

REFERENCE TITLE: state employees; auditors; covered status

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

## **SB 1254**

Introduced by  
Senators Ableser, Gallardo: Farley, Meza, Pancrazi

AN ACT

AMENDING SECTIONS 41-741, 41-742 AND 41-745, ARIZONA REVISED STATUTES;  
RELATING TO THE 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 41-741, Arizona Revised Statutes, is amended to  
3 read:

4 41-741. Definitions

5 In this article and articles 5 and 6 OF THIS CHAPTER, unless the  
6 context otherwise requires:

7 1. "Appointing authority" means the person or group of persons  
8 authorized by law or delegated authority to make appointments to fill  
9 positions.

10 2. "At will" means an employment relationship where either party to  
11 the relationship may sever the relationship at any time for any reason other  
12 than an unlawful reason.

13 3. "Break in service" means a separation from state employment,  
14 regardless of the reason for separation.

15 4. "Change in assignment" means movement of an employee to a different  
16 position in the same state agency or another state agency.

17 5. "Covered employee" means an employee who:

18 (a) Before September 29, 2012, is in the state service, is not  
19 uncovered pursuant to section 41-742, subsection A and has remained in  
20 covered status without a break in service since that date.

21 (b) Before September 29, 2012, is in the state service, is employed as  
22 a correctional officer I, correctional officer II, correctional officer III  
23 or community corrections officer and has remained in covered status without a  
24 break in service since that date.

25 (c) Before September 29, 2012, is in the state service, is a full  
26 authority peace officer as certified by the Arizona peace officer standards  
27 and training board and has remained in that status without a break in service  
28 since that date.

29 (d) On or after September 29, 2012, is a correctional officer I,  
30 correctional officer II, correctional officer III or community corrections  
31 officer and is appointed to a position in the covered service, but does not  
32 include a position in any other class in the correctional officer class  
33 series or the community correctional officer class series or in any other  
34 correctional class series.

35 (e) On or after September 29, 2012, is a full authority peace officer  
36 as certified by the Arizona peace officer standards and training board and is  
37 appointed to a position that requires such a certification in the covered  
38 service.

39 (f) ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION,  
40 IS AN EMPLOYEE OF THE AUDITOR GENERAL'S OFFICE.

41 (g) ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION,  
42 IS AN EMPLOYEE OF ANY STATE AGENCY AND WHO HAS AUDIT FUNCTIONS AS A PRIMARY  
43 RESPONSIBILITY.

1 (h) ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION,  
2 IS AN EMPLOYEE OF THE DEPARTMENT OF REVENUE AND WHO IS INVOLVED IN REVENUE  
3 COLLECTION.

4 6. "Covered service" means that employment status conferring rights of  
5 appeal as prescribed in sections 41-782 and 41-783 or SECTION 41-1830.16, as  
6 applicable.

7 7. "Director" means the director of the department of administration,  
8 or the director's designee, who is responsible for administering the state  
9 personnel system pursuant to applicable state and federal laws.

10 8. "Employee" means all officers and employees of this state, whether  
11 in covered service or uncovered service, unless otherwise prescribed.

12 9. "Full authority peace officer" means a peace officer whose  
13 authority to enforce the laws of this state is not limited by the rules  
14 adopted by the Arizona peace officer standards and training board.

15 10. "Original probationary period" means the specified period following  
16 initial appointment to covered service.

17 11. "Probationary period" means a working test period of employment in  
18 a covered service position for evaluation of the employee's work.

19 12. "Promotional probation" means the specified period of employment  
20 following promotion of a permanent status employee to another covered service  
21 position that has a higher pay grade.

22 13. "Rules" means rules adopted by the department of administration,  
23 human resources division.

24 14. "State agency" means a department, board, office, authority,  
25 commission or other governmental budget unit of this state and includes an  
26 agency assigned to a department for administrative purposes. State agency  
27 does not include the legislative and judicial branches, the Arizona board of  
28 regents, state universities, the Arizona state schools for the deaf and the  
29 blind, the department of public safety, the Arizona peace officer standards  
30 and training board, the cotton research and protection council or public  
31 corporations.

32 15. "State personnel board" means the board established by section  
33 41-781.

34 16. "State personnel system" means all state agencies and employees of  
35 those agencies that are not exempted by this article.

36 17. "State service" means all offices and positions of employment in  
37 state government that, before September 29, 2012, were subject to the  
38 provisions of articles 5 and 6 of this chapter that were in effect before  
39 September 29, 2012.

40 18. "Supervisor" means a state employee who has one or more other state  
41 employees reporting directly to the person and, for those state employees,  
42 typically has the authority to:

43 (a) Approve sick or annual leave.

44 (b) Recommend hiring, discipline or dismissal.

45 (c) Assign or schedule daily work.

1 (d) Complete a performance evaluation.

2 19. "Uncovered employee" means an employee in uncovered service.

3 20. "Uncovered service" means employment at will and includes all state  
4 employees except those in covered service.

5 Sec. 2. Section 41-742, Arizona Revised Statutes, is amended to read:  
6 41-742. State personnel system; covered and uncovered  
7 employees; application; exemptions

8 A. Beginning September 29, 2012, unless otherwise prescribed in this  
9 article:

10 1. All new hires are at will uncovered employees.

11 2. Any employee who meets any of the following criteria is an at will  
12 uncovered employee:

13 (a) Is employed as an attorney in a position assigned to the attorney  
14 salary schedule.

15 (b) IS a supervisor.

16 (c) Is at a pay grade of nineteen or above or, if a successor  
17 compensation system is established, in an equivalent pay range as determined  
18 by the director.

19 (d) Is in a position assigned to the information technology salary  
20 schedule, in a position assigned to an information technology classification  
21 or, if a successor compensation system is established, in an equivalent pay  
22 range as determined by the director.

23 3. Any covered employee who voluntarily accepts a change in assignment  
24 to a position in the uncovered service, regardless of whether the voluntary  
25 change in assignment is a promotion, demotion or lateral transfer, is an at  
26 will uncovered employee on the start date of the voluntary change in  
27 assignment.

28 4. A covered employee may voluntarily elect to become an at will  
29 uncovered employee without a change in assignment on approval by the state  
30 agency head and the director. If approved, the change from covered to  
31 uncovered status is immediate.

32 5. Once a covered employee becomes an at will uncovered employee, the  
33 change is irrevocable.

34 B. Except as provided in subsection F of this section, the purpose of  
35 this article is for all state agencies in the state personnel system to treat  
36 employees pursuant to the following principles:

37 1. Recruiting, selecting and advancing employees on the basis of the  
38 employee's relative ability, knowledge and skills after open competition.

39 2. Providing compensation based on merit, performance, job value and  
40 competitiveness within applicable labor markets.

41 3. Training employees if the training will result in better  
42 organizational and individual performance.

43 4. Retaining employees on the basis of the adequacy of their  
44 performance, correct inadequate performance where possible and appropriate  
45 and separate employees whose performance is inadequate.

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

5           6. Ensuring that employees are protected against coercion for partisan  
6 political purposes and are prohibited from using their official authority for  
7 the purpose of interfering with or affecting the result of an election or  
8 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 knowledge,  
12 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 job  
19 classes and special pay plans for certain classes or groups of employees  
20 considering such factors as occupational patterns, economic conditions and  
21 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 to:

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

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

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

41           4. Patients or inmates employed in state institutions.

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

45           6. The cotton research and protection council.

1           7. The department of public safety.

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

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

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

9           2. An employee of the state department of corrections who is employed  
10 as a correctional officer I, correctional officer II, correctional officer  
11 III, community corrections officer or, if a successor classification system  
12 is established, in an equivalent job class as determined by the director.

13           3. AN EMPLOYEE OF THE AUDITOR GENERAL'S OFFICE.

14           4. AN EMPLOYEE OF ANY STATE AGENCY WHO HAS AUDIT FUNCTIONS AS A  
15 PRIMARY RESPONSIBILITY.

16           5. AN EMPLOYEE OF THE DEPARTMENT OF REVENUE WHO IS INVOLVED IN REVENUE  
17 COLLECTION.

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

22           1. Employees of the governor's office.

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

24           (a) Report directly to the elected official.

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

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

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

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

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

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

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

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

43           I. Any communications, including policy manuals, employee handbooks,  
44 job offers and performance appraisals and other communications as determined  
45 by the director, whether in writing or oral, that conflict with article 1, 5

1 or 6 of this chapter or this article are void and do not alter or supersede  
2 article 1, 5 or 6 of this chapter or this article.

3 Sec. 3. Section 41-745, Arizona Revised Statutes, is amended to read:  
4 41-745. Covered and uncovered service

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

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

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

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

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

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

35 D. BEGINNING ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS  
36 SECTION, AN EMPLOYEE OF THE AUDITOR GENERAL'S OFFICE, AN EMPLOYEE OF ANY  
37 STATE AGENCY WHO HAS AUDIT FUNCTIONS AS A PRIMARY RESPONSIBILITY OR AN  
38 EMPLOYEE OF THE DEPARTMENT OF REVENUE WHO IS INVOLVED IN REVENUE COLLECTION  
39 SHALL BE IN COVERED SERVICE UNLESS THE EMPLOYEE VOLUNTARILY ELECTS TO BECOME  
40 AN AT WILL UNCOVERED EMPLOYEE.