

REFERENCE TITLE: state employees; pay increase.

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2661

Introduced by
Representatives Konopnicki, Boone, Pearce, Pierce, Robson, Weiers J,
Senators Bennett, Huppenthal, Tibshraeny; Representatives Anderson,
Barnes, Knaperek, McComish, Murphy, Nichols, Quelland, Smith, Weiers JP,
Yarbrough

AN ACT

AMENDING TITLE 35, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-124; AMENDING TITLE 38, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-618.01; AMENDING SECTIONS 38-619 AND 41-771, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS FOR STATE EMPLOYEE SALARY ADJUSTMENTS; RELATING TO STATE EMPLOYEE COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Legislative intent

3 It is the intent of the legislature that state employees be granted a
4 pay increase averaging 6 per cent of salary consisting of an increase in
5 salary and pay for performance.

6 Sec. 2. Title 35, chapter 1, article 2, Arizona Revised Statutes, is
7 amended by adding section 35-124, to read:

8 35-124. Performance pay component; identification

9 ANY PERFORMANCE PAY THAT IS AUTHORIZED BY THE LEGISLATURE SHALL BE
10 SEPARATELY STATED ON EACH EMPLOYEE'S PAYCHECK RECEIPT AS PERFORMANCE PAY.

11 Sec. 3. Title 38, chapter 4, article 1, Arizona Revised Statutes, is
12 amended by adding section 38-618.01, to read:

13 38-618.01. Performance pay for state employees; applicability;
14 definition

15 A. IN ADDITION TO THE BASE SALARY OF AN EMPLOYEE IN A GOVERNMENTAL
16 UNIT UP TO THREE PER CENT MAY BE ADDED AS PERFORMANCE PAY.

17 B. ALL STATE AGENCIES, DEPARTMENTS, BOARDS AND COMMISSIONS SHALL
18 FOLLOW THE PROCEDURES PRESCRIBED BY THIS SECTION.

19 C. THE LEGISLATURE MAY AUTHORIZE IN THE GENERAL APPROPRIATIONS ACT A
20 PERCENTAGE INCREASE FOR PERFORMANCE PAY FOR EACH EMPLOYEE IN A GOVERNMENTAL
21 UNIT IF THE GOVERNMENTAL UNIT MEETS OR EXCEEDS PRESCRIBED PERFORMANCE
22 MEASURES.

23 D. EACH GOVERNMENTAL UNIT SHALL ESTABLISH OR REVISE A LIST OF
24 REASONABLE PERFORMANCE MEASURES THAT ARE DESIGNED TO RESULT IN COST
25 REDUCTION, INCREASED PRODUCTIVITY AND IMPROVED QUALITY OF THE DELIVERY OF
26 STATE SERVICES OR PRODUCTS. THE PERFORMANCE MEASURES SHALL INCLUDE A
27 MEASUREMENT OF THE QUALITY OF SERVICE TO CITIZENS AND OTHER STATE AGENCIES
28 AND EMPLOYEES AS MEASURED BY THE DEGREE OF EXCELLENCE IN PROVIDING THE
29 SERVICE AND MEASUREMENTS OF THE QUALITY OF OPERATIONS AND UNIT COST OF
30 OPERATIONS TO THE EXTENT PRACTICABLE AND APPLICABLE. THE HEAD OF EACH
31 GOVERNMENTAL UNIT SHALL EITHER APPLY THESE PERFORMANCE MEASURES TO THE ENTIRE
32 GOVERNMENTAL UNIT OR APPLY RELEVANT PERFORMANCE MEASURES TO SUBSETS WITHIN
33 THE GOVERNMENTAL UNIT EITHER ON A DEPARTMENT, DIVISION, GROUP, UNIT OR
34 INDIVIDUAL BASIS.

35 E. EVERY MONTH OR EVERY QUARTER, AT THE DISCRETION OF THE GOVERNMENTAL
36 UNIT, THE GOVERNMENTAL UNIT SHALL REVIEW THE UNIT'S PERFORMANCE AND DETERMINE
37 IF THE PERFORMANCE MEASURES WERE MET. IF THE PERFORMANCE MEASURES ARE MET OR
38 EXCEEDED, THE APPLICABLE EMPLOYEES ARE ENTITLED TO RECEIVE THE PERFORMANCE
39 PAY NO LATER THAN THE END OF EACH MONTH OR THE END OF EACH QUARTER, IF
40 APPLICABLE. IF THE PERFORMANCE MEASURES ARE NOT MET, THE APPLICABLE EMPLOYEE
41 IS NOT ENTITLED TO RECEIVE PERFORMANCE PAY AND MONIES THAT WERE APPROPRIATED
42 FOR PERFORMANCE PAY REVERT TO THE APPROPRIATE STATE FUND. EACH GOVERNMENTAL
43 UNIT SHALL ANNUALLY INFORM THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND
44 BUDGETING AND THE JOINT LEGISLATIVE BUDGET COMMITTEE OF THE RESULTS OF EACH
45 REVIEW OF THE UNIT'S PERFORMANCE.

1 F. IF THE HEAD OF THE GOVERNMENTAL UNIT APPLIES THE PERFORMANCE
2 MEASURES TO THE ENTIRE GOVERNMENTAL UNIT, ALL EMPLOYEES OF THE GOVERNMENTAL
3 UNIT ARE ENTITLED TO RECEIVE THE PERFORMANCE PAY IF THE GOVERNMENTAL UNIT
4 MEETS OR EXCEEDS THE GOVERNMENTAL UNIT'S PERFORMANCE MEASURES. IF THE HEAD
5 OF THE GOVERNMENTAL UNIT APPLIES PERFORMANCE MEASURES TO SUBSETS WITHIN THE
6 GOVERNMENTAL UNIT, ALL EMPLOYEES WITHIN THE SUBSET ARE ENTITLED TO RECEIVE
7 THE PERFORMANCE PAY IF THE SUBSET MEETS OR EXCEEDS THAT SUBSET'S PERFORMANCE
8 MEASURES.

9 G. THE HEAD OF THE GOVERNMENTAL UNIT SHALL FORWARD A COPY OF THE
10 PERFORMANCE MEASURES ESTABLISHED BY THE UNIT TO THE PERFORMANCE BASED
11 INCENTIVES PROGRAM OVERSIGHT COMMITTEE ESTABLISHED BY SECTION 38-619 AND
12 SHALL NOTIFY THE COMMITTEE AS TO THE RESULTS OF ACHIEVING THE PERFORMANCE
13 MEASURES.

14 H. THE ARIZONA BOARD OF REGENTS MAY ESTABLISH ITS OWN PERFORMANCE PAY
15 PROGRAM FOR PERSONS WHO ARE EMPLOYED BY A UNIVERSITY UNDER THE JURISDICTION
16 OF THE ARIZONA BOARD OF REGENTS INSTEAD OF THE PROCEDURES PRESCRIBED BY THIS
17 SECTION.

18 I. THE CHIEF JUSTICE OF THE SUPREME COURT MAY ESTABLISH A PERFORMANCE
19 PAY PROGRAM FOR THE COURTS.

20 J. EACH GOVERNMENTAL UNIT SHALL ANNUALLY CONDUCT A SURVEY OF THE
21 UNIT'S EMPLOYEES ENSURING THAT A SIGNIFICANT SAMPLE OF EMPLOYEES
22 PARTICIPATES. THE SURVEY SHALL ALLOW THE EMPLOYEES TO RATE THE WORKPLACE AS
23 OUTSTANDING, EXCELLENT, GOOD, SATISFACTORY OR POOR. THE SURVEY SHALL PROVIDE
24 A COMMENT SECTION WHERE EMPLOYEES CAN COMMUNICATE WHAT THE GOVERNMENTAL UNIT
25 DOES WELL, AREAS WHERE THE GOVERNMENTAL UNIT CAN IMPROVE AND SUGGESTIONS TO
26 IMPROVE THE GOVERNMENTAL UNIT. THE GOVERNMENTAL UNIT SHALL COMPILE THE DATA
27 OBTAINED PURSUANT TO THIS SUBSECTION AND FORWARD A COPY OF THE COMPILED DATA
28 TO THE PERFORMANCE BASED INCENTIVES PROGRAM OVERSIGHT COMMITTEE AND ON
29 REQUEST MAKE A COPY OF THE COMPILED DATA AVAILABLE TO THE PUBLIC.

30 K. THIS SECTION DOES NOT APPLY TO:

31 1. EMPLOYEES WHO ARE APPOINTED OR EMPLOYED BY THE LEGISLATURE OR
32 EITHER HOUSE OF THE LEGISLATURE.

33 2. EMPLOYEES OF THE GOVERNOR'S OFFICE.

34 3. EMPLOYEES OF THE JUDICIARY UNLESS THE CHIEF JUSTICE OF THE SUPREME
35 COURT ELECTS TO PARTICIPATE IN THIS SECTION.

36 L. FOR THE PURPOSES OF THIS SECTION, "GOVERNMENTAL UNIT" MEANS:

37 1. ALL AGENCIES, DEPARTMENTS, BOARDS AND COMMISSIONS OF THIS STATE.

38 2. THE ARIZONA BOARD OF REGENTS.

39 Sec. 4. Section 38-619, Arizona Revised Statutes, is amended to read:

40 38-619. Performance based incentives program oversight
41 committee

42 A. A performance based incentives program oversight committee is
43 established consisting of:

44 1. The director of the department of administration or the director's
45 designee.

- 1 2. The executive director of the Arizona board of regents or the
2 executive director's designee.
- 3 3. Two members of the senate who are appointed by the president of the
4 senate. The appointees shall be members of different political parties. One
5 of these appointees shall be designated to cochair the committee.
- 6 4. Two members of the house of representatives who are appointed by
7 the speaker of the house of representatives. The appointees shall be members
8 of different political parties. One of these appointees shall be designated
9 to cochair the committee.
- 10 5. An agency director who is appointed by the governor.
- 11 6. A representative from the governor's office of equal opportunity
12 who is appointed by the governor.
- 13 7. Two public members who have expertise in compensation analysis.
14 The speaker of the house of representatives shall appoint one of these
15 members, and the president of the senate shall appoint one of these members.
- 16 B. The committee shall:
- 17 1. Develop and adopt guidelines for a state employee performance based
18 incentives program. The guidelines shall include agency or university goals
19 that result in cost reduction, increased productivity and improved quality of
20 the delivery of state services or products.
- 21 2. Identify incentives and available resources to provide incentives,
22 such as vacancy savings achieved in each state agency and state university.
- 23 3. Coordinate with state agencies and universities participating in
24 the ongoing performance based incentives program to evaluate the success of
25 the program.
- 26 4. Review agency and university requests to participate in a pilot
27 incentive program or an established performance based incentive program and
28 make recommendations on those requests to the director of the department of
29 administration or the executive director of the Arizona board of regents.
- 30 5. REVIEW PERFORMANCE MEASURES ESTABLISHED PURSUANT TO SECTION
31 38-618.01 FOR REASONABLENESS AND MONITOR THE EFFECTIVENESS OF THE
32 GOVERNMENTAL UNITS IN MEETING THESE PERFORMANCE MEASURES.
- 33 C. The committee may recommend that the director of the department of
34 administration or the executive director of the Arizona board of regents
35 place an approved program on probationary status or terminate an approved
36 program for failing to meet approved goals and objectives.
- 37 Sec. 5. Section 41-771, Arizona Revised Statutes, is amended to read:
38 41-771. Exemptions
- 39 A. This article and article 6 of this chapter do not apply to:
- 40 1. Elected state officers.
- 41 2. State officers and members of boards and commissions WHO ARE
42 appointed by the legislature or the governor, the employees of the governor's
43 office, the employees of the Arizona legislative council, and the employees
44 of the supreme court and the court of appeals.

- 1 3. State officers and employees WHO ARE appointed or employed by the
2 legislature or either house ~~thereof~~ OF THE LEGISLATURE.
- 3 4. The curator, curatorial aides and tour guides and any other person
4 WHO IS employed to work in the state capitol museum.
- 5 5. Officers or employees of state universities and personnel of the
6 Arizona state ~~school~~ SCHOOLS for the deaf and the blind.
- 7 6. Patients or inmates WHO ARE employed in state institutions.
- 8 7. Officers and enlisted personnel of the national guard of Arizona.
- 9 8. The single administrative or executive director and one deputy
10 director of each state department or agency.
- 11 9. Not more than two assistants who serve in the office of an elected
12 state officer, ~~where~~ IF that elected state officer is the sole elected head
13 of the department.
- 14 10. One administrative assistant who serves a board or commission
15 elected to head a state agency, department or division, and one assistant for
16 each elected member of such A board or commission.
- 17 11. Persons ~~reporting~~ WHO REPORT directly to the governor.
- 18 12. Employees of the department of emergency and military affairs who
19 occupy Arizona national guard positions identified as mobilization assets.
- 20 13. STATE OFFICERS AND EMPLOYEES WHO ARE APPOINTED OR EMPLOYED AFTER
21 DECEMBER 31, 2006.
- 22 ~~13.~~ 14. Any other position exempted by law.
- 23 B. Except for section 41-772, subsections D, E and F, this article and
24 article 6 of this chapter do not apply to those positions determined by the
25 director to meet any of the following criteria:
 - 26 1. Top level positions in a department or agency that determine and
27 publicly advocate substantive program policy. This includes those persons
28 WHO ARE engaged in the direction of line operations if they report directly
29 to the director or deputy director of the agency and in large ~~multi-program~~
30 MULTIPROGRAM agencies those persons who report directly to the head of a
31 primary component of the department or agency.
 - 32 2. Those persons who are required to maintain a direct confidential
33 working relationship with an exempt official.
 - 34 3. Persons who provide legal counsel.
 - 35 4. Positions that are part time.
 - 36 5. Positions that are temporary, ~~—~~ AND THAT ARE established for the
37 purpose of conducting a special project, study or investigation.
 - 38 6. Positions that are essentially for rehabilitation purposes.
 - 39 7. Positions that are determined by the director to be directly or
40 indirectly engaged in establishing policy or enforcement standards.
 - 41 8. Directors of all institutions ~~which~~ THAT maintain supervision or
42 care on a twenty-four hour per day basis other than halfway houses or group
43 homes.

1 account, state lottery fund, board of medical examiners fund, the miners'
2 hospital for disabled miners land fund, motor vehicle liability insurance
3 enforcement fund, motor vehicle pool revolving fund, naturopathic physicians
4 board of medical examiners fund, newborn screening program fund, board of
5 nursing fund, nursing care institution administrators' licensing and assisted
6 living facility managers' certification fund, occupational therapy fund, oil
7 overcharge fund, board of optometry fund, board of osteopathic examiners
8 fund, state parks enhancement fund, penitentiary land fund, personnel
9 division fund, pesticide fund, Arizona state board of pharmacy fund, board of
10 physical therapy fund, podiatry fund, postsecondary education fund, board for
11 private postsecondary education fund, proposition 301 fund, Arizona protected
12 native plant fund, board of psychologist examiners fund, public access fund,
13 public assistance collections fund, racing administration fund, state
14 radiologic technologist certification fund, records services fund, recycling
15 fund, registrar of contractors fund, reservation surcharge revolving fund,
16 residential utility consumer office revolving fund, board of respiratory care
17 examiners fund, state retirement system administration account, risk
18 management revolving fund, safety enforcement and transportation
19 infrastructure fund, Arizona schools for the deaf and the blind fund,
20 securities regulatory and enforcement fund, seed law fund, solid waste fee
21 fund, special administration fund, special employee health insurance trust
22 fund, special services revolving fund, spinal and head injuries trust fund,
23 state aid to the courts fund, Arizona state hospital fund, state board of
24 equalization fund, state surplus materials revolving fund, structural pest
25 control commission fund, substance abuse services fund, teacher certification
26 fund, technical registration fund, technology and telecommunication fund,
27 telecommunication fund for the deaf, telecommunications excise tax fund,
28 tobacco tax and health care fund, transportation department equipment fund,
29 tribal-state compact fund, tourism fund, used oil fund, utility regulation
30 revolving fund, vehicle inspection and title enforcement fund, state
31 veterans' conservatorship fund, state home for veterans' trust fund,
32 veterinary medical examining board fund, victims' rights fund, vital records
33 electronic systems fund, watercraft licensing fund, waterfowl conservation
34 fund, water quality fee fund, and workforce investment act grant.

35 Salary adjustments

36 The salary adjustments include personal services and employee related
37 expenditures for state officers and employees in accordance with the
38 department's or agency's compensation plan.

39 Before February 25, 2006, the joint legislative budget committee staff
40 shall determine an amount sufficient to increase the average statewide salary
41 level by 6 per cent. Beginning February 25, 2006, the salary level of each
42 employee shall be adjusted as follows:

43 1. 2.5 per cent of salary, which shall be designated as performance
44 pay and subject to section 35-618.01, Arizona Revised Statutes, as added by
45 this act.

1 2. 1.75 per cent of salary.

2 3. A lump-sum amount equal to \$750.00.

3 The increases shall apply to less than full-time employees on a
4 prorated basis.

5 The joint legislative budget committee staff shall determine and the
6 department of administration shall allocate to each agency or department an
7 amount sufficient to increase the salary level of each employee pursuant to
8 this section.

9 The joint legislative budget committee staff shall also determine and
10 the department of administration shall allocate adjustments, as necessary, in
11 total expenditure authority to allow implementation of the salary
12 adjustments.

13 Board and commission members who are paid on a per diem basis and
14 agency heads who are appointed for a fixed term of office are not entitled to
15 receive the salary adjustment prescribed by this section.

16 Sec. 7. Applicability of performance measure reviews and
17 performance pay

18 Notwithstanding section 38-618.01, Arizona Revised Statutes, as added
19 by this act, a governmental unit or the Arizona board of regents has until
20 December 31, 2006 to establish their performance measures. Once the
21 performance measure have been established, each governmental unit or the
22 Arizona board of regents shall begin reviewing the unit's performance against
23 the performance measures, but the review shall not affect the performance pay
24 granted by this act. From and after April 29, 2007, each governmental unit
25 and the Arizona board of regents shall begin reviewing their performance
26 against their performance measures and the performance pay granted by this
27 act shall be at risk as prescribed by section 38-618.01, Arizona Revised
28 Statutes, as added by this act.

29 Sec. 8. Applicability; retroactivity

30 Notwithstanding section 9 of this act, if this act does not receive the
31 two-thirds vote necessary for emergency enactment, salary increases for
32 fiscal year 2005-2006 shall not be implemented and the salary increases for
33 fiscal year 2006-2007 are effective retroactively to July 1, 2006.

34 Sec. 9. Emergency

35 This act is an emergency measure that is necessary to preserve the
36 public peace, health or safety and is operative immediately as provided by
37 law.