel
17 system employees are displaced by political appointees who may not have the necessary
18 skills to perform the job.

19 **Estimate of Fiscal Impact**

20 This proposal is not expected to significantly affect state or local expenditures.