

HOUSE BILL NO. 647
INTRODUCED BY K. FUREY

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING EMPLOYEE BENEFITS TO INCLUDE WORKPLACE RESOLUTION BENEFITS; REQUIRING THE MONTANA CONSENSUS COUNCIL TO PROVIDE WORKPLACE RESOLUTION BENEFITS FOR STATE EMPLOYEES; AND AMENDING SECTIONS 2-18-101 AND 2-18-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-101, MCA, is amended to read:

"2-18-101. Definitions. As used in parts 1 through 3 and part 10 of this chapter, the following definitions apply:

(1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.

(2) "Anniversary date", except as modified in part 3 of this chapter, means the month and day on which an employee began the most recent period of uninterrupted state service.

(3) "Base salary" means the amount of compensation paid to an employee, excluding:

(a) state contributions to group benefits provided in 2-18-703;

(b) overtime;

(c) fringe benefits as defined in ~~39-2-903~~; and

(d) the longevity allowance provided in 2-18-304.

(4) "Board" means the board of personnel appeals established in 2-15-1705.

(5) "Class" means one or more positions substantially similar with respect to the kind or nature of duties performed, responsibility assumed, and level of difficulty so that the same descriptive title may be used to designate each position allocated to the class, similar qualifications may be required of persons appointed to the positions in the class, and the same pay rate or pay grade may be applied with equity.

(6) "Class series benchmark" means a representative position within a class series that is used to illustrate the application of the job evaluation factors that are used to classify positions in the classification plan. A benchmark description describes the duties and responsibilities assigned and the factors applied to the class series benchmark.

(7) "Class specification" means a written descriptive statement of the duties and responsibilities characteristic of a class of positions and includes the education, experience, knowledge, skills, abilities, and qualifications necessary to perform the work of the class.

(8) "Compensation" means the annual or hourly wage or salary and includes the state contribution to group benefits under the provisions of 2-18-703.

(9) "Competencies" means sets of measurable and observable knowledge, skills, abilities, and behaviors that contribute to success in a job.

(10) "Department" means the department of administration created in 2-15-1001.

(11) (a) Except in 2-18-306, "employee" means any state employee other than an employee excepted under 2-18-103 or 2-18-104 from the statewide classification system.

(b) The term does not include a student intern.

(12) "Entry salary" means the entry-level base salary for each grade provided in 2-18-312.

(13) "Fringe benefit" means one or more of the following:

(a) employer-paid vacation leave;

(b) sick leave;

(c) a medical insurance plan;

(d) a disability insurance plan;

(e) a life insurance plan;

(f) a pension benefit plan;

(g) conflict management services for workplace conflicts.

~~(13)~~(14) "Grade" means the number assigned to a pay range within a pay schedule in part 3 of this chapter.

~~(14)~~(15) "Job sharing" means the sharing by two or more persons of a position.

~~(15)~~(16) "Market ratio" means an employee's base salary divided by the market salary for the employee's pay grade.

~~(16)~~(17) "Market salary" means the midpoint in a pay grade provided in 2-18-312, based on the average base salary that other employers pay to employees in comparable occupations as determined by the department's salary survey of the relevant labor market.

~~(17)~~(18) "Permanent employee" means an employee who is designated by an agency as permanent and who has attained or is eligible to attain permanent status.

~~(18)~~(19) "Permanent status" means the state an employee attains after satisfactorily completing an

appropriate probationary period.

~~(19)~~(20) "Personal staff" means those positions occupied by employees appointed by the elected officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole.

~~(20)~~(21) "Position" means a collection of duties and responsibilities currently assigned or delegated by competent authority, requiring the full-time, part-time, or intermittent employment of one person.

~~(21)~~(22) "Program" means a combination of planned efforts to provide a service.

~~(22)~~(23) "Seasonal employee" means a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.

~~(23)~~(24) "Short-term worker" means a person who:

- (a) is hired by an agency for an hourly wage established by the agency;
- (b) may not work for the agency for more than 90 days in a continuous 12-month period;
- (c) is not eligible for permanent status;
- (d) may not be hired into another position by the agency without a competitive selection process; and
- (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter.

~~(24)~~(25) "Student intern" means a person who:

- (a) has been accepted in or is currently enrolled in an accredited school, college, or university and is hired directly by an agency in a student intern position;
- (b) is not eligible for permanent status;
- (c) is not eligible to become a permanent employee without a competitive selection process;
- (d) must be covered by the hiring agency's workers' compensation insurance;
- (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter; and
- (f) may be discharged without cause.

~~(25)~~(26) "Telework" means a flexible work arrangement where a designated employee may work from home within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week instead of physically traveling to a central workplace.

~~(26)~~(27) "Temporary employee" means an employee who:

- (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;
- (b) performs temporary duties or permanent duties on a temporary basis;

- (c) is not eligible for permanent status;
- (d) is terminated at the end of the employment period; and
- (e) is not eligible to become a permanent employee without a competitive selection process."

Section 2. Section 2-18-102, MCA, is amended to read:

"2-18-102. Personnel administration -- general policy setting. (1) Except as otherwise provided by law or collective bargaining agreement, the department shall:

(a) encourage and exercise leadership in the development of effective personnel administration within the several agencies in the state and make available the facilities of the department to this end;

(b) foster and develop programs for recruitment and selection of capable persons for employment and for the improvement of employee effectiveness, including training, ethical conduct, safety, health, counseling, welfare, discipline, grievances, and evaluation for productivity and retention in permanent status;

(c) foster, develop, and promote job sharing in agencies;

(d) investigate from time to time the operation and effect of parts 1 and 2 of this chapter and the policies made under those parts and report the findings and recommendations to the governor;

(e) establish policies, procedures, and forms for the maintenance of records of all employees in the state service;

(f) ensure that the Montana consensus council provides conflict management services as a fringe benefit for employees. These services may not conflict with mediation or other existing options for the resolution of employment-related conflicts.

~~(f)~~(g) apply and carry out parts 1 and 2 and the policies under those parts and perform any other lawful acts that may be necessary or desirable to carry out the purposes and provisions of parts 1 and 2.

(2) The department may delegate authority granted to it under parts 1 and 2 to agencies in the state service that effectively demonstrate the ability to carry out the provisions of parts 1 and 2, provided that the agencies remain in compliance with policies, procedures, timetables, and standards established by the department.

(3) (a) The department shall develop and issue personnel policies for the state and shall adopt rules to implement this part, except 2-18-111. Adequate public notice must be given to all interested parties of proposed changes or additions to the personnel policies before the date on which they are to take effect. If requested by any of the affected parties, the department shall schedule a public hearing on proposed changes or additions to the personnel policies before the date on which they are to take effect.

(b) In developing personnel policies for the state, the department shall encourage the resolution of employee conflicts and complaints at the earliest possible time and arrange for access to neutral conflict management services available through the Montana consensus council prior to the implementation of formal grievance procedures.

(4) (a) The department shall develop model rules of conduct for all state employees based upon the provisions of Title 2, chapter 2. The department shall provide employees with a pamphlet summarizing the provisions of Title 2, chapter 2.

(b) Each state agency shall adopt the model rules of conduct and additional rules appropriate to the specific circumstances of the agency."

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