

REFERENCE TITLE: DOC officers; personnel system; covered

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

HB 2589

Introduced by
Representative Cook

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 MAJOR, CORRECTIONAL LIEUTENANT, CORRECTIONAL**
12 **SERGEANT**, correctional officer I, correctional officer II, correctional
13 officer III, **CORRECTIONAL OFFICER IV, CORRECTIONAL OFFICER TRAINEE,**
14 community corrections officer or, if a successor classification system is
15 established, in an equivalent job class as determined by the director.

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

20 1. Employees of the governor's office.

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

22 (a) Report directly to the elected official.

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

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

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

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

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

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

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

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

44 I. Any communications, including policy manuals, employee
45 handbooks, job offers and performance appraisals and other communications

1 as determined by the director, whether in writing or oral, that conflict
2 with article 1, 5 or 6 of this chapter or this article are void and do not
3 alter or supersede article 1, 5 or 6 of this chapter or this article.

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

6 41-745. Covered and uncovered service

7 A. Except as provided in subsection C of this section or section
8 41-742, subsection A, an employee under covered service is entitled to
9 continue to be a covered employee as long as the employee remains in
10 covered status without a break in service or as otherwise provided by law.
11 Probationary status employees are required to complete their probationary
12 period before obtaining rights of appeal. On successfully completing a
13 probationary period, an employee in covered service is entitled to have
14 appeal rights as provided in article 6 of this chapter or section
15 41-1830.16, as applicable.

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

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

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

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

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

37 D. BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
38 SECTION, A POSITION DESIGNATED AS A CORRECTIONAL MAJOR, CORRECTIONAL
39 LIEUTENANT, CORRECTIONAL SERGEANT, CORRECTIONAL OFFICER I, CORRECTIONAL
40 OFFICER II, CORRECTIONAL OFFICER III, CORRECTIONAL OFFICER IV,
41 CORRECTIONAL OFFICER TRAINEE OR COMMUNITY CORRECTIONS OFFICER SHALL BE IN
42 THE COVERED 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 MAJOR, CORRECTIONAL LIEUTENANT, CORRECTIONAL
14 SERGEANT, correctional officer I, correctional officer II, correctional
15 officer III, CORRECTIONAL OFFICER IV, CORRECTIONAL OFFICER TRAINEE or
16 community corrections officer. During an original probationary period,
17 the probationary employee shall perform the actual duties of the position
18 and may be discharged without cause. The director shall establish a
19 period of promotional probation service.
20 3. Disciplinary action to be taken against an employee only if
21 cause exists.
22 4. Reduction in force by reason of lack of monies or work,
23 abolition of a position or a material change in duties or organization as
24 provided in section 41-772.