

1 HOUSE BILL NO. 588  
2 INTRODUCED BY C. KNUDSEN, W. GALT, S. VINTON, M. BLASDEL, J. ELLSWORTH, G. HERTZ, D. KARY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PERSONAL STAFF  
5 APPOINTMENTS BY THE GOVERNOR AND AGENCY DIRECTORS; REVISING LIMITS ON PERSONAL  
6 STAFF APPOINTED BY AGENCY DIRECTORS; AND AMENDING SECTIONS 2-18-101 AND 2-18-104,  
7 MCA."

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

10  
11 **Section 1.** Section 2-18-101, MCA, is amended to read:

12 **"2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following  
13 definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (21) "Personal staff" means those positions occupied by employees appointed by the elected officials

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1 enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole,  
2 or by each director appointed by the governor as provided in 2-15-111(1).

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

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

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

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

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

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

13 (c) is not eligible for permanent status;

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

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

16 (f) may be discharged without cause.

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

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

20 (b) is not eligible for permanent status;

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

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

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

24 (f) may be discharged without cause.

25 (27) (a) "Telework" means a flexible work arrangement ~~where~~ in which a designated employee may  
26 work from:

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

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- 1 (ii) an alternative worksite outside the state of Montana limited to:
- 2 (A) employees who are mental health professionals as defined in 27-1-1101 involved in psychological
- 3 or psychiatric evaluations and treatment;
- 4 (B) employees engaged in providing services related to information technology as defined in 2-17-
- 5 506; or
- 6 (C) employees who are medical professionals involved in medical evaluations and treatment.
- 7 (b) The office of budget and program planning ~~must~~ shall approve a designated employee's
- 8 alternative worksite outside the state of Montana before the employee begins work.

- 9 (28) "Temporary employee" means an employee who:
- 10 (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;
- 11 (b) performs duties on a temporary basis;
- 12 (c) is not eligible for permanent status;
- 13 (d) is terminated at the end of the employment period; and
- 14 (e) is not eligible to become a permanent employee without a competitive selection process."

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

17 **"2-18-104. Exemption for personal staff -- limit.** (1) ~~Subject to the limitations in subsections (2) and~~  
18 ~~(3), members~~ Members of a personal staff provided for in this section are exempt from parts 1 through 3 and  
19 10.

20 (2) The number of personal staff ~~who are exempted by subsection (1)~~ may not:

21 (a) for agencies with a director appointed by the governor as provided in 2-15-111, exceed 1% of the  
22 number of full-time employees as defined in 2-18-601, or 10, whichever is less;

23 (a)(b) for agencies with an elected official listed in Article VI, section 1, of the Montana constitution:

24 (i) with fewer than 100 full-time employees as defined in 2-18-601, exceed 10 unless otherwise  
25 approved by the ~~department~~ agency according to criteria developed by the ~~department~~ agency. Under no  
26 circumstances may the total exemptions allowed under this subsection (2)(a)(b)(i) of each elected official or  
27 agency exceed 15- ; or

28 (b)(ii) for agencies with 100 or more full-time employees as defined in 2-18-601, exceed 10% 5% of

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1 the number of full-time employees, unless otherwise approved by the agency according to criteria developed  
2 by the agency. Under no circumstances may the total exemptions allowed under this subsection (2)(a)(b)(ii) of  
3 each elected official or agency exceed 50.

4 (3) For the purposes of subsection (2), the number of employees is determined pursuant to 2-18-204  
5 and are within an agency's base budget as defined in 17-7-102.

6 ~~(3)~~(4) The number of members of the personal staff of the public service commission who are  
7 exempted by subsection (1) may not exceed 10."

8 - END -

DRAFT