

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0059.01 Julie Pelegrin

HOUSE BILL 11-1007

HOUSE SPONSORSHIP

Bradford,

SENATE SPONSORSHIP

King S.,

House Committees
Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 CONCERNING EMPLOYEES OF MESA STATE COLLEGE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under the bill, the president of Mesa state college (president) will hold an election of the classified employees at the college to determine whether they want the option to continue participating in the state personnel system or would like to choose to participate in the college's alternative personnel system. If the employees vote to be exempt from the state personnel system, the president will adopt procedures and time frames by which each classified employee may personally choose to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

remain in the state personnel system or to participate in the college's alternative personnel system. However, the president may select one or more employment positions that will remain in the state personnel system or may return one or more positions to the state personnel system at a later date. An employee newly hired after the election date will automatically participate in Mesa state college's alternative personnel system, unless he or she is hired into a position the president maintains as a classified position.

If an employee remains in the state personnel system, he or she retains all of the rights, privileges, and protections of the state personnel system and the college administration cannot discriminate against that employee based on his or her decision to remain in the state personnel system. An employee who chooses to participate in Mesa state college's alternative personnel system will retain all sick leave and vacation time accumulated while participating in the state personnel system.

If the employees do not vote to be exempt from the state personnel system, the president must wait at least 12 months before holding a subsequent election to address the same issue.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 50 of title 24, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **24-50-135.5. Mesa state college - exemptions from personnel**
6 **system - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (a) "ALTERNATIVE PERSONNEL SYSTEM" MEANS THE PERSONNEL
9 SYSTEM OPERATED BY MESA STATE COLLEGE AS OF THE EFFECTIVE DATE
10 OF THIS SECTION, OR ANY SUCCESSOR SYSTEM OPERATED BY THE COLLEGE,
11 FOR EMPLOYEES OF THE COLLEGE WHO ARE EXEMPT FROM THE STATE
12 PERSONNEL SYSTEM.

13 (b) "BOARD OF TRUSTEES" MEANS THE BOARD OF TRUSTEES OF
14 MESA STATE COLLEGE APPOINTED PURSUANT TO SECTION 23-53-102,
15 C.R.S.

1 (c) "CLASSIFIED POSITION" MEANS AN EMPLOYMENT POSITION
2 THAT IS INCLUDED IN THE STATE PERSONNEL SYSTEM.

3 (d) "PRESIDENT" MEANS THE PRESIDENT OF MESA STATE COLLEGE
4 APPOINTED BY THE BOARD OF TRUSTEES PURSUANT TO SECTION 23-53-102
5 (7), C.R.S.

6 (e) "STATE PERSONNEL SYSTEM" MEANS THE PERSONNEL SYSTEM
7 OF THE STATE OPERATED PURSUANT TO SECTION 13 OF ARTICLE XII OF THE
8 STATE CONSTITUTION.

9 (2) (a) THE PRESIDENT SHALL HOLD AN ELECTION TO DETERMINE
10 WHETHER THE CLASSIFIED POSITIONS AT MESA STATE COLLEGE MAY BE
11 EXEMPT FROM THE STATE PERSONNEL SYSTEM. EACH PERSON EMPLOYED
12 IN A CLASSIFIED POSITION AT MESA STATE COLLEGE ON THE DATE OF THE
13 ELECTION IS ENTITLED TO VOTE IN THE ELECTION.

14 (b) IF A MAJORITY OF THOSE VOTING IN THE ELECTION VOTE IN THE
15 AFFIRMATIVE TO EXEMPT THE CLASSIFIED POSITIONS AT MESA STATE
16 COLLEGE FROM THE STATE PERSONNEL SYSTEM:

17 (I) THE PRESIDENT SHALL ADOPT PROCEDURES AND TIME FRAMES
18 BY WHICH EACH PERSON EMPLOYED IN A CLASSIFIED POSITION AT MESA
19 STATE COLLEGE AS OF THE DATE OF THE ELECTION SHALL NOTIFY THE
20 COLLEGE ADMINISTRATION THAT HE OR SHE ELECTS TO REMAIN IN THE
21 STATE PERSONNEL SYSTEM OR ELECTS TO PARTICIPATE IN THE
22 ALTERNATIVE PERSONNEL SYSTEM;

23 (II) EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN
24 SUBPARAGRAPH (III) OF THIS PARAGRAPH (b), AN EMPLOYEE INITIALLY
25 EMPLOYED BY MESA STATE COLLEGE ON OR AFTER THE DATE OF THE
26 ELECTION SHALL PARTICIPATE IN THE ALTERNATIVE PERSONNEL SYSTEM
27 AND NOT IN THE STATE PERSONNEL SYSTEM; AND

1 (III) THE PRESIDENT, REGARDLESS OF THE VOTE, MAY IDENTIFY
2 ONE OR MORE POSITIONS THAT SHALL REMAIN CLASSIFIED POSITIONS OR
3 MAY RETURN ONE OR MORE POSITIONS TO THE STATUS OF CLASSIFIED
4 POSITIONS AT SOME LATER DATE. A PERSON EMPLOYED IN A POSITION
5 THAT REMAINS OR IS RETURNED TO THE STATUS OF A CLASSIFIED POSITION
6 SHALL REMAIN IN THE STATE PERSONNEL SYSTEM OR BE ENROLLED IN THE
7 STATE PERSONNEL SYSTEM AT THE TIME HE OR SHE BEGINS EMPLOYMENT
8 IN THE POSITION OR UPON THE DATE ON WHICH THE POSITION RETURNS TO
9 THE STATUS OF A CLASSIFIED POSITION. THE PRESIDENT SHALL REPORT TO
10 THE STATE PERSONNEL DIRECTOR ANY POSITIONS AT MESA STATE
11 COLLEGE THAT RETAIN OR ARE RETURNED TO THE STATUS OF A CLASSIFIED
12 POSITION PURSUANT TO THIS PARAGRAPH (b).

13 (c) IF A MAJORITY OF THOSE VOTING IN THE ELECTION VOTE NOT
14 TO EXEMPT THE CLASSIFIED POSITIONS AT MESA STATE COLLEGE FROM
15 THE STATE PERSONNEL SYSTEM, THE PRESIDENT MAY SEEK PERMISSION TO
16 EXEMPT THE CLASSIFIED POSITIONS FROM THE STATE PERSONNEL SYSTEM
17 AT A LATER ELECTION HELD AT LEAST TWELVE MONTHS FOLLOWING THE
18 PRECEDING ELECTION.

19 (3) (a) AN EMPLOYEE WHO INITIALLY ELECTS TO REMAIN IN THE
20 STATE PERSONNEL SYSTEM MAY SUBSEQUENTLY ELECT TO PARTICIPATE IN
21 THE ALTERNATIVE PERSONNEL SYSTEM AT ANY TIME. EXCEPT AS
22 OTHERWISE SPECIFICALLY PROVIDED IN SUBPARAGRAPH (III) OF
23 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, AN EMPLOYEE WHO
24 ELECTS AT ANY TIME TO PARTICIPATE IN THE ALTERNATIVE PERSONNEL
25 SYSTEM MAY NOT RETURN TO THE STATE PERSONNEL SYSTEM WHILE
26 EMPLOYED BY MESA STATE COLLEGE.

27 (b) AN EMPLOYEE WHO ELECTS TO REMAIN IN THE STATE

1 PERSONNEL SYSTEM SHALL NOT BE DISCRIMINATED AGAINST IN TRAINING,
2 PROMOTION, RETENTION, ASSIGNMENT OF DUTIES, GRANTING OF RIGHTS
3 AND BENEFITS OR COMPENSATION, OR ANY OTHER PERSONNEL ACTION.
4 PROMOTION OR A CHANGE IN POSITION SHALL NOT BE CONTINGENT UPON
5 AN EMPLOYEE ELECTING TO PARTICIPATE IN THE ALTERNATIVE PERSONNEL
6 SYSTEM.

7 (c) AN EMPLOYEE WHO ELECTS TO REMAIN IN THE STATE
8 PERSONNEL SYSTEM SHALL RETAIN ALL RIGHTS AND PRIVILEGES OF THE
9 STATE PERSONNEL SYSTEM THAT ARE APPLICABLE TO THE EMPLOYEE'S
10 POSITION.

11 (d) IN THE CASE OF A DISPUTE INVOLVING AN EMPLOYEE WHO
12 ELECTS TO REMAIN IN THE STATE PERSONNEL SYSTEM, THE BOARD OF
13 TRUSTEES SHALL AGREE TO ACCEPT RESOLUTION OF ALL DISCIPLINARY
14 APPEALS OR OTHER EMPLOYMENT DISPUTES GOVERNED BY THE STATUTES
15 OF THE STATE PERSONNEL SYSTEM, THE RULES OF THE STATE PERSONNEL
16 BOARD, AND THE PROCEDURES OF THE STATE PERSONNEL DIRECTOR
17 APPLICABLE TO MEMBERS OF THE STATE PERSONNEL SYSTEM.

18 (4) AN EMPLOYEE WHO ELECTS TO PARTICIPATE IN THE
19 ALTERNATIVE PERSONNEL SYSTEM SHALL RECEIVE FULL CREDIT FOR SICK
20 LEAVE AND ANNUAL LEAVE ACCRUED WHILE PARTICIPATING IN THE STATE
21 PERSONNEL SYSTEM. A PERSON EMPLOYED IN A POSITION THAT RETURNS
22 TO THE STATUS OF A CLASSIFIED POSITION AS PROVIDED IN SUBPARAGRAPH
23 (III) OF PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION SHALL
24 RECEIVE FULL CREDIT FOR SICK LEAVE AND ANNUAL LEAVE ACCRUED
25 WHILE PARTICIPATING IN THE ALTERNATIVE PERSONNEL SYSTEM.

26 **SECTION 2.** 24-50-135 (2) (c), Colorado Revised Statutes, is
27 amended to read:

1 **24-50-135. Exemptions from personnel system.**

2 (2) (c) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF
3 THIS PARAGRAPH (c), no later than December 31 of each year, the
4 president of each educational institution shall submit a report to the state
5 personnel director, in the form prescribed by the director, listing all
6 positions at the educational institution that are exempt from the state
7 personnel system in accordance with this section.

8 (II) IF A MAJORITY OF THE EMPLOYEES OF MESA STATE COLLEGE
9 VOTING IN AN ELECTION HELD PURSUANT TO SECTION 24-50-135.5 VOTE
10 IN THE AFFIRMATIVE TO EXEMPT THE CLASSIFIED POSITIONS AT MESA
11 STATE COLLEGE FROM THE STATE PERSONNEL SYSTEM, THE PRESIDENT OF
12 MESA STATE COLLEGE, OR HIS OR HER DESIGNEE, IS EXEMPT FROM THE
13 REPORTING REQUIREMENTS SPECIFIED IN THIS SECTION, EXCEPT AS
14 OTHERWISE PROVIDED IN SECTION 24-50-135.5 (2) (b) (III).

15 **SECTION 3. Act subject to petition - effective date.** This act
16 shall take effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part shall not take effect
22 unless approved by the people at the general election to be held in
23 November 2012 and shall take effect on the date of the official
24 declaration of the vote thereon by the governor.