



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

First Regular Session - 2023

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT

RELATING TO THE PERSONNEL SYSTEM; AMENDING SECTION 67-5302, IDAHO CODE, TO PROVIDE FOR EMPLOYEES HIRED UNDER APPROVED APPRENTICESHIP PROGRAMS AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5302, Idaho Code, be, and the same is hereby amended to read as follows:

67-5302. DEFINITIONS. As used in this chapter, and other applicable sections of the Idaho Code, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context. Such terms and their definitions are:

(1) "Administrative employee" means any person, nonclassified or classified, appointed to a position that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a classified position as "administrative" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designation that do not violate the federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the administrator.

(2) "Administrator" means the administrator of the division of human resources in the governor's office.

(3) "Appointing authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to make appointments to or employ personnel in any department.

(4) "Class" means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill, and other characteristics that the same title, the same tests of fitness and the same schedule of compensation may be applied to each position in the group.

(5) "Classified officer" or "classified employee" means any person appointed to or holding a position in any department of the state of Idaho, which position is subject to the provisions of the merit examination, selection, retention, promotion and dismissal requirements of section 67-5309, Idaho Code.

(6) "Commission" means the Idaho personnel commission.

(7) "Compensatory time" means approved time off from duty provided in compensation for overtime hours worked.

(8) "Computer worker" means any person, nonclassified or classified, appointed to a position that meets the criteria set forth in the federal fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a classified position as "computer worker" within this definition shall be made by the administrator of the division of human resources. Exceptions to this designa-



1 tion that do not violate the federal fair labor standards act, 29 U.S.C. 201  
2 et seq., may be made by the administrator.

3 (9) "Department" means any department, agency, institution or office  
4 of the state of Idaho.

5 (10) "Disabled veteran" is as defined in section 65-502, Idaho Code.

6 (11) "Eligible" means a person who has been determined to be qualified  
7 for a classified position and whose name has been placed on the register of  
8 eligibles.

9 (12) "Executive employee" means any person, nonclassified or classi-  
10 fied, appointed to a position equivalent to a bureau chief or above as pro-  
11 vided in section 67-2402, Idaho Code, or any employee meeting the following  
12 criteria:

13 (a) An individual whose primary duty is management of a department, di-  
14 vision or bureau; and

15 (b) Who customarily and regularly directs the work of at least two (2)  
16 or more other employees therein; and

17 (c) Who has the authority to hire and fire, or to recommend hiring and  
18 firing; or whose recommendation on these and other actions affecting  
19 employees is given particular weight; and

20 (d) Who customarily and regularly exercises discretionary powers; and

21 (e) Who is classified to a position allocated to the pay grade equiva-  
22 lent to two hundred sixty (260) points or higher pursuant to the rating  
23 system established by rule.

24 (f) Final designation of a classified position as "executive" in this  
25 definition shall be made by the administrator. Exceptions to this des-  
26 signation that do not violate the federal fair labor standards act, 29  
27 U.S.C. 201 et seq., may be made by the administrator.

28 (13) "Exempt employee" means any employee, classified or nonclassi-  
29 fied, who is determined to be an executive, professional or administrative  
30 employee as defined ~~herein~~, in this section or who qualifies for any other  
31 exemption from cash compensation for overtime under applicable federal law.  
32 Final designation of a classified position as exempt shall be made by the  
33 administrator.

34 (14) "Full-time employee" means any employee working a forty (40) hour  
35 workweek.

36 (15) (a) ~~The term "holiday" shall mean~~ "Holiday" means any day so desig-  
37 nated by the president of the United States or the governor of this state  
38 for a public fast, thanksgiving or holiday. "Holidays" are enumerated  
39 in section 73-108, Idaho Code.

40 (b) In the event that a holiday occurs on a Saturday, the preceding Fri-  
41 day shall be a holiday, and if the holiday falls on a Sunday, the follow-  
42 ing Monday shall be a holiday.

43 (c) A holiday is a day of exemption from work granted to nonexecutive  
44 employees during which said employees shall be compensated as if they  
45 actually worked. Employees classified as executive exempt are entitled  
46 to eleven (11) paid holidays per year. If such an employee works on one  
47 (1) of the official holidays listed in this subsection, then such em-  
48 ployee may take an alternative day off but shall not receive additional  
49 compensation.

1 (16) "Hours worked" means those hours actually spent in the performance  
2 of the employee's job on any day including holidays and shall not include va-  
3 cation or sick leave or other approved leave of absence.

4 (17) "Nonclassified employee" means any person appointed to or holding  
5 a position in any department of the state of Idaho, which position is ex-  
6 empted from the merit provisions of section 67-5309(e), (f), (g), (j), (m),  
7 (o), (p), (w), and (x), Idaho Code.

8 (18) "Normal workweek" means any forty (40) hours worked during a par-  
9 ticular one hundred sixty-eight (168) hour period as previously established  
10 by the employee's appointing authority.

11 (19) "Open competitive examination" means an examination that may be  
12 taken by qualified applicants to compete on an equal basis for listing on the  
13 register of eligibles for a classified position.

14 (20) "Overtime work" means time worked on holidays and time worked in  
15 excess of forty (40) hours in a period of one hundred sixty-eight (168) con-  
16 secutive hours, except that in the case of those employees engaged in law  
17 enforcement, correctional, and fire protection activities characterized by  
18 irregular shift work schedules, time worked in excess of one hundred sixty  
19 (160) hours in a period of twenty-eight (28) consecutive days shall consti-  
20 tute overtime work within the meaning of this chapter. Such employees may  
21 also be paid overtime for specific hours worked in addition to their normal  
22 schedules upon emergency declaration by the governor or with the approval of  
23 the appointing authority and the board of examiners.

24 (21) "Participating department" means any department of the state of  
25 Idaho in the executive department reporting to the governor or a board or  
26 commission appointed by the governor.

27 (22) "Part-time employee" means any employee whose usually scheduled  
28 work is fewer than forty (40) hours in a period of one hundred sixty-eight  
29 (168) consecutive hours, and who shall not be entitled to sick leave accruals  
30 provided in section 67-5333, Idaho Code, vacation leave provided in section  
31 67-5334, Idaho Code, ~~nor~~ or holiday pay as defined in subsection (15) of this  
32 section, unless contributions are being made to the public employee retire-  
33 ment system in accordance with chapter 13, title 59, Idaho Code, and rules  
34 promulgated by the public employee retirement system board.

35 (23) "Personnel system" means the procedure for administering employ-  
36 ees in accordance with this chapter.

37 (24) "Political office" means a public office for which partisan poli-  
38 tics is a basis for nomination, election or appointment.

39 (25) "Political organization" means a party that sponsors candidates  
40 for election to political office.

41 (26) "Position" means a group of duties and responsibilities legally  
42 assigned or delegated by one (1) or more appointing authorities and requir-  
43 ing the employment of one (1) person.

44 (27) "Professional employee" means any person, nonclassified or clas-  
45 sified, appointed to a position that meets the criteria set forth in the fed-  
46 eral fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a  
47 classified position as "professional" ~~within this definition~~ shall be made  
48 by the administrator. Exceptions to this designation that do not violate the  
49 federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the  
50 administrator.

1 (28) "Public education entity" means community colleges, public school  
2 districts, public charter schools and the Idaho digital learning academy.

3 (29) "Qualifying examination" means an examination or evaluation given  
4 to a selected person to determine eligibility for reclassification or ap-  
5 pointment to a position in a classification.

6 (30) "Register" means a list of names of persons who have been deter-  
7 mined to be eligible for employment in a classified position as determined on  
8 the basis of examination and merit factors as established by the administra-  
9 tor.

10 (31) "Seasonal appointment" means an appointment to a position that is  
11 permanent in nature but that has intermittent work periods throughout the  
12 year.

13 (32) "Service rating" means a recorded evaluation of work performance  
14 and promotional potential of an employee by his supervisor.

15 (33) "State educational agency" means the following state agencies and  
16 educational institutions under the governance of the Idaho state board of  
17 education:

18 (a) Boise state university;

19 (b) Idaho state university;

20 (c) University of Idaho;

21 (d) Lewis-Clark state college;

22 (e) Idaho public television;

23 (f) The division of vocational rehabilitation;

24 (g) The division of career technical education;

25 (h) The office of the state board of education;

26 (i) The state department of education; and

27 (j) The public charter school commission.

28 (34) "Temporary appointment" means appointment to a position that is  
29 not permanent in nature and in which employment will not exceed one thousand  
30 three hundred eighty-five (1,385) hours during any twelve (12) month period.  
31 No person holding a temporary appointment may work in excess of one thousand  
32 three hundred eighty-five (1,385) hours during a twelve (12) month period of  
33 time for any one (1) department, ~~except; provided, however,~~ upon petition by  
34 the appointing authority ~~of the department of lands~~ that demonstrates good  
35 cause, the administrator of the division of human resources may extend the  
36 one thousand three hundred eighty-five (1,385) hour limit for employees:

37 (a) Employees of the department of lands who are required to perform  
38 fire suppression activities; and

39 (b) Employees hired under approved apprenticeship programs.

40 (35) "Vacation leave" means a period of exemption from work granted to  
41 employees during which time said employees shall be compensated. The term  
42 shall not include compensatory time for overtime work.

43 (36) "Veteran" is as defined in section 65-203, Idaho Code.