

House Engrossed

DOC officers; personnel system; covered

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HOUSE BILL 2589

AN ACT

AMENDING SECTIONS 41-742, 41-745 AND 41-771, ARIZONA REVISED STATUTES;  
RELATING TO STATE PERSONNEL SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 41-742, Arizona Revised Statutes, is amended to  
3 read:  
4 41-742. State personnel system; covered and uncovered  
5 employees; application; exemptions  
6 A. Beginning September 29, 2012, unless otherwise prescribed in  
7 this article:  
8 1. All new hires are at will uncovered employees.  
9 2. Any employee who meets any of the following criteria is an at  
10 will uncovered employee:  
11 (a) Is employed as an attorney in a position assigned to the  
12 attorney salary schedule.  
13 (b) ~~IS~~ a supervisor.  
14 (c) Is at a pay grade of nineteen or above or, if a successor  
15 compensation system is established, in an equivalent pay range as  
16 determined by the director.  
17 (d) Is in a position assigned to the information technology salary  
18 schedule, in a position assigned to an information technology  
19 classification or, if a successor compensation system is established, in  
20 an equivalent pay range as determined by the director.  
21 3. Any covered employee who voluntarily accepts a change in  
22 assignment to a position in the uncovered service, regardless of whether  
23 the voluntary change in assignment is a promotion, demotion or lateral  
24 transfer, is an at will uncovered employee on the start date of the  
25 voluntary change in assignment.  
26 4. A covered employee may voluntarily elect to become an at will  
27 uncovered employee without a change in assignment on approval by the state  
28 agency head and the director. If approved, the change from covered to  
29 uncovered status is immediate.  
30 5. Once a covered employee becomes an at will uncovered employee,  
31 the change is irrevocable.  
32 B. Except as provided in subsection F of this section, the purpose  
33 of this article is for all state agencies in the state personnel system to  
34 treat employees pursuant to the following principles:  
35 1. Recruiting, selecting and advancing employees on the basis of  
36 the employee's relative ability, knowledge and skills after open  
37 competition.  
38 2. Providing compensation based on merit, performance, job value  
39 and competitiveness within applicable labor markets.  
40 3. Training employees if the training will result in better  
41 organizational and individual performance.  
42 4. Retaining employees on the basis of the adequacy of their  
43 performance, ~~correct~~ CORRECTING inadequate performance where possible and  
44 appropriate and ~~separate~~ SEPARATING employees whose performance is  
45 inadequate.

1           5. Managing applicants and employees in all aspects of personnel  
2 administration without regard to political affiliation, race, color,  
3 national origin, sex, age, disability or religious creed and with proper  
4 regard for their privacy and constitutional rights as citizens.

5           6. Ensuring that employees are protected against coercion for  
6 partisan political purposes and are prohibited from using their official  
7 authority for the purpose of interfering with or affecting the result of  
8 an election or nomination for office.

9           C. The director shall establish and administer the state personnel  
10 system, including:

11           1. A classification system and job classes and associated  
12 knowledge, skills and abilities for those classes.

13           2. A centralized job announcement system to streamline statewide  
14 recruiting for applicants.

15           3. A centralized employment system to be used by all successful  
16 applicants, including a common application form to be used by all state  
17 agencies.

18           4. A compensation system, including assigning pay ranges for all  
19 job classes and special pay plans for certain classes or groups of  
20 employees considering such factors as occupational patterns, economic  
21 conditions and pay plans common to government, business and industry.

22           5. A statewide training program.

23           6. A statewide performance management system.

24           7. An audit function to review state agencies' processes and  
25 compliance with applicable statutes, personnel rules and policies.

26           8. An integrated system to process personnel, payroll and benefits  
27 transactions and serve as the system of record for state employees.

28           D. This article and articles 5 and 6 **OF THIS CHAPTER** do not apply  
29 to:

30           1. An elected state officer. An elected state officer means only  
31 elected officials and does not include the employees of elected state  
32 officers unless expressly provided.

33           2. Members of boards and commissions who are appointed by the  
34 legislature or the governor, board members appointed pursuant to section  
35 41-619.52 unless otherwise prescribed by law, employees of the Arizona  
36 legislative council, employees appointed or employed by the legislature,  
37 any legislative agency or either house of the legislature and employees of  
38 the supreme court and the court of appeals.

39           3. The Arizona board of regents, officers or employees of state  
40 universities and personnel of the Arizona state schools for the deaf and  
41 the blind.

42           4. Patients or inmates employed in state institutions.

43           5. Officers and enlisted personnel of the national guard of Arizona  
44 and employees of the department of emergency and military affairs who  
45 occupy Arizona national guard positions identified as mobilization assets.

1           6. The cotton research and protection council.

2           7. The department of public safety.

3           8. The Arizona peace officer standards and training board.

4           E. Unless otherwise prescribed in this article, subsection A,  
5 paragraphs 1, 2 and 3 of this section do not apply to either an initial  
6 appointment to or changes in assignment to:

7           1. An employee of any state agency who is a full authority peace  
8 officer as certified by the Arizona peace officer standards and training  
9 board.

10          2. An employee of the state department of corrections who is  
11 employed as a **CORRECTIONAL CAPTAIN, CORRECTIONAL LIEUTENANT, CORRECTIONAL**  
12 **SERGEANT, CORRECTIONAL CORPORAL,** correctional officer I, correctional  
13 officer II, correctional officer III, **CORRECTIONAL OFFICER IV, COMMUNITY**  
14 **CORRECTIONAL UNIT SUPERVISOR, COMMUNITY CORRECTIONS GROUP SUPERVISOR,**  
15 community corrections officer or, if a successor classification system is  
16 established, in an equivalent job class as determined by the director.

17          F. Subsection B, paragraph 1 of this section, relating to open  
18 competition and subsection B, paragraph 4 of this section and subsection  
19 B, paragraph 5 of this section, relating to political affiliation, do not  
20 apply to:

21          1. Employees of the governor's office.

22          2. Employees of offices of elected officials who either:

23           (a) Report directly to the elected official.

24           (b) Head a primary component or report directly to the head of a  
25 primary component of the office of the elected official.

26           (c) As a primary duty, determine or publicly advocate substantive  
27 program policy for the office of the elected official.

28          3. The state agency head and each deputy director, or equivalent,  
29 of each state agency and employees of the state agency who report directly  
30 to either the state agency head or deputy director.

31          4. Each assistant director, or equivalent, of each state agency and  
32 employees in the state agency who report directly to an assistant  
33 director.

34          5. Attorneys in the office of the attorney general.

35          6. Employees in investment related positions in the state  
36 retirement system or plans established by title 38, chapter 5, article 2,  
37 3, 4 or 6.

38          G. This article and articles 5 and 6 of this chapter do not confer  
39 any rights in excess of, or in addition to, those previously authorized to  
40 any state employee.

41          H. This article does not create or confer any contractual  
42 employment right for any employee and, unless otherwise provided by law,  
43 state agencies are prohibited from executing employment contracts with any  
44 state employee.

1 I. Any communications, including policy manuals, employee  
2 handbooks, job offers and performance appraisals and other communications  
3 as determined by the director, whether in writing or oral, that conflict  
4 with article 1, 5 or 6 of this chapter or this article are void and do not  
5 alter or supersede article 1, 5 or 6 of this chapter or this article.

6 Sec. 2. Section 41-745, Arizona Revised Statutes, is amended to  
7 read:

8 41-745. Covered and uncovered service

9 A. Except as provided in subsection C of this section or section  
10 41-742, subsection A, an employee under covered service is entitled to  
11 continue to be a covered employee as long as the employee remains in  
12 covered status without a break in service or as otherwise provided by law.  
13 Probationary status employees are required to complete their probationary  
14 period before obtaining rights of appeal. On successfully completing a  
15 probationary period, an employee in covered service is entitled to have  
16 appeal rights as provided in article 6 of this chapter or section  
17 41-1830.16, as applicable.

18 B. Except as provided in ~~subsection~~ SUBSECTIONS C AND D of this  
19 section, uncovered service consists of all employees in the state agencies  
20 not included in the covered service. Employees in uncovered service are  
21 employees at will and are not entitled to appeal rights.

22 C. A position that requires certification as a full authority peace  
23 officer by the Arizona peace officer standards and training board ~~or a~~  
24 ~~position designated as a correctional officer I, correctional officer II,~~  
25 ~~correctional officer III or community corrections officer~~ shall be in the  
26 covered and uncovered service as follows:

27 1. If, on September 29, 2012, the position is filled with an  
28 uncovered employee, the position shall remain in the uncovered service for  
29 all future appointments to that position.

30 2. If, on September 29, 2012, the position is filled with a covered  
31 employee who was in the state service and the employee does not  
32 voluntarily elect to become an at will uncovered employee, the position  
33 shall remain in the covered service for the current incumbent and for all  
34 future appointments to that position.

35 3. If, on or after September 29, 2012, an employee in the covered  
36 service voluntarily elects to become an at will uncovered employee, the  
37 position shall remain in the uncovered service for all future appointments  
38 to that position.

39 D. BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS  
40 SECTION, A POSITION DESIGNATED AS A CORRECTIONAL CAPTAIN, CORRECTIONAL  
41 LIEUTENANT, CORRECTIONAL SERGEANT, CORRECTIONAL CORPORAL, CORRECTIONAL  
42 OFFICER I, CORRECTIONAL OFFICER II, CORRECTIONAL OFFICER III, CORRECTIONAL  
43 OFFICER IV, COMMUNITY CORRECTIONS UNIT SUPERVISOR, COMMUNITY CORRECTIONS  
44 GROUP SUPERVISOR OR COMMUNITY CORRECTIONS OFFICER SHALL BE IN THE COVERED  
45 SERVICE.

1           Sec. 3. Section 41-771, Arizona Revised Statutes, is amended to  
2 read:

3           41-771. Powers and duties of director relating to employees  
4                           in covered service

5           The director shall adopt rules and procedures that are applicable  
6 only to employees in covered service. The rules and procedures shall  
7 provide for:

8           1. The continuation of a probationary period for probationary  
9 employees.

10          2. A minimum period of original probationary service following the  
11 initial appointment of a full authority peace officer as certified by the  
12 Arizona peace officers standards and training board or the initial  
13 appointment of a **CORRECTIONAL CAPTAIN, CORRECTIONAL LIEUTENANT,**  
14 **CORRECTIONAL SERGEANT, CORRECTIONAL CORPORAL,** correctional officer I,  
15 correctional officer II, correctional officer III, **CORRECTIONAL OFFICER**  
16 **IV, COMMUNITY CORRECTIONS UNIT SUPERVISOR, COMMUNITY CORRECTIONS GROUP**  
17 **SUPERVISOR** or community corrections officer. During an original  
18 probationary period, the probationary employee shall perform the actual  
19 duties of the position and may be discharged without cause. The director  
20 shall establish a period of promotional probation service.

21          3. Disciplinary action to be taken against an employee only if  
22 cause exists.

23          4. Reduction in force by reason of lack of monies or work,  
24 abolition of a position or a material change in duties or organization as  
25 provided in section 41-772.