

REFERENCE TITLE: state employees; auditors; covered status

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1013

Introduced by
Senator Ableser

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. "Significant procurement role" means any role that includes any of
25 the following duties:

26 (a) Participating in the development of a procurement as defined in
27 section 41-2503.

28 (b) Participating in the development of an evaluation tool.

29 (c) Approving a procurement as defined in section 41-2503 or an
30 evaluation tool.

31 (d) Soliciting quotes greater than ten thousand dollars for the
32 provision of materials, services or construction.

33 (e) Serving as a technical advisor or an evaluator who evaluates a
34 procurement as defined in section 41-2503.

35 (f) Recommending or selecting a vendor that will provide materials,
36 services or construction to this state.

37 (g) Serving as a decision maker or designee on a protest or an appeal
38 by a party regarding an agency procurement selection or decision.

39 15. "State agency" means a department, board, office, authority,
40 commission or other governmental budget unit of this state and includes an
41 agency assigned to a department for administrative purposes. State agency
42 does not include the legislative and judicial branches, the Arizona board of
43 regents, state universities, the Arizona state schools for the deaf and the
44 blind, the department of public safety, the Arizona peace officer standards

1 and training board, the cotton research and protection council or public
2 corporations.

3 16. "State personnel board" means the board established by section
4 41-781.

5 17. "State personnel system" means all state agencies and employees of
6 those agencies that are not exempted by this article.

7 18. "State service" means all offices and positions of employment in
8 state government that, before September 29, 2012, were subject to the
9 provisions of articles 5 and 6 of this chapter that were in effect before
10 September 29, 2012.

11 19. "Supervisor" means a state employee who has one or more other state
12 employees reporting directly to the person and, for those state employees,
13 typically has the authority to:

- 14 (a) Approve sick or annual leave.
- 15 (b) Recommend hiring, discipline or dismissal.
- 16 (c) Assign or schedule daily work.
- 17 (d) Complete a performance evaluation.

18 20. "Uncovered employee" means an employee in uncovered service.

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

21 Sec. 2. Section 41-742, Arizona Revised Statutes, is amended to read:

22 41-742. State personnel system; covered and uncovered
23 employees; application; exemptions

24 A. Beginning September 29, 2012, unless otherwise prescribed in this
25 article:

- 26 1. All new hires are at will uncovered employees.
- 27 2. Any employee who meets any of the following criteria is an at will
28 uncovered employee:

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

31 (b) IS a supervisor.

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

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

39 3. Any covered employee who voluntarily accepts a change in assignment
40 to a position in the uncovered service, regardless of whether the voluntary
41 change in assignment is a promotion, demotion or lateral transfer, is an at
42 will uncovered employee on the start date of the voluntary change in
43 assignment.

44 4. A covered employee may voluntarily elect to become an at will
45 uncovered employee without a change in assignment on approval by the state

1 agency head and the director. If approved, the change from covered to
2 uncovered status is immediate.

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

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

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

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

12 3. Training employees if the training will result in better
13 organizational and individual performance.

14 4. Retaining employees on the basis of the adequacy of their
15 performance, correct inadequate performance where possible and appropriate
16 and separate employees whose performance is inadequate.

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

21 6. Ensuring that employees are protected against coercion for partisan
22 political purposes and are prohibited from using their official authority for
23 the purpose of interfering with or affecting the result of an election or
24 nomination for office.

25 C. The director shall establish and administer the state personnel
26 system, including:

27 1. A classification system and job classes and associated knowledge,
28 skills and abilities for those classes.

29 2. A centralized job announcement system to streamline statewide
30 recruiting for applicants.

31 3. A centralized employment system to be used by all successful
32 applicants, including a common application form to be used by all state
33 agencies.

34 4. A compensation system, including assigning pay ranges for all job
35 classes and special pay plans for certain classes or groups of employees
36 considering such factors as occupational patterns, economic conditions and
37 pay plans common to government, business and industry.

38 5. A statewide training program.

39 6. A statewide performance management system.

40 7. An audit function to review state agencies' processes and
41 compliance with applicable statutes, personnel rules and policies.

42 8. An integrated system to process personnel, payroll and benefits
43 transactions and serve as the system of record for state employees.

44 D. This article and articles 5 and 6 [OF THIS CHAPTER](#) do not apply to:

1 1. An elected state officer. An elected state officer means only AN
2 elected ~~officials~~ OFFICIAL and does not include the ~~employees~~ EMPLOYEE of AN
3 elected state ~~officers~~ OFFICER unless expressly provided.

4 2. Members of boards and commissions who are appointed by the
5 legislature or the governor, board members appointed pursuant to section
6 41-619.52 unless otherwise prescribed by law, employees of the Arizona
7 legislative council, employees appointed or employed by the legislature, any
8 legislative agency or either house of the legislature and employees of the
9 supreme court and the court of appeals.

10 3. The Arizona board of regents, officers or employees of state
11 universities and personnel of the Arizona state schools for the deaf and the
12 blind.

13 4. Patients or inmates employed in state institutions.

14 5. Officers and enlisted personnel of the national guard of Arizona
15 and employees of the department of emergency and military affairs who occupy
16 Arizona national guard positions identified as mobilization assets.

17 6. The cotton research and protection council.

18 7. The department of public safety.

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

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

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

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

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

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

33 5. AN EMPLOYEE OF THE DEPARTMENT OF REVENUE WHO IS INVOLVED IN REVENUE
34 COLLECTION.

35 F. Subsection B, paragraph 1 of this section, relating to open
36 competition and subsection B, paragraph 4 of this section and subsection B,
37 paragraph 5 of this section, relating to political affiliation, do not apply
38 to:

39 1. Employees of the governor's office.

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

41 (a) Report directly to the elected official.

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

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

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

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

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

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

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

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

15 I. Any communications, including policy manuals, employee handbooks,
16 job offers and performance appraisals and other communications as determined
17 by the director, whether in writing or oral, that conflict with article 1, 5
18 or 6 of this chapter or this article are void and do not alter or supersede
19 article 1, 5 or 6 of this chapter or this article.

20 Sec. 3. Section 41-745, Arizona Revised Statutes, is amended to read:

21 41-745. Covered and uncovered service

22 A. Except as provided in ~~subsection~~ SUBSECTIONS C AND D of this
23 section or section 41-742, subsection A, an employee under covered service is
24 entitled to continue to be a covered employee as long as the employee remains
25 in covered status without a break in service or as otherwise provided by
26 law. Probationary status employees are required to complete their
27 probationary period before obtaining rights of appeal. On successfully
28 completing a probationary period, an employee in covered service is entitled
29 to have appeal rights as provided in article 6 of this chapter or section
30 41-1830.16, as applicable.

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

35 C. A position that requires certification as a full authority peace
36 officer by the Arizona peace officer standards and training board or a
37 position designated as a correctional officer I, correctional officer II,
38 correctional officer III or community corrections officer shall be in the
39 covered and uncovered service as follows:

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

43 2. If, on September 29, 2012, the position is filled with a covered
44 employee who was in the state service and the employee does not voluntarily
45 elect to become an at will uncovered employee, the position shall remain in

1 the covered service for the current incumbent and for all future appointments
2 to that position.

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

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