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2001



HOUSE BILL 01-1085

BY REPRESENTATIVE(S) Sinclair, Ragsdale, and Tochtrop;
also SENATOR(S) Takis.

CONCERNING THE SELECTION PROCESS FOR EMPLOYMENT IN THE STATE
PERSONNEL SYSTEM.

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

SECTION 1. 24-50-101 (3) (a), Colorado Revised Statutes, is amended to read:

24-50-101. Short title - legislative declaration - terminology.
(3) (a) It is the purpose of the state personnel system, as a merit system, to assure that a ~~well-qualified~~ **QUALIFIED AND COMPETENT** work force is serving the residents of Colorado ~~AND that all segments of its population have~~ **ANY PERSON HAS** an equal opportunity ~~for entry into~~ **TO APPLY AND COMPETE FOR** state employment. ~~that Recruitment SHALL be from qualified individuals from appropriate sources. and that, after fair and open competition, selection be on the basis of job-related ability and quality of performance. Affirmative action policies which are consistent with section 13 of article XII of the state constitution shall be adopted by December 31, 1981.~~

Capital letters indicate new material added to existing statute; dashes through the words indicate deletions from existing statutes and such material not part of act.

SECTION 2. Part 1 of article 50 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

24-50-112.5. Selection system. (1) (a) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH PROCEDURES AND DIRECTIVES NECESSARY TO IMPLEMENT A MERIT-BASED STATEWIDE SELECTION SYSTEM TO BE USED UNIFORMLY BY ALL PRINCIPAL DEPARTMENTS. SUCH PROCEDURES AND DIRECTIVES SHALL INCLUDE, BUT ARE NOT LIMITED TO, PROCEDURES FOR ACCEPTANCE OF APPLICATIONS, JOB QUALIFICATION STANDARDS FOR CANDIDATES, EXTENSION OF ELIGIBLE LISTS, AND EXAMINATION DEVELOPMENT AND ADMINISTRATION STANDARDS.

(b) APPOINTMENTS AND PROMOTIONS TO POSITIONS SHALL BE BASED ON JOB-RELATED KNOWLEDGE, SKILLS, ABILITIES, COMPETENCIES, BEHAVIORS, AND QUALITY OF PERFORMANCE AS DEMONSTRATED BY FAIR AND OPEN COMPETITIVE EXAMINATIONS. SELECTIONS SHALL BE MADE WITHOUT REGARD TO RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, AGE, OR POLITICAL AFFILIATION AND WITHOUT REGARD TO SEX OR DISABILITY EXCEPT AS OTHERWISE PROVIDED BY LAW.

(2) **Employment lists.** (a) [**Formerly 24-50-115 (1) and (2)**] ~~(1)~~ Employment lists for each class, SHALL BE USED in the FOLLOWING order of their priority: ~~shall be~~ Departmental reemployment lists, promotional eligible lists, and eligible lists. Where there is no departmental reemployment list, an appointing authority may consider another department's reemployment list, together with eligible lists. ~~(2)~~ Departmental reemployment lists shall contain the names of certified employees in a given department laid off for lack of work, lack of funds, or reorganization. ~~arranged in order of separation rights, as defined by rule of the board.~~

(b) [**Formerly 24-50-115 (5)**] ~~(5)~~ CANDIDATES RECEIVING A FINAL PASSING SCORE AT THE COMPLETION OF THE EXAMINATION PROCESS SHALL BE PLACED ON AN ELIGIBLE LIST AND RANKED. QUALIFIED CANDIDATES SHALL RECEIVE VETERANS' PREFERENCE AS PRESCRIBED BY SECTION 15 OF ARTICLE XII OF THE STATE CONSTITUTION. The person to be appointed to any position under the state personnel system shall be one of the three persons ranking highest on the eligible list for such position, or such lesser

number as qualify. ~~as demonstrated by competitive examination or other objective measures of competence without regard to race, creed, color, religion, national origin, ancestry, age, or political affiliation and without regard to sex or disability except as provided by law and subject to limitations set forth in procedures of the state personnel director applicable to multiple appointments from any such list~~ THE DURATION OF AN ELIGIBLE LIST SHALL BE SIX MONTHS BUT MAY BE EXTENDED BY THE STATE PERSONNEL DIRECTOR.

(3) **Examinations.** (a) EXAMINATIONS SHALL BE BASED ON SPECIFIC JOB-RELATED KNOWLEDGE, SKILLS, ABILITIES, BEHAVIORS, AND OTHER COMPETENCIES. EXAMINATIONS SHALL BE CONDUCTED AS NEEDED. ONLY QUALIFIED APPLICANTS SHALL BE INCLUDED IN THE EXAMINATION PROCESS. APPLICANTS SHALL NOT BE REJECTED SOLELY BECAUSE THEY DO NOT HAVE THE EDUCATION REQUIRED, EXCEPT WHERE EDUCATION IS A PREREQUISITE FOR A PROFESSION OR IS REQUIRED BY LAW. WHERE EDUCATION IS NOT A PREREQUISITE OR IS NOT REQUIRED BY LAW, AN APPLICANT'S EXPERIENCE SHALL BE CONSIDERED.

(b) ~~[Formerly 24-50-113] Positions above the entrance level may be filled by promotion through the creation of promotional eligible lists resulting from PROMOTIONAL examinations SHALL BE limited to qualified employees, including persons on reemployment lists. after determination by the state personnel director that the needs of the state personnel system can be fully met by such limited competition. The state personnel director shall establish uniform procedures for use by the principal departments in determining when a promotional examination may be used. Performance evaluations may be utilized in determining an employee's eligibility for promotion~~ AS PART OF A PROMOTIONAL EXAMINATION PLAN.

(4) **Appeals.** (a) ANY PERSON DIRECTLY AFFECTED BY THE SELECTION AND EXAMINATION PROCESS ACTION MAY FILE A WRITTEN APPEAL WITH THE STATE PERSONNEL DIRECTOR. THE APPEAL MUST BE FILED WITHIN TEN DAYS AFTER THE ADMINISTRATION OF THE EXAMINATION. THE DIRECTOR OR A DESIGNEE OF THE DIRECTOR SHALL REVIEW THE APPEAL IN SUMMARY FASHION ON THE BASIS OF WRITTEN MATERIAL SUBMITTED IN CONNECTION WITH SUCH APPEAL, WHICH MAY BE SUPPLEMENTED BY ORAL ARGUMENT AT THE DISCRETION OF THE DIRECTOR OR DESIGNEE.

(b) THE STATE PERSONNEL DIRECTOR MAY CONVENE AN ADVISORY

PANEL OF QUALIFIED HUMAN RESOURCE SELECTION PROFESSIONALS, WITH ONE MEMBER SELECTED BY THE AGGRIEVED PERSON, TO ASSIST THE DIRECTOR IN MAKING A DECISION. THE DIRECTOR SHALL ISSUE A WRITTEN DECISION WITHIN NINETY DAYS AFTER RECEIPT OF A TIMELY APPEAL. THE SELECTION AND EXAMINATION PROCESS ACTION MAY BE OVERTURNED ONLY IF THE DIRECTOR FINDS THE ACTION TO HAVE BEEN ARBITRARY, CAPRICIOUS, OR CONTRARY TO RULE OR LAW. IF THE DIRECTOR FAILS TO ISSUE A DECISION WITHIN SAID NINETY-DAY PERIOD, THE ORIGINAL EXAMINATION AND OUTCOME SHALL BE FINAL. A WRITTEN DECISION ON ANY APPEAL FILED PURSUANT TO THIS SUBSECTION (4) OR THE OUTCOME OF AN APPEAL RESULTING FROM THE FAILURE TO ISSUE SUCH A DECISION SHALL BE SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106.

(c) THE STATE PERSONNEL DIRECTOR SHALL ESTABLISH A PROCESS FOR TIMELY RESOLVING APPEALS WITHIN THE NINETY-DAY PERIOD AND CRITERIA FOR ADVISORY PANEL SELECTION AND SERVICE. THE BOARD SHALL ESTABLISH RULES FOR CERTIFICATION OF A PERSON TO A POSITION WHEN AN APPEAL IS PENDING RELATIVE TO THE SELECTION AND EXAMINATION PROCESS FOR THAT POSITION.

(5) **Appointments.** (a) ~~[Formerly 24-50-111 and 24-50-121]~~ **Appointments and promotions to offices and employments in the personnel system of the state shall be made according to merit and fitness demonstrated by competitive examination or other objective measures of competence without regard to race, color, creed, religion, national origin, ancestry, age, or political affiliation and without regard to sex or disability except as provided by law. Employees may be transferred** ONLY A QUALIFIED CANDIDATE SHALL BE APPOINTED TO A POSITION IN THE STATE PERSONNEL SYSTEM. A QUALIFIED EMPLOYEE MAY TRANSFER between positions in the same class or ~~related classes on request and with approval of the appointing authorities concerned~~ TO A DIFFERENT CLASS AT THE SAME PAY GRADE. The gaining organization shall assume all liability for the employee's BASE SALARY, CREDITED leave accruals, and ~~the employee shall be credited with all leave accruals~~ OTHER APPLICABLE PERSONNEL SYSTEM BENEFITS.

(b) ~~[Formerly 24-50-115 (6)]~~ (6) The board shall establish probationary periods for all persons WHO ARE initially appointed OR promoted ~~or transferred~~ into a different position ~~at their request~~ or who are in a position reallocated to a higher pay grade. ~~but not to~~ THE

PROBATIONARY PERIOD SHALL NOT exceed twelve months for any class or position. THE PERSON SHALL BE CERTIFIED TO SUCH CLASS OR POSITION after satisfactory completion of any ~~such~~ PROBATIONARY period as demonstrated by ~~satisfactory or above average~~ performance evaluations. ~~the person shall be certified to such class or position within the state personnel system, but~~ Unsatisfactory performance shall be grounds for dismissal OF THE PERSON by the appointing authority during such PROBATIONARY period without right of appeal. Any CERTIFIED employee ~~who is certified to a class or position and who is promoted or transferred at their own request to a different class or position and who is dismissed for unsatisfactory performance~~ FAILS TO PERFORM SATISFACTORILY during the probationary period ~~for such class or position~~ shall be reverted to ~~his~~ A POSITION IN THE former certified class or ~~position~~ BE DISCIPLINED.

(6) **State auditor's employees.** THE STATE PERSONNEL DIRECTOR MAY, FOLLOWING CONSULTATION WITH THE STATE AUDITOR AND CONSISTENT WITH THE PRINCIPLES OF SEPARATION OF POWERS, ESTABLISH SPECIAL PROCEDURES GOVERNING APPOINTMENT AND PROMOTION OF EMPLOYEES OF THE STATE AUDITOR'S OFFICE. THE PROCEDURES SHALL ADDRESS THE SPECIAL SITUATIONS, CIRCUMSTANCES, AND DUTIES UNIQUE TO EMPLOYEES OF THE STATE AUDITOR'S OFFICE. ALL PROCEDURES SHALL BE CONSISTENT WITH SECTIONS 13, 14, AND 15 OF ARTICLE XII OF THE STATE CONSTITUTION.

SECTION 3. Repeal. 24-50-111, 24-50-112, 24-50-113, 24-50-115, and 24-50-121, Colorado Revised Statutes, are repealed.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Stan Matsunaka
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO