



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

First Regular Session - 2023

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO THE STATE PERSONNEL SYSTEM; AMENDING SECTION 67-5302, IDAHO CODE, TO REVISE A DEFINITION 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 designation that do not violate the federal fair labor standards act, 29 U.S.C. 201 et seq., may be made by the administrator.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 In the event that a holiday occurs on a Saturday, the preceding Friday
38 shall be a holiday, and if the holiday falls on a Sunday, the following Monday
39 shall be a holiday.

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

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

49 (17) "Nonclassified employee" means any person appointed to or holding
50 a position in any department of the state of Idaho, which position is ex-

1 emptied from the merit provisions of section 67-5309(e), (f), (g), (j), (m),
2 (o), (p), (w), and (x), Idaho Code.

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

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

9 (20) "Overtime work" means ~~time~~:

10 (a) Time worked on holidays and time worked in excess of forty (40)
11 hours in a period of one hundred sixty-eight (168) consecutive hours,
12 except that;

13 (b) Upon designation from the administrator and in the case of those
14 employees engaged in law enforcement, correctional, and fire protec-
15 tion activities characterized by irregular shift work schedules, time
16 worked in excess of one hundred sixty (160) hours in a period of twenty-
17 eight (28) consecutive days shall constitute overtime work within the
18 meaning of this chapter. Such employees may also be paid overtime for;

19 (c) Upon designation from the administrator and in the case of certain
20 employees who meet federal exemption requirements, time worked in ex-
21 cess of eighty (80) hours within a period of fourteen (14) consecutive
22 days; or

23 (d) Time worked by employees during specific hours worked
24 in addition to their normal schedules upon emergency declaration by the governor or
25 with the approval of the appointing authority and the board of examin-
26 ers.

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

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

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

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

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

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

47 (27) "Professional employee" means any person, nonclassified or clas-
48 sified, appointed to a position that meets the criteria set forth in the fed-
49 eral fair labor standards act, 29 U.S.C. 201 et seq. Final designation of a
50 classified position as "professional" ~~within this definition~~ shall be made

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

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

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

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

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

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

18 (33) "State educational agency" means the following state agencies and
19 educational institutions under the governance of the Idaho state board of
20 education:

- 21 (a) Boise state university;
- 22 (b) Idaho state university;
- 23 (c) University of Idaho;
- 24 (d) Lewis-Clark state college;
- 25 (e) Idaho public television;
- 26 (f) The division of vocational rehabilitation;
- 27 (g) The division of career technical education;
- 28 (h) The office of the state board of education;
- 29 (i) The state department of education; and
- 30 (j) The public charter school commission.

31 (34) "Temporary appointment" means appointment to a position that is
32 not permanent in nature and in which employment will not exceed one thousand
33 three hundred eighty-five (1,385) hours during any twelve (12) month period.
34 No person holding a temporary appointment may work in excess of one thousand
35 three hundred eighty-five (1,385) hours during a twelve (12) month period
36 of time for any one (1) department, except upon petition by the appointing
37 authority of the department of lands that demonstrates good cause, the ad-
38 ministrator of the division of human resources may extend the one thousand
39 three hundred eighty-five (1,385) hour limit for employees of the department
40 who are required to perform fire suppression activities.

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

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