

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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.*

HOUSE
3rd Reading Unamended
February 10, 2011

HOUSE
Amended 2nd Reading
February 9, 2011

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. THE ELECTION SHALL
12 OCCUR OVER THE COURSE OF A SPECIFIED PERIOD NOT TO EXCEED
13 SEVENTY-TWO HOURS. EACH PERSON EMPLOYED IN A CLASSIFIED
14 POSITION AT MESA STATE COLLEGE DURING THE PERIOD OF THE ELECTION
15 IS ENTITLED TO VOTE IN THE ELECTION.

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

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

25 (II) EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN
26 SUBPARAGRAPH (III) OF THIS PARAGRAPH (b), AN EMPLOYEE INITIALLY
27 EMPLOYED BY MESA STATE COLLEGE ON OR AFTER THE DATE OF THE

1 ELECTION SHALL PARTICIPATE IN THE ALTERNATIVE PERSONNEL SYSTEM
2 AND NOT IN THE STATE PERSONNEL SYSTEM AND MAY ELECT,
3 NOTWITHSTANDING ANY PROVISION OF SECTION 24-54.5-105 (2) TO THE
4 CONTRARY, TO PARTICIPATE AS A MEMBER IN THE DEFINED BENEFIT PLAN
5 ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION OR
6 TO PARTICIPATE IN THE OPTIONAL RETIREMENT PLAN FOR ELIGIBLE
7 EMPLOYEES AT MESA STATE COLLEGE OPERATED PURSUANT TO ARTICLE
8 54.5 OF THIS TITLE; AND

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

21 (c) IF A MAJORITY OF THOSE VOTING IN THE ELECTION VOTE NOT
22 TO EXEMPT THE CLASSIFIED POSITIONS AT MESA STATE COLLEGE FROM
23 THE STATE PERSONNEL SYSTEM, THE PRESIDENT MAY SEEK PERMISSION TO
24 EXEMPT THE CLASSIFIED POSITIONS FROM THE STATE PERSONNEL SYSTEM
25 AT A LATER ELECTION HELD AT LEAST TWELVE MONTHS FOLLOWING THE
26 PRECEDING ELECTION.

27 (3) (a) AN EMPLOYEE WHO INITIALLY ELECTS TO REMAIN IN THE

1 STATE PERSONNEL SYSTEM MAY SUBSEQUENTLY ELECT TO PARTICIPATE IN
2 THE ALTERNATIVE PERSONNEL SYSTEM AT ANY TIME. EXCEPT AS
3 OTHERWISE SPECIFICALLY PROVIDED IN SUBPARAGRAPH (III) OF
4 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, AN EMPLOYEE WHO
5 ELECTS AT ANY TIME TO PARTICIPATE IN THE ALTERNATIVE PERSONNEL
6 SYSTEM MAY NOT RETURN TO THE STATE PERSONNEL SYSTEM WHILE
7 EMPLOYED BY MESA STATE COLLEGE.

8 (b) AN EMPLOYEE WHO ELECTS TO REMAIN IN THE STATE
9 PERSONNEL SYSTEM SHALL NOT BE DISCRIMINATED AGAINST IN TRAINING,
10 PROMOTION, RETENTION, ASSIGNMENT OF DUTIES, GRANTING OF RIGHTS
11 AND BENEFITS OR COMPENSATION, OR ANY OTHER PERSONNEL ACTION.
12 PROMOTION OR A CHANGE IN POSITION SHALL NOT BE CONTINGENT UPON
13 AN EMPLOYEE ELECTING TO PARTICIPATE IN THE ALTERNATIVE PERSONNEL
14 SYSTEM.

15 (c) AN EMPLOYEE WHO ELECTS TO REMAIN IN THE STATE
16 PERSONNEL SYSTEM SHALL RETAIN ALL RIGHTS AND PRIVILEGES OF THE
17 STATE PERSONNEL SYSTEM THAT ARE APPLICABLE TO THE EMPLOYEE'S
18 POSITION.

19 (d) IN THE CASE OF A DISPUTE INVOLVING AN EMPLOYEE WHO
20 ELECTS TO REMAIN IN THE STATE PERSONNEL SYSTEM, THE BOARD OF
21 TRUSTEES SHALL AGREE TO ACCEPT RESOLUTION OF ALL DISCIPLINARY
22 APPEALS OR OTHER EMPLOYMENT DISPUTES GOVERNED BY THE STATUTES
23 OF THE STATE PERSONNEL SYSTEM, THE RULES OF THE STATE PERSONNEL
24 BOARD, AND THE PROCEDURES OF THE STATE PERSONNEL DIRECTOR
25 APPLICABLE TO MEMBERS OF THE STATE PERSONNEL SYSTEM.

26 (4) AN EMPLOYEE WHO ELECTS TO PARTICIPATE IN THE
27 ALTERNATIVE PERSONNEL SYSTEM SHALL RECEIVE FULL CREDIT FOR SICK

1 LEAVE AND ANNUAL LEAVE ACCRUED WHILE PARTICIPATING IN THE STATE
2 PERSONNEL SYSTEM. A PERSON EMPLOYED IN A POSITION THAT RETURNS
3 TO THE STATUS OF A CLASSIFIED POSITION AS PROVIDED IN SUBPARAGRAPH
4 (III) OF PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION SHALL
5 RECEIVE FULL CREDIT FOR SICK LEAVE AND ANNUAL LEAVE ACCRUED
6 WHILE PARTICIPATING IN THE ALTERNATIVE PERSONNEL SYSTEM.

7 (5) AN EMPLOYEE WHO IS EMPLOYED BY MESA STATE COLLEGE AS
8 OF THE DATE OF THE ELECTION HELD PURSUANT TO THIS SECTION SHALL
9 CONTINUE TO PARTICIPATE AS A MEMBER IN THE DEFINED BENEFIT PLAN
10 ADMINISTERED BY THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION,
11 REGARDLESS OF WHETHER THE EMPLOYEE ELECTS TO REMAIN IN THE
12 STATE PERSONNEL SYSTEM OR PARTICIPATE IN THE ALTERNATIVE
13 PERSONNEL SYSTEM.

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

16 **24-50-135. Exemptions from personnel system.**

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

23 (II) IF A MAJORITY OF THE EMPLOYEES OF MESA STATE COLLEGE
24 VOTING IN AN ELECTION HELD PURSUANT TO SECTION 24-50-135.5 VOTE
25 IN THE AFFIRMATIVE TO EXEMPT THE CLASSIFIED POSITIONS AT MESA
26 STATE COLLEGE FROM THE STATE PERSONNEL SYSTEM, THE PRESIDENT OF
27 MESA STATE COLLEGE, OR HIS OR HER DESIGNEE, IS EXEMPT FROM THE

1 REPORTING REQUIREMENTS SPECIFIED IN THIS SECTION, EXCEPT AS
2 OTHERWISE PROVIDED IN SECTION 24-50-135.5 (2) (b) (III).

3 **SECTION 3.** 24-54.5-102 (2), Colorado Revised Statutes, is
4 amended to read:

5 **24-54.5-102. Definitions.** As used in this article, unless the
6 context otherwise requires:

7 (2) "Eligible employee" means any employee of a state college or
8 university who is:

9 (a) Exempt from the state personnel system under section 13 (2)
10 of article XII of the state constitution as a faculty member of an
11 educational institution or department not reformatory or charitable in
12 character; ~~or~~

13 (b) Exempt from the state personnel system pursuant to the
14 provisions of section 24-50-135; OR

15 (c) EXEMPT FROM THE STATE PERSONNEL SYSTEM PURSUANT TO
16 THE PROVISIONS OF SECTION 24-50-135.5 AND WHO IS INITIALLY HIRED BY
17 MESA STATE COLLEGE ON OR AFTER THE DATE OF THE EMPLOYEE
18 ELECTION HELD PURSUANT TO SECTION 24-50-135.5.

19 **SECTION 4. Act subject to petition - effective date.** This act
20 shall take effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part shall not take

1 effectunless approved by the people at the general election to be held in
2 November 2012 and shall take effect on the date of the official
3 declaration of the vote thereon by the governor.