



HOUSE OF REPRESENTATIVES

HB 2571

public employees; unlawful acts; termination

Sponsors: Representative Olson

DPA Committee on Employment and Regulatory Affairs

X Caucus and COW

House Engrossed

OVERVIEW

HB2571 states that public employees shall immediately terminate from their employment if they have been found by a court of law to have unlawfully caused substantial harm to any person on three or more occasions in the course of their official duties.

Summary of the Proposed Strike-Everything Amendment to HB2571

OVERVIEW

HB2571 consolidates the current state personnel systems, establishes the transition of a majority of the State workforce to uncovered and at-will status, improves management of the workforce, restructures the grievance and appeal process and updates human resources practices

HISTORY

Currently, there are nine different personnel systems within the executive branch. This includes 91 state agencies, the Department of Gaming, the Cotton Research Council, Department of Tourism, Department of Public Safety (DPS), Governor's Office, Arizona State Retirement System, the Secretary of State, and the Public Safety Retirement System. Within this system, 80% of the employees are covered, and 20% are uncovered.

Only covered employees are subject to the personnel rules under this system, as outlined by Arizona Revised Statutes, Title 41, Chapter 4, Article 5.

PROVISIONS

Consolidation of the State Personnel Systems

- Subjects the following agencies to SPS:
 - Registrar of Contractors
 - Director
 - Deputies
 - Investigators
 - Assistants
 - Employees
 - Agents
 - Arizona Game and Fish Department
 - Director

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- Employees
- School Facilities Board
 - Director
 - Executive Director
 - Staff
- Arizona Exposition and State Fair Board
 - Director
 - Coliseum manager
- Department of Liquor License and Control
 - Director
 - Officers
 - Employees
- Arizona Department of Racing
 - Director
 - Veterinarians
 - Biochemists
 - Personnel
- Department of Gaming
 - Director
 - Employees
- Department of Insurance
 - Director
 - Deputies
 - Assistants
 - Clerks
- Industrial Commission of Arizona
 - Director
 - Employees
- Division of Occupational Safety
 - Director
- Department of Emergency and Military Affairs
 - Director
 - Employees
- Arizona Power Authority
 - Director
 - Employees

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- Registrar of Contractors
 - Director
 - Deputies
 - Investigators
 - Assistants
 - Employees
- Dental Board
 - Director
 - Executive Director
 - Investigators
 - Employees
 - Agents
- Naturopathic Physicians Medical Board
 - Director
 - Executive Director
 - Officers
 - Investigators
 - Agents
 - Employees
- Structural Pest Management
 - Director
 - Personnel
- Department of Health Services
 - Assistant Directors
 - Deputy Director
- Board of Physical Therapy
 - Administrators
 - Personnel
- Board of Pharmacy
 - President
 - Vice President
 - Permanent and temporary personnel
 - Chemist Compliance Officers
 - Clinical Help
- Board of Barbers
 - Executive Director

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- Employees
- Certified Public Accountants
 - Executive Director
 - Personnel
- Board of Chiropractic
 - Executive Director
 - Employees
- Funeral Directors and Embalmers
 - Executive Director
 - Clerical employees
 - Employees
- Arizona Medical Board
 - Executive Director
 - Employees
 - Agents
- Board of Nursing
 - Executive Director
 - Personnel
- Board of Optometry
 - Executive Director
 - Investigators
 - Professional Clinical Personnel
 - Employees
- Board of Osteopathic Physicians and Surgeons
 - Executive Director
 - Physicians
 - Surgeons
 - Consultants
 - Agents
 - Staff
- Board of Psychologist Examiner
 - Executive Director
 - Personnel
- Veterinary Board
 - Executive Director
 - Personnel

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- Board of Homeopathic Physicians
 - Executive Director
 - Investigators
 - Consultants
- Board of Occupational Therapy Examiners
 - Executive Director
 - Officers
 - Employees
- Board of Respiratory Care
 - Executive Director
 - Executive Officer
 - Personnel
- State Board of Appraisal
 - Executive Director
 - Personnel
- Acupuncture Board of Examiners
 - Executive Director
 - Personnel
- Commission for the Deaf and Hard of Hearing
 - Executive Director
 - Employees
- State Mine Inspector
 - Deputy inspectors
- Real Estate Department
 - Commissioners
 - Assistants
 - Secretaries
 - Clerks
- State Land Commission
 - Deputies
 - Assistants
 - Employees
- Department of Financial Institutions
 - Superintendants
 - Deputy superintendant
 - Assistants

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- Examiners
- Personnel
- Board of Dispensing Opticians
 - Investigators
- Real Estate Department
 - Assistants
 - Commissioners
 - Secretaries
 - Clerks
- State Land Commission
 - Assistants
- Board of Clemency
 - Analysts
 - Hearing Officers
- Veterinarian-Animal Services Division of Arizona Department of Agriculture
 - Employees
- Counsel-Department of Administration
 - Employees
- Law Enforcement Agency
 - Employees
- Department of Emergency and Military Affairs
 - Employees
- Radiation Regulatory Agency
 - Inspectors
 - Technical Assistants
 - Employees
- Board of Cosmetology
 - Employees
- Board of Podiatry
 - Employees
- School Facilities Board
 - Employees
- Board of Tech Registration
 - Employees
- State Liquor Board
 - Director
- State Board for Private Postsecondary Education
 - Employees

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- Acupuncture Board
 - Employees
- Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers
 - Employees
- Arizona Health Care Cost Containment System
 - Employees
- Arizona Long Term Care System
 - Employees
- State Forester
 - Employees
- Arizona Navigable Stream Adjudication Commission
 - Employees
- State Board of Charter Schools
 - Staff
- Commission for Postsecondary Education
 - Staff
- State Board of Education
 - Staff
- State Geologists
 - Staff
- Board of Behavioral Health Examiners
 - Personnel
- Board of Respiratory Care Examiners
 - Personnel
- Biomedical Research Commission
 - Personnel
- Arizona Administrative Powers of Authority
 - Assistants
- Indian Affairs Commission
 - Employees
- Arizona Historical Society
 - Executive Director
 - Employees
- Department of Corrections
 - Deputy directors
 - Personnel
 - Employees
- Division of Narcotics Enforcement and Criminal Intelligence

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- Executive Director
- Staff
- Department of Weights and Measure
 - Personnel
- Department of Fire Building and Life Safety
 - Deputy Director
 - Deputy Director of the Office of Manufactured Housing
 - State Fire Marshal
 - State Fire Training Officer
 - Fire Resource Coordinator
 - Employees
 - Deputies
 - Investigators
 - Assistants
- DPS
 - Director
 - Employees
- Arizona Criminal Justice Commission
 - Consultants
 - Staff
- Water Infrastructure Finance Authority of Arizona
 - Director
 - Staff
- The Residential Utility Consumer Officer
 - Directors
 - Attorneys
 - Employees
- The Arizona State Library, Archives and Public Records
 - Director
 - Employees
- The Lottery Commission
 - Director
 - Personnel

Establishment of the State Personnel System (SPS)

Covered and Uncovered Employees

- Stipulates that beginning September 29, 2012, all new hires and any employee who meets the following criteria are at-will uncovered employees:

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- Employed as an attorney in a position assigned to the attorney salary schedule.
- A supervisor.
- Is at a pay grade of 19 or above, or in an equivalent pay range.
- Is in a position assigned to the information technology salary schedule or in a position assigned to an information technology classification, or in an equivalent pay range.
- States that any covered employee who voluntarily accepts a change in assignment is an at-will uncovered employee on the start date of the voluntary change in assignment.
- Allows a covered employee to voluntarily elect to become an at-will uncovered employee without a change in assignment upon approval by the state agency head and the Director of the Arizona Department of Administration (ADOA).
- Asserts that once a covered employee becomes an at-will uncovered employee, the change is irrevocable.

State Personnel System (SPS); Establishment

- Directs the Director of ADOA establish and administer the SPS, which has the following elements:
 - A classification system including job classes and the associated knowledge, skills and abilities for those classes.
 - A centralized job announcement system to streamline statewide recruiting for applicants.
 - A centralized employment system to be used by all successful applicants, which includes a common application form to be used by all state agencies.
 - A compensation system which includes assigning pay ranges for all job classes and special pay plans for certain classes of employees considering such factors as occupational patterns, economic conditions and pay plans common to government, business and industry.
 - A statewide training program.
 - A statewide performance management system.
 - An audit function to review state agency processes and compliance with applicable statutes, personnel rules and policies.
 - An integrated system to process personnel, payroll and benefits transactions which will serve as the system of record for state employees.

SPS; Exceptions

- Exempts the following from the SPS:
 - An elected state officer, not including the employees of elected state officers unless otherwise expressly provided.
 - Members of boards and commissions who are appointed by the Legislature or the Governor.
 - Employees of Legislative Council.
 - Employees of the Legislature.
 - Employees of the Supreme Court and the Court of Appeals.
 - The Arizona Board of Regents.
 - Officers or employees of state universities.
 - Personnel of the Arizona State Schools for the Deaf and the Blind.
 - Patients or inmates employed in state institutions.
 - Officers and enlisted personnel of the Arizona National Guard.
 - Employees of the Department of Emergency and Military Affairs who occupy National Guard positions identified as mobilization assets.

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- States that employees who are certified Full Authority Peace Officers and certain state correctional officers are not required to become at-will uncovered employees.
- Asserts that provisions relating to open competition and political affiliation do not apply to the following:
 - Employees of the Governor's office.
 - Employees of elected officials who report directly to the elected official, head's a primary component or report to a person who head's a primary component of the office of the elected official or as a primary duty, determines or publicly advocates substantive program policies for the office of the elected official.
 - A state agency head, each deputy director and employees of the state agency who report directly to either the state agency head or deputy director.
- States that the provisions of this Act do not confer any rights in excess of or in addition to those previously authorized to any state employee.
- Asserts that the provisions of this Act do not create or confer any contractual employment right for any employee.
- Prohibits, unless otherwise provided in statute, state agencies from executing employment contracts with any state employee.
- Stipulates that any communications, including policy manuals, employee handbooks, job offers, performance appraisals and other communications that conflict with provisions of this Act are void and do not alter or supersede the provisions of this Act.

Director; Powers and Duties

- States that the Director of ADOA (Director) is responsible for the direction and control of personnel administration.
- Requires the Director to do the following:
 - Employee necessary staff to perform the duties of this Act.
 - Establish the necessary offices to maintain an effective and efficient program of personnel administration.
 - Adopt rules and procedures relating to personnel and personnel administration for both covered and uncovered employees.
 - States that those rules must include the following:
 - The establishment and maintenance of classification and compensation plans.
 - The recruitment, selection and appointment process of eligible applicants.
 - Leave benefits and administration.
 - Procedures for the periodic and regular review and evaluation of the quality and quantity of work performed by employees.
 - Changes to employment statue.
 - Grievance rights specific to covered employees.
 - Appeal rights and other rules specific to covered employees.
 - Any other aspect of personnel administration as determined by the Director.
 - Provide an annual report and recommendation to the Legislature and JLBC.
 - Establish a mandatory program of personnel management training for employees with supervisory responsibility, allows the Director to waive mandatory training on a case by case basis and further requires the training to include at least the following subjects:
 - Basic employee supervisions.
 - Employee performance evaluations.

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- Employee discipline.
- Other subjects as determined by the Director.
- Provide consultation to state agency management to increase efficiency and economy in state agencies by improving the methods of personnel administration with full recognition of the requirements and needs of management.
- Allows the Director to do the following:
 - Delegate specific personnel functions to a state agency head consistent with legal requirements.
 - Enter into agreements with any state agency, political subdivision or agency of a political subdivision to furnish personnel administration services and facilities of ADOA. Further states that unless monies have been appropriated by the Legislature for the purpose, any agreement shall provide reimbursement to the state of the actual cost of the services and facilities furnished.
 - Contract for the services of consultants necessary to perform the annual salary plan and salary plan adjustment recommendations, subject to legislative appropriation.

Definitions

- Defines the following terms:
 - *Appointing authority.*
 - *At-will.*
 - *Break in service.*
 - *Change in assignment.*
 - *Covered employee.*
 - *Covered service.*
 - *Director.*
 - *Employee.*
 - *Original probationary period.*
 - *Probationary period.*
 - *Promotional probation.*
 - *Rules.*
 - *State agency.*
 - *State personnel board.*
 - *SPS.*
 - *State service.*
 - *Supervisor.*
 - *Uncovered employee.*
 - *Uncovered service.*

Arizona Department of Administration

- Removes the selection process requirements for the ADOA Director
- Eliminates the Department of Gaming from the ADOA Personnel System.

Salary Determination Procedures

- Outlines the following agencies that are subject to A.R.S. § 38-611 relating to Compensation of certain state officers and employees:
 - Cotton Research and Protection Council.
 - Arizona Game and Fish.

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- Naturopathic Physicians Medical Board.
 - State Library and Archives.
 - Division of Narcotics Enforcement and Criminal Intelligence.
 - Indian Affairs Commission.
 - DPS.
 - Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers.
- Removes reference to compensation definition in current statute with regards to the Board of Respiratory Care Examiners.
 - Removes the SPS's council staff's ability to hire, fire, and determine salary for employees.
 - Gives salary determination authority to ADOA for certain State officers and employees, unless modified by the legislature.
 - Removes the SPS salary range for certain State officers and employees.
 - Exempts Arizona Board of Regents and Universities from receiving compensation for public officers and employees.

Overtime Pay

- Determines overtime pay as 1.5 times, or 15 hours compensation time for the Industrial Commission of Arizona, if overtime is mandated by federal law.
- States that a law enforcement officer or employee of a political subdivision of ADOA that is determined ineligible for overtime shall receive regular pay or compensation time for the hours the officer or employee worked.
- Stipulates that shifts for ADOA shall not be calculated to avoid overtime.
- Removes the law enforcement merit system council from the eligible requirements for overtime pay.
- Removes employees serving in a position determined by the law enforcement merit system from the list of employees eligible for overtime compensation.
- Specifies that if a law enforcement officer or employee of a political subdivision is determined ineligible for overtime, and is required to work in excess of the person's normal work week, the officer or employee must be compensated for the excess time at the regular rate of pay, or compensatory leave on an hour to hour basis.
- Specifies that for shifts spanning two calendar days, the workday is defined as the day the shift ends and shifts cannot be adjusted to avoid the payment of overtime.

Administrative Leave

- Requires reporting to ADOA if an employee is placed on administrative leave with pay during an investigation if the leave totals 80 hours or more.
 - The state agency head is required to report on a weekly basis thereafter until the administrative leave is terminated.
- Requires ADOA approval if the administrative leave with pay exceeds 30 days.

Employment Procedures

- States that an appointing authority shall comply with the procedures prescribed in this article and the rules adopted by the Director for recruitment, selection, hiring and separation of employees in the SPS.
- Requires the appointing authority to prescribe the compensation of an employee at all times pursuant to statute.
- Stipulates that an appointing authority who violates these practices incurs an obligation and is subject to the criminal and civil penalties as outlined in statute pertaining to budgetary and fiscal provisions for state agencies.

Annual Leave

- Requires the Director of ADOA to adopt procedures for the transfer of accumulated annual leave from one employee to another in the same agency, or in another agency if the employees are members of the same family.
- Outlines the guidelines for transfer of leave as follows:
 - Allows a transfer to occur if the employee to whom the leave is transferred has a seriously incapacitating illness or injury or a seriously incapacitating and extended disability that is caused by pregnancy or childbirth.
 - Permits a transfer if a member of the employee's immediate family has a similarly qualified illness, injury or disability and the employee has exhausted all available leave balances.
- Requires the transfer of annual leave to be increased or reduced proportionally by the difference in the salaries of the employees as determined by department rule.
- Limits the use of annual leave to a total of six consecutive months per occurrence, unless the employee has applied for Long Term Disability insurance, as provided by rule.
- Defines *immediate family* and *same family*.

Hiring Practices

- Permits the Director of ADOA to refuse to consider for employment or remove from consideration an applicant for the following reasons:
 - The applicant practices deception or fraud in the application.
 - The applicant has failed to reply to communications regarding employment in a timely manner.
 - The applicant is found to be unsuited or not qualified for employment.
 - The applicant lacks any of the requirements established by the Director for the position which they have applied.
- Instructs the Director to develop procedures and standard forms to be used by all state agencies to verify a candidate's education and work history.
 - Stipulates that the procedures shall include a requirement that a state agency head shall make documented, good faith efforts to check the references of the candidate.

Contribution of Pro Rata Share

- Requires all state agencies to contribute a pro rata share of the overall cost of personnel administration services provided by ADOA.

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- Directs the pro rata share to be payable by payroll fund source and requires the amount to be deposited pursuant to current statutes regarding the control of receipts and expenditures.
- Stipulates that the monies shall be deposited in a Personnel Division Fund for appropriation by the Legislature for the State Personnel Board and the Personnel Division of ADOA.
- Calculates the pro rata share as 1.10% of the total payroll for the state agency.
- Provides that of the 1.10%, 0.03% of the total payroll shall be deposited in a separate subaccount of the Personnel Division Fund for use by the State Personnel Board and shall be subject to legislative appropriation.
- Outlines the calculation of total payroll as monies from all fund sources including the state General Fund, federal monies, special revenue funds, intergovernmental revenue monies, trust funds and other payroll fund sources.
- Requires a claim for the pro rata share to be submitted according to the fund source, with the accompanying payroll to ADOA for deposit in the Personnel Division Fund.
- Stipulates that only monies in excess of 500,000 dollars revert to the state General Fund at the end of each fiscal year.
- Directs the State Comptroller to pay any monies determined to be owed to the Federal Government from the Personnel Division before calculating the reversion.

Powers and Duties

- Removes provision for employees and assistants in the Attorney General's merit system.

Personnel Rules

- Modifies the personnel rules that the governing Board of the School District must be in accordance with.
- States that the Adjutant General is no longer exempt from State personnel rules, and now falls under SPS.
- States that the decision of the governing board, in relation to Certification of Employment of Teachers, may be reviewed in court in accordance with personnel rules.

Office Hours

- Specifies that State office hours shall not be kept open for transaction of business on holidays.
- Specifies that if an agency receives authorization from ADOA authorizing the State office to be closed in order to meet the furlough requirements, that agency shall ensure that appropriate notice is given to notify the public of the office closure.
- Mandates that State officer shall be kept open for the transaction of business, unless otherwise provided by law.

Job Termination

- Removes reference to cause of termination with regards to State employees accessing internet pornography.
- Removes reference to causes for dismissal or discipline in regards to prohibited personnel.

Department of Emergency and Military Affairs

- Requires the Director of DEMA to meet federal age requirements.

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- Removes DEMA employees from previous personnel code.

At-Will Officers

- States that the appeals process for the right to evidence on appeal, change of hearing officer or Administrative Law Judge, burden of proof, polygraph examinations and right to representation does not apply to at-will officers.
- States that an at-will employee is a person who may be terminated at the will of either the employee or employer, at any time, with or without cause.
- Exempts at-will officers from statutes concerning discipline of law enforcement officers.

Prohibited Personnel Practice

- References unlawful acts, violation and classification regarding prohibited personnel practice.
- Removes appeal references for prohibited personnel practice.
- Inserts personnel rules for prohibited personnel practice.

Leave of Absence and Compensation

- Removes reference to personnel exemptions for active duty military employees and officers.
- Removes reference to covered employees and officers during active military service.
- Refers to covered and uncovered active duty officers and employees under the new SPS.
- Removes covered reference to national disaster medical system employment.

Workers Compensation

- Permits the State to secure workers' compensation directed care and allows the State to self-insure its liability through the ADOA.
- Allows ADOA to have and receive gifts and expenditures.

DPS; Director

- States that the term of the Director of DPS shall serve concurrently with the appointing Governor, rather than the current five-year term.

State Law Enforcement Personnel Board

- Repeals portions of the Law Enforcement Merit System Council and creates the *State Law Enforcement Personnel Board* (Board,) consisting of five members appointed by the Governor.
- Stipulates that no more than three members may belong to the same political party.
- Asserts that persons who are eligible for appointment to the Board must have a continuous recorded voter registration with either the same political party or as an Independent for at least two-year immediately preceding the appointment.
- States that appointed persons shall be committed to enforcing the provisions of the Act in an honest and impartial manner, seeking to uphold the public confidence in the integrity of public safety peace officers.
- Requires the Chairperson of the Board to serve as an ex-officio member without voting privileges.

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- Stipulates that the term of office for each member is three years ending on the third Monday in January of the appropriate year.
- Requires successors to be appointed for a full term of three years upon the expiration of a Board member.
- Allows the Board to hold monthly meetings as well as necessary special meetings.
- Requires the members of the Board to elect a Chairperson and a Vice Chairperson at the first meeting of each year.
- Prohibits the Chairperson from serving successive terms as Chair.
- States that meetings of the Board are open to the public, but allows the Board to hold executive sessions as provided by law.
- Stipulates that any one of the following is construed as a resignation of a Board member and would allow the Governor to appoint a new member to fill an unexpired term:
 - Becoming a candidate for any elective public officer.
 - Accepting any appointive office or employment as a state employee.
- States that members of the Board are eligible to receive compensation of \$200 for each meeting attended, prorated for partial days for each meeting attended, unless this amount is modified by the JLBC.
- Prohibits Committee members employed by government entities from receiving compensation for their services.

Powers and Duties of the State Law Enforcement Personnel Board

- Requires the Board to hear and review appeals from covered employees of an employing agency who are certified Full Authority Peace Officers relating to dismissal, suspension for more than eight working hours or involuntary demotion resulting from disciplinary action.
- Directs the Board to hear and review complaints relating to personnel action taken against a current or former employee who is a certified full authority peace officer that they believe was taken in reprisal for their disclosure of information to a public body.
- States that the Board must recommend dismissal of a supervisor or other responsible person, other than an elected official, who they determine committed a prohibited personnel practice.
- Directs the Director of DPS to provide staff for the Board, who may not be members of the Board.
- Allows the Board to adopt necessary rules for the administration of hearings and the review of appeals and complaints.
- Asserts that the Board may only exercise the authority that is specifically granted to it under this Act.
- Defines *employing agency*.

State Law Enforcement Personnel Board; Appeals: Notice of Charges

- States that a covered employee who meets certain criteria may appeal to the Board their dismissal from covered service, suspension for more than eight working hours or involuntary demotion for cause.

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- Requires the covered employee to file the appeal no later than ten working days after the effective date of the action.
- States that the covered employee must be furnished with specific charges, in writing, when the action is taken.
- Requires the appeal to be in writing and state specific facts relating directly to the charges on which the appeal is based.
- Directs the Board to hear the appeal within 30 days of its receipt.
- Requires the Board to provide the employing agency with a copy of the appeal at least 20 days in advance of the hearing.
- States that appeal hearings are open to the public, unless the covered employee has requested a confidential hearing.
- Asserts that appeal hearings are informal with technical rules of evidence not applying to the proceedings, with the exception of the rule of privilege recognized by law.
- Requires both the covered employee and the employing agency to be notified of the hearing or meeting date at least 20 days in advance of a hearing or at least 10 days in advance of a meeting and allows them to select representatives of their choosing, present and cross-examine witnesses and give evidence before the Board.
- Allows the Board to appoint a hearing officer to conduct the hearing and take evidence on their behalf.
- Requires the Board to prepare an official record of the hearing, including all recorded testimony and exhibits, and further allows either party to request that the record be transcribed.
- States that if a transcription is requested, an entity other than the Board, selected by the requesting party shall transcribe the record at the cost of the requesting party.
- Requires a confidential hearing if a disciplinary hearing would involve evidence that the state is prohibited by law from disclosing.
- Directs the Board to either affirm the decision of the Director of the employing agency if they find cause for any discipline to be imposed, or reverse the decision of the Director if they find that cause does not exist for any discipline to be imposed and return the covered employee to the same position the employee held before the dismissal or demotion with or without back pay.
- Prohibits the Board from modifying the disciplinary penalty chosen by the Director of the employing agency.
- Requires the Board to enter its decision within 45 days of the conclusion of the hearing and further requires a copy of the decision to be sent, via certified mail, to the covered employee or their designated representative and the employing agency.
- Allows a covered employee to represent themselves or to designate a representative at any Board hearing or quasi-judicial hearing but prohibits a fee from being charged unless the designated representative is an attorney.
- Defines employing agency.

Nonconformity with federal regulations

- Provides that any provision of this article that conflicts or is inconsistent with federal rules, regulations or standards governing the grant of federal monies to any agency or department does not apply.
- Stipulates that the Director may vary or waive the terms of the rules and procedures as applicable to these agencies and departments to comply with the conditions for federal grants.

Covered/Uncovered Status of the Workforce

- Stipulates that all supervisors, employees in positions of grade 21 or higher, attorneys and employees in information technology positions will become at-will on or after September 29, 2012.
 - Exempts positions designated as Full Authority Peace Officers by the Arizona Peace Officer Standards and Training Board and Correctional Officers in levels I, II, and III.
- Allows all covered, non-supervisory employees to remain covered as long as the employee continues in covered status without a break in service.
- Requires all employees hired on or after September 29, 2012 to be hired as at-will uncovered employees.
- States that a covered employee will become at-will uncovered if any of the following occurs:
 - The employee voluntarily accepts a change in assignment, regardless of whether the voluntary change in assignment is a promotion, demotion or lateral transfer.
 - The employee elects to become an at-will uncovered employee, without a change in assignment, upon approval of the agency Director and the Director of ADOA

Full Authority Peace Officers

- Stipulates that positions requiring Full Authority Peace Officer Certification shall be in the covered and uncovered service as follows:
 - If on or after September 29, 2012, the position is filled with an employee who was in state service or was employed under the law enforcement merit system council, the system shall remain covered.
 - If on or after September 29, 2012, the position is filled with an uncovered employee, the position shall remain in the uncovered service for all future appointments to that position.
 - If on or after September 29, 2012, an employee in covered service voluntarily elects to become an at-will uncovered employee, the position shall remain uncovered for all future appointments to that position.
- Provides that Full Authority Peace Officers who remain covered will retain just cause protection and uncovered employees will serve at-will.

Correctional Officers

- Stipulates that Correctional Officers in I, II, and III shall be in the covered and uncovered service as follows:
 - If on or after September 29, 2012, the position is filled with an employee who was in state service or was employed under the law enforcement merit system council, the system shall remain covered.

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- If on or after September 29, 2012, the position is filled with an uncovered employee, the position shall remain in the uncovered service for all future appointments to that position.
- If on or after September 29, 2012, an employee in covered service voluntarily elects to become an at-will uncovered employee, the position shall remain uncovered for all future appointments to that position.
- Permits the Director of ADOA to authorize a work day for the purpose of time entries and pay period for correctional officers.

Transportation

- Establishes a State work week with regards to overtime pay.
- Permits budget units to spend monies on transportation, or other travel expenses necessary, for bringing any person into this State who is not a resident of this state, for an interview for prospective employment with ADOA approval.
- Permits budget units to spend monies on transportation or moving expenses for any person newly employed or retained with ADOA approval.
- Requires budget units to report monies spent for said purposes to Governor's Office of Strategic Planning and Budgeting (OSP) and the Joint Legislative Audit Committee (JLAC.)
- Removes reference to reimbursement for transportation and telecom costs for administration payroll salary deductions.

Term Limit Changes

- Removes specific term limits for certain agency Directors so that they may serve at the pleasure of the Governor or Board.
 - Governor:
 - Director of the Department of Liquor Licenses and Control.
 - Director of the Arizona Department of Racing.
 - Superintendants of the Department of Gaming.
 - Director of the Industrial Commission of Arizona.
 - Director of the Department of Insurance.
 - Director of the Department of Emergency and Military Affairs.
 - Director of the Registrar of Contractors.
 - Director of the Department of Emergency and Military Affairs.
 - Director of the Division of Occupational Safety.
 - Director of the Industrial Commission of Arizona.
 - Director of the State Historic Preservation Officer.
 - Director of the Department of Financial Institutions.
 - Boards:
 - Director of the Department of Game and Fish.

- Director of the Division of Occupational Safety and Health.
- Director of the Department of Game and Fish.
- Director of the Division of Occupational Safety.
- Director of Arizona State Retirement System.
- Executive Director of the Board of Psychologist Examiners.
- Executive Director of the Arizona Exposition and State Fair Board.
- Director of the State Forester.

Annual Report

- Requires the Director of ADOA to prepare a report on state personnel and the operation of the SPS.
- Outlines the requirements for the contents of the report as follows:
 - Information concerning all state employees, including employees of all executive, legislative and judicial branch agencies. All agencies are required to provide information to the Director, as requested.
 - Information concerning turnover, including the number of employees separating from state employment and the reasons for separation.
 - Information concerning compensation during the preceding year, the upcoming year, and compensation of other public and private employees.
 - An advisory recommendation on state employee's salaries, with all relevant factors considered. The Director is also required to make salary recommendations for specific positions within the Governor's Office, the Legislature and the Courts if requested by each unit.
 - Information on overtime pay for all state agencies.
 - Other information as determined by the Director.
- Directs the annual report and recommendations to be presented to the Governor and the Legislature on or before September 1 of each year, and the Director is required to provide a copy of the report to the Secretary of State.
- Directs the Arizona Board of Regents, the Judicial Department and the Arizona State Schools for the Deaf and the Blind to prepare a report on their personnel and stipulates that the report shall include.
 - Information concerning the number of employees affected by and reasons for turnover of their employees.
 - Information concerning the compensation during the preceding year and the coming year of their employees, and the compensation of other public and private employees.
 - An advisory recommendation on the salary plan and adjustments for their employees considering the relative levels of duties and responsibilities of the various classes of positions. as well as rates paid for comparable positions elsewhere.
 - Overtime pay for their employees.

Protections of Civil or Political Liberties

- Stipulates that except for employees expressing an opinion, or those who are excused from work for voting, employees are prohibited from engaging in the following activities while on duty, in uniform or at public expense:
 - Using any political endorsement in connection with any appointment to a position in the SPS.

- Using or promising to use any official authority or influence for the purpose of the vote or political action of any person.
- Stipulates that an employee, a member of the State Personnel Board or a member of the State Law Enforcement Board may not participate in any type of political activity, partisan or non-partisan, paid or unpaid which may require them to:
 - Express an opinion.
 - Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues.
 - Cast a vote and sign nomination or recall petitions.
 - Make contributions to candidates, political parties or campaign committees contributing to candidates or advocating the election or defeat of candidates.
 - Circulate candidate nomination petitions or recall petitions.
 - Engage in activities to advocate the election or defeat of any candidate.
 - Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates.
- Prohibits the solicitation or coersion of employees or Personnel and Law Enforcement Board members to engage in prohibited activities.
- Prohibits a person from subjecting an employee or Personnel or Law Enforcement Board member to discrimination, reprisal, force, coercion or intimidation or any other adverse consequence, including the loss of any benefit, reward promotion, advancement or compensation if they choose to participate or not participate in the outlined activities.
- Stipulates that the prohibitions outlined in this section do not apply to:
 - Employees of the Governor’s Office.
 - Employees of offices of elected officials, who report directly to the elected official, head a primary component or report directly to the head of a primary component of the office of the elected official.
 - Employees who as a primary duty, determine or publicly advocate substantive program policy for the office of the elected official.
- Provides that these changes do not apply to school board elections or community college district governing board elections.
- Permits employees to serve as members of the governing board of a common or high school district or as a member of a community college district governing board.
- Stipulates that an employee who violates the prohibitions of this section is subject to suspension of not less than thirty days or dismissal.
- Prescribes that a person who violates the prohibition on solicitation of employees is guilty of a Class 6 Felony.
- Clarifies that the violation for any other provision of this section is a Class 1 Misdemeanor.
- Provides that in addition to any other penalty, a person soliciting or encouraging a contribution in a manner prohibited by this section is subject to a civil penalty of up to three times the amount of the contribution solicited or encouraged, plus costs, expenses and reasonable attorney fees.
- Ensures the civil liberties outlined in the United States and Arizona Constitutions.
- States that it is the public policy of this state, reflected in this section, that government programs be administered in an unbiased manner and without favoritism.

Unlawful Acts

- Prohibits the falsification of any documents related to tests, certifications and appointments, and prohibits any type of fraud relating to this Act.

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- States that a person is prohibited from directly or indirectly giving, rendering, paying, offering, soliciting or accepting any money, service or other valuable consideration for or on account of any potential or proposed appointment, promotion or advantage within the SPS.
- Prohibits employees from obstructing another person's right to examination, eligibility, certification or appointment under this article, and bans the furnishing of secret information intended to affect the prospects of any person with respect to the SPS.
- Establishes the penalty for a violation of this section as a Class 2 misdemeanor.
- Prohibits elected or appointed officials from using political influence or position to cause the firing, promotion or demotion of any public employee or the hiring or failure to hire an applicant for public employment.
 - An elected official who knowingly violates this provision with corrupt intent is guilty of a Class 2 Misdemeanor.

Reduction in Force (RIF)

- Stipulates that retention will be based on an employee's performance and not on seniority.
- Prohibits an agency from adopting policies that provide retention based on tenure or seniority.
- Stipulates that consideration of a person's performance is limited to the three most recent performance evaluations, during a period of not more than two years immediately preceding the RIF.
- Permits an agency director to require an agency employee to work reduced hours to comply with a reduction in appropriations.
- Directs the Director to establish RIF procedures to be used by all state agencies if reductions are required in covered service.
- Prohibits the Director from establishing policies based on tenure or seniority.

Covered Service

- Requires the Director to adopt rules and procedures that are applicable only to employees in current service.
- Requires the rules and procedures to provide for:
 - The continuation of a probationary period for probationary employees.
 - A minimum period of original probationary service following the initial appointment of a Full Authority Peace Officer or a Correctional Officer in levels I, II, and II. During the probationary period, these employees shall perform the actual duties of the position and may be discharged without cause.
 - A period of promotional probation service.
 - Disciplinary action must be taken against an employee if cause exists.

Causes for Dismissal of Covered Employees

- Establishes cause for discipline or dismissal of an employee in covered service such as:
 - Fraud or misrepresentation in securing appointment.
 - Incompetency.
 - Inefficiency.
 - Neglect of duty.
 - Insubordination.
 - Dishonesty.
 - Being impaired by alcohol or drugs while on duty.
 - Illegal use or illegal possession of a narcotic or habit-forming drug.

- Unauthorized absence or absence without leave.
- Commission of any crime classified as a felony or involving moral turpitude.
- Discourteous treatment of the public or other employees.
- Improper political activity.
- Willful disobedience.
- Misuse or unauthorized use of state property.
- Other causes the Director may establish, or deem necessary.
- Clarifies that this section does not apply do a peace officer employed by the DPS.
- Permits the Director of ADOA to establish definitions for each of the causes outlined in this section.

State Personnel Board

- Establishes the State Personnel Board (Board), available to covered employees currently in the ADOA Personnel System and covered civilian DPS employees.
- Directs the Board to review appeals of suspensions greater than 80 hours, demotions or dismissals.
- Prohibits the Board from modifying or overturning decisions made by the agency that were for cause.
- Requires the Board to continue hearing whistleblower complaints for all employees.
- Outlines compensation eligibility for Board members.
 - Members of the Board are eligible to receive up to 200 dollars for each meeting attended, prorated for partial days for each meeting attended, unless modified by the JLBC.

Gifts and donations; employee recognition

- Allows a state department or agency to accept gifts and donations for the conduct of employee recognition programs.
- Subjects gifts and donations to the statutes governing the control of receipts and expenditures of state agencies and the state procurement code.

Information Technology

- Requires an applicant for an information technology position in ADOA to submit a full set of fingerprints for a criminal records check, before accepting an offer of employment.
- States that persons who were employed in information technology positions on or before July 18, 2000 to submit a full set of fingerprints if the Director determines that it is necessary to ensure the privacy, confidentiality or integrity of data within ADOA's control.
- Permits DPS to exchange submitted fingerprint data with the Federal Bureau of Investigation.
- Prohibits the Director from disclosing any information regarding fingerprint submission and criminal records except to members of ADOA's staff solely for the purpose of employment of information technology personnel.
- Defines *applicant* and *information technology position*.

Reimbursement; Transportation and Telecommuting Costs

- Requires the Director to adopt rules to provide for the reimbursement of up to 100% of the cost to state employees of public transportation, vanpool or private bus service to and from work and telecommuting connectivity.

- Defines *public transportation*.

Purpose of the Act

- States that the purpose of this Act is for all state agencies in the SPS to treat employees according to the following principles:
 - Recruiting, selecting and advancing employees on the basis of their ability, knowledge and skills after open competition.
 - Providing compensation based on merit, performance, job value and competitiveness within applicable labor markets.
 - Training employees if the training will result in better individual and organizational performance.
 - Retaining employees based on the adequacy of their performance.
 - Correcting inadequate performance where possible and appropriate.
 - Separate employees whose performance is inadequate.
 - Managing applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, age, disability or religious creed and with proper regard for their privacy and constitutional rights as citizens.
 - Ensuring that employees are protected against coercion for partisan political purposes and are prohibited from using official authority for the purpose of interfering with or affecting the result of an election or nomination for office.

Miscellaneous

- Repeals statutes relating to personnel administration.
- Changes all references to the Merit System Council and the Personnel Board to the State Personnel Board.
- Provides a rule making exemption for the State Personnel Board, the Law Enforcement Personnel Board and ADOA lasting six months, beginning on September 29, 2012.
- Establishes the initial terms for the State Law Enforcement Personnel board.
- Removes the requirement that the Arizona Exposition and State Fair Board give 90 days notice before terminating the contract of an executive director, coliseum manager or comptroller.
- Eliminates the requirement that a state veterinarian be a covered employee by the Animal Services Division of the Arizona Department of Agriculture.
- Removes authority for the executive director to assist the Attorney General in disciplinary orders, rehabilitation, and notices of hearings.
- Shifts the responsibility of appointing the Director of the Industrial Commission of Arizona to the Governor from the Industrial Commission.
- Allows the legislature to appropriate funds to employee staff for the following:
 - The State Board of Education
 - The State Board of Charter Schools
- Changes the appointment of the State Historic Preservation officer from the Board to the Governor, pursuant to current statute on appointment process.
- Allows state geologists to employ volunteers and staff.
- Grants the acting Director of the Structural Pest Management authority to establish officers to carry out duties.

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- Removes authority for the Board of Behavioral Health Examiners to employ an executive officer.
- Requires employees of Arizona Long Term Care System to use ADOA programs.
- Contains a delayed effective date from and after September 29, 2012.

AMENDMENTS

Committee on Employment and Regulatory Affairs

- Makes technical and conforming changes.
- Changes the effective date of the agency director term changes to January 1, 2014.
- Requires the Arizona Board of Regents to adopt policies for all employees of the board and the universities.