

1 SENATE BILL NO. 424

2 INTRODUCED BY F. MANDEVILLE, F. NAVE, E. BUTTREY, M. HOPKINS, B. BROWN, G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PERSONAL STAFF FOR AGENCY HEADS
5 APPOINTED BY THE GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, STATE AUDITOR,
6 AND SUPERINTENDENT OF PUBLIC INSTRUCTION; EXPANDING THE DEFINITION OF "PERSONAL
7 STAFF"; PROVIDING FOR THE USE OF EXISTING FULL-TIME EQUIVALENT PERSONNEL POSITIONS AS
8 PERSONAL STAFF; AND AMENDING SECTIONS 2-18-101 AND 2-18-104, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 2-18-101, MCA, is amended to read:

13 **"2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following
14 definitions apply:

15 (1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state
16 government recognized in the state budget.

17 (2) "Base salary" means the base hourly pay rate annualized paid to an employee, excluding
18 overtime and longevity.

19 (3) "Benchmark" means a representative position in a specific occupation that is used to illustrate
20 the application of the job evaluation factor used to classify the occupation.

21 (4) "Blue-collar pay plan" means a strictly negotiated classification and pay plan consisting of
22 unskilled or skilled labor, trades, and crafts occupations.

23 (5) "Board" means the board of personnel appeals established in 2-15-1705.

24 (6) "Broadband classification plan" means a job evaluation method that measures the difficulty of
25 the work and the knowledge or skills required to perform the work.

26 (7) "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on a
27 classification plan, including market midpoint and occupational wage ranges.

28 (8) "Compensation" means the annual or hourly wage or salary and includes the longevity

1 allowance provided in 2-18-304 and leave and holiday benefits provided in part 6 of this chapter.

2 (9) "Competencies" means sets of measurable and observable knowledge, skills, and behaviors
3 that contribute to success in a position.

4 (10) "Department" means the department of administration created in 2-15-1001.

5 (11) (a) Except in 2-18-306, "employee" means any state employee other than an employee
6 excepted under 2-18-103 or 2-18-104.

7 (b) The term does not include a student intern.

8 (12) "Job evaluation factor" means a measure of the complexities of the predominant duties of a
9 position.

10 (13) "Job sharing" means the sharing by two or more persons of a position.

11 (14) "Market midpoint" means the median base salary that other employers pay to employees in
12 comparable occupations as determined by the department's salary survey of the relevant labor market.

13 (15) "Occupation" means a generalized family of positions having substantially similar duties and
14 requiring similar qualifications, education, and experience.

15 (16) "Occupational wage range" means a range of pay, including a minimum, market midpoint, and
16 maximum salary, for a specific occupation that is most consistent with the pay being offered by competing
17 employers for fully competent employees within that occupation. The salary for an employee may be less than
18 the minimum salary.

19 (17) "Pay band" means a wide salary range covering a number of different occupations. Pay bands
20 are used for reporting and analysis purposes only.

21 (18) "Pay progression" means a process by which an employee's compensation may be increased,
22 based on documented factors determined by the department, to bring the employee's compensation to a higher
23 rate within the occupational wage range of the employee.

24 (19) "Permanent employee" means an employee who is designated by an agency as permanent,
25 who was hired through a competitive selection process unless excepted from the competitive process by law,
26 and who has attained or is eligible to attain permanent status.

27 (20) "Permanent status" means the state an employee attains after satisfactorily completing an
28 appropriate probationary period.

1 (21) "Personal staff" means those positions occupied by employees appointed by the elected
2 officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as
3 a whole, ~~or by each director appointed by the governor as provided in 2-15-111(1), OR BY EACH DIVISION~~
4 ADMINISTRATOR, OR EQUIVALENT, APPOINTED BY THE ELECTED OFFICIALS ENUMERATED IN ARTICLE VI, SECTION 1, OF
5 THE MONTANA CONSTITUTION.

6 (22) "Position" means a collection of duties and responsibilities currently assigned or delegated by
7 competent authority, requiring the full-time, part-time, or intermittent employment of one person.

8 (23) "Program" means a combination of planned efforts to provide a service.

9 (24) "Seasonal employee" means a permanent employee who is designated by an agency as
10 seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights
11 or benefits accrued during the preceding season.

12 (25) "Short-term worker" means a person who:

13 (a) may be hired by an agency without using a competitive hiring process for an hourly wage
14 established by the agency;

15 (b) may not work for the agency for more than 90 days in a continuous 12-month period;

16 (c) is not eligible for permanent status;

17 (d) may not be hired into a permanent position by the agency without a competitive selection
18 process;

19 (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter; and

20 (f) may be discharged without cause.

21 (26) "Student intern" means a person who:

22 (a) has been accepted in or is currently enrolled in an accredited school, college, or university and
23 may be hired by an agency in a student intern position without using a competitive selection process;

24 (b) is not eligible for permanent status;

25 (c) is not eligible to become a permanent employee without a competitive selection process;

26 (d) must be covered by the hiring agency's workers' compensation insurance;

27 (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter; and

28 (f) may be discharged without cause.

1 (27) (a) "Telework" means a flexible work arrangement where a designated employee may work
2 from:

3 (i) home within the state of Montana or an alternative worksite within the state of Montana 1 or
4 more days a week instead of physically traveling to a central workplace; or

5 (ii) an alternative worksite outside the state of Montana limited to:

6 (A) employees who are mental health professionals as defined in 27-1-1101 involved in
7 psychological or psychiatric evaluations and treatment;

8 (B) employees engaged in providing services related to information technology as defined in 2-17-
9 506;

10 (C) employees who are medical professionals involved in medical evaluations and treatment; or

11 (D) employees who are engaged in providing services related to economic development outside
12 the state and whose work duties require the employees to reside out of state.

13 (b) The office of budget and program planning must approve a designated employee's alternative
14 worksite outside the state of Montana before the employee begins work.

15 (28) "Temporary employee" means an employee who:

16 (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;

17 (b) performs duties on a temporary basis;

18 (c) is not eligible for permanent status;

19 (d) is terminated at the end of the employment period; and

20 (e) is not eligible to become a permanent employee without a competitive selection process."
21

22 **Section 2.** Section 2-18-104, MCA, is amended to read:

23 **"2-18-104. Exemption for personal staff -- limit.** (1) Subject to the limitations in subsections (2) and
24 (3), members of a personal staff are exempt from parts 1 through 3 and 10.

25 (2) The personal staff who are exempted by subsection (1) may not exceed 10 unless otherwise
26 approved by the department according to criteria developed by the department. ~~Under~~ EXCEPT AS PROVIDED IN
27 SUBSECTION (5)(A), UNDER no circumstances may the total exemptions of each elected official exceed 15.

28 (3) The number of members of the personal staff of the public service commission who are

1 exempted by subsection (1) may not exceed 6.

2 (4) The number of members of the personal staff of the leadership of the legislature who are
3 exempted by subsection (1) may not exceed:

4 (a) one personal staff for the speaker of the house of representatives;

5 (b) one personal staff for the minority leader of the house of representatives;

6 (c) one personal staff for the president of the senate;

7 (d) one personal staff for the minority leader of the senate; and

8 (e) one personal staff that serves at the pleasure of the speaker of the house of representatives

9 and the president of the senate for the purposes provided in 5-5-110.

10 (5) (a) The number of members of the personal staff to be appointed by and serve at the pleasure
11 of the agency head and be exempted by subsection (1) may not exceed the following:

12 (i) two personal staff for the following departments:

13 (A) administration;

14 (B) agriculture;

15 (C) commerce; and

16 (D) military affairs; and

17 (ii) three personal staff for the following departments:

18 (A) corrections;

19 (B) environmental quality;

20 (C) fish, wildlife, and parks;

21 (D) labor and industry;

22 (E) natural resources and conservation;

23 (F) public health and human services;

24 (G) revenue; and

25 (H) transportation; AND

26 (III) TWO PERSONAL STAFF TO BE APPOINTED BY AND SERVE AT THE PLEASURE OF A DIVISION

27 ADMINISTRATOR APPOINTED BY THE SECRETARY OF STATE, ATTORNEY GENERAL, STATE AUDITOR, AND SUPERINTENDENT

28 OF PUBLIC INSTRUCTION, WHICH MAY BE ADDITIONAL TO THE PERSONAL STAFF ALLOWED IN SUBSECTION (2) FOR AN

1 AGENCY WITH AN ELECTED OFFICIAL LISTED IN ARTICLE VI, SECTION 1, OF THE MONTANA CONSTITUTION, A NUMBER OF
2 PERSONAL STAFF IN EXCESS OF THE LIMITATIONS IN SUBSECTION (2) BUT NOT TO EXCEED 3% OF THE AGENCY'S FULL-
3 TIME EMPLOYEES.

4 (b) When appointing personal staff under subsection (5)(a), only an existing full-time equivalent
5 personnel position must be used. Agencies may not create a new full-time equivalent personnel position when
6 appointing personal staff.

7 (c) FOR THE PURPOSES OF SUBSECTION (5)(A)(III), THE NUMBER OF FULL-TIME EMPLOYEES IS
8 DETERMINED PURSUANT TO 2-18-204 AND IS WITHIN AN AGENCY'S BASE BUDGET AS DEFINED IN 17-7-102. (Subsection
9 (4)(e) terminates June 1, 2023--sec. 6, Ch. 523, L. 2021.)"

10 - END -