

# **The Four Cornerstones of Reform**

## **Third Cornerstone of Reform: State Government - Personnel Reform**

### **Provisions of Personnel Reform Legislation**

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#### **Consolidate Personnel Systems**

- The personnel systems within the Executive Branch listed below will be consolidated into one system called the State Personnel System.
  - ADOA Personnel System, which includes 91 state agencies, boards and commissions
  - Department of Gaming
  - Department of Tourism
  - Governor's Office
  - Secretary of State
  - Arizona State Retirement System
  - Public Safety Personnel Retirement System
- The Department of Public Safety will maintain a separate personnel system for its employees.

#### **Transition to At-Will Workforce**

- Beginning September 29, 2012, the following individuals would become at-will uncovered:
  - New hires
  - Supervisors
  - Employees employed as attorneys
  - Employees employed in information technology positions
  - Employees in grade 19 and higher positions
  - A covered employee who voluntarily elects to become uncovered
  - A covered employee who voluntarily accepts a new assignment (e.g. promotion, transfer)
- A current covered employee that does not meet the criteria listed above shall remain covered as long as the employee continues in covered status without a break in service.
- Employees in positions that require full authority peace officer certification and employees in Correctional Officer I, II or III and Community Corrections Officer positions will retain their current covered/uncovered status unless the employee in the position elects to become uncovered.

#### **Director Term and For Cause Provisions**

- With the exception of the DPS Director, eliminates agency director terms and removal for cause provisions.
- Allows current directors with term provisions to continue to serve until the expiration of their term.
- Modifies the term of the DPS Director; serves concurrently with the appointing Governor.
- Amends the appointment of the director of the Industrial Commission by adding subject to Senate confirmation; the Director serves at the pleasure of the Governor.
- Amends the authority to appoint the Executive Director of Arizona State Parks to the Governor pursuant to A.R.S. §38-211; the Director serves at the pleasure of the Governor.

#### **Search Committees**

- Eliminates requirements for search committees of Cabinet Agency Directors and for the Board of Executive Clemency.

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#### **Hiring Practices**

- Requires ADOA to develop procedures and standard forms for all agencies to use to verify education and work history of applicants.

#### **Compensation**

- Makes conforming changes to agencies' statutes that ADOA salary schedules are mandatory for all employees except those specifically exempted.
- Except for state employees engaged in law enforcement, probation officer and firefighting activities, eliminates the requirement for employees exempt from the Fair Labor Standards Act (FLSA) to receive leave for each hour worked over 40 hours in a work week.
- Subject to ADOA approval, allows agencies to spend monies for travel expenses associated with interviewing out-of-state candidates and relocation expenses if an out-of-state candidate is appointed; agencies must report by September 1 each year to OSPB and JLBC if any monies are spent for this purpose.
- Defines the state workweek with specific provisions for Department of Corrections.
- Allows for incentive compensation plans for investment-related positions at ASRS and PSPRS and requires ASRS and PSPRS to file a copy of the plan with the Governor, President of the Senate, Speaker of the House of Representatives, OSPB, JLBC and ADOA. Allows for special pay plans and employment contracts for certain positions at ASRS and PSPRS.
- Repeals teacher/school staff salary study by ADOA (A.R.S. §15-1331).

#### **Administrative Leave**

- Requires agencies to report to ADOA if an employee is placed on administrative leave with pay during any investigation if the leave totals 80 hours or more. Agencies must report on a weekly basis thereafter until the administrative leave is terminated.
- Requires approval from ADOA if administrative leave exceeds 30 days.

#### **Employee Complaints**

- Requires ADOA to establish procedures for reviewing harassment and discrimination complaints filed by employees.
- Whistleblower Complaints:
  - Increases the penalty for an employee who is found by the Personnel Board to have knowingly committed a prohibited personnel practice against an employee who disclosed information evidencing a violation of a law; penalty includes paying a civil penalty of \$10,000 (currently \$5,000), immediate dismissal, and removal from future consideration for state employment.
  - Allows a court to award reasonable attorney fees to an employee/former employee who prevails in a civil action concerning a whistleblower claim, up to \$10,000.
  - Modifies the level of superior court review for whistleblower complaints from a trial de novo to a review of the administrative hearing record.

#### **Disciplinary Actions**

- With the exception of certain positions, establishes a requirement that all suspensions over 80 hours, demotions and dismissals be reviewed by ADOA prior to implementing the adverse actions.

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#### **State Personnel Board**

- Increases the threshold for appealing suspensions from greater than 40 to greater than 80 hours.
- Modifies the Board's authority. The Board shall affirm the agency's decision unless the decision was arbitrary and capricious. If the Board finds the decision arbitrary and capricious or the agency has not proven by a preponderance of the evidence the facts, the Board may recommend the agency modify the disciplinary action; if cause did not exist, the Board must reverse the agency decision; the agency head shall make the final decision.
- Modifies the compensation of the Board members from \$30/day to \$100/day.

#### **Law Enforcement Merit System Council**

- Increases the current Law Enforcement Merit System Council (LEMSC) from three members to five members; with staggered terms, and reduces term of members from six to three years.
- For DPS employees, the Council:
  - Continues to adopt rules, administer classification, compensation and performance management systems
  - Continues to hear appeals
    - Modifies the Council's authority. The Council shall affirm the agency's decision unless the decision was arbitrary and capricious. If the Council finds the decision arbitrary and capricious or the agency has not proven by a preponderance of the evidence the facts, the Council may recommend the agency modify the disciplinary action; if cause did not exist, the Council must reverse the agency decision; the agency head shall make the final decision. If the Director does not accept the Council's recommendation, the Director shall state the reason(s) for rejecting the recommendation.
- A non-DPS covered full authority peace officer in the State Personnel System would be able to appeal a suspension of more than 40 hours, demotion or dismissal to LEMSC instead of the State Personnel Board.
- Provides for the compensation of the Board members of \$100/day (currently only eligible for reimbursement of expenses).

#### **Reduction in Force**

- For covered employees, retention will be based on the employee's performance and not on seniority; prohibits an agency from adopting policies that provide retention based on tenure or seniority.

#### **Miscellaneous**

- Makes conforming changes to agencies' statutes that agency employees are subject to the new state personnel system article.
- Requires agencies to treat employees in accordance with guiding principles except those specifically exempted.
- Authorizes the reduction in state office hours to implement furloughs if necessary.
- Provides exemption from rule making requirements.
- Changes the date in which ADOA is required to submit an annual report on the financial status of the special employee insurance trust fund from March 1 to July 1.
- Effective September 29, 2012.