

SENATE BILL NO. 310

INTRODUCED BY R. OSMUNDSON

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PERSONAL STAFF POSITIONS FOR CERTAIN APPOINTEES; EXEMPTING THE NEWLY CREATED PERSONAL STAFF POSITIONS FROM CERTAIN LAWS RELATED TO STATE EMPLOYEES, INCLUDING THE BROADBAND CLASSIFICATION PLAN; AND AMENDING SECTIONS 2-18-101 AND 2-18-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

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

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

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

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

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

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

1 (8) "Compensation" means the annual or hourly wage or salary and includes the longevity allowance
2 provided in 2-18-304 and leave and holiday benefits provided in part 6 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

28 (20) "Permanent status" means the state an employee attains after satisfactorily completing an

1 appropriate probationary period.

2 (21) "Personal staff" means those positions occupied by employees appointed by the elected officials
3 enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole,
4 or by each director appointed by the governor as provided in 2-15-111(1).

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

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

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

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

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

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

15 (c) is not eligible for permanent status;

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

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

18 (f) may be discharged without cause.

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

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

22 (b) is not eligible for permanent status;

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

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

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

26 (f) may be discharged without cause.

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

28 (i) home within the state of Montana or an alternative worksite within the state of Montana 1 or more

1 days a week instead of physically traveling to a central workplace; or

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

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

5 (B) employees engaged in providing services related to information technology as defined in 2-17-
6 506; or

7 (C) employees who are medical professionals involved in medical evaluations and treatment.

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

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

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

12 (b) performs duties on a temporary basis;

13 (c) is not eligible for permanent status;

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

15 (e) is not eligible to become a permanent employee without a competitive selection process."
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17 **Section 2.** Section 2-18-104, MCA, is amended to read:

18 **"2-18-104. Exemption for personal staff -- limit.** (1) ~~Subject to the limitations in subsections (2) and~~
19 ~~(3), members~~ Members of a personal staff provided for in this section are exempt from parts 1 through 3 and
20 10.

21 (2) ~~The personal staff who are exempted by subsection (1) of each elected official enumerated in~~
22 Article VI, section 1, of the Montana constitution may not exceed 10 unless otherwise approved by the
23 department according to criteria developed by the department. Under no circumstances may the total
24 exemptions of each elected official exceed 15.

25 (3) The number of members of the personal staff of the public service commission who are exempted
26 by subsection (1) may not exceed 10.

27 (4) The number of members of the personal staff of each director appointed by the governor as
28 provided in 2-15-111 may not exceed:

1 (a) two, if a department has less than 250 full-time employees as defined in 2-18-601; or

2 (b) three, if a department has 250 or more full-time employees as defined in 2-18-601."

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4 NEW SECTION. Section 3. Transition. A position authorized by [this act] may be filled using only the
5 existing budget of the department.

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7 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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