

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 789

An Act to amend and reenact § 2.2-1201 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2903.1, relating to use of accrued annual leave for military service.

[H 1916]

Approved March 20, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1201 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 2.2-2903.1 as follows:

§ 2.2-1201. Duties of Department.

The Department shall have the following duties:

1. Make recommendations to the Governor regarding the establishment and maintenance of a classification plan for the service of the Commonwealth, and recommend necessary amendments thereto.

2. Make recommendations to the Governor regarding the establishment and administration of a compensation plan for all employees, and recommend necessary amendments thereto.

3. Design and maintain a personnel information system that shall support the operational needs of the Department and of state agencies, and that shall provide for the management information needs of the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each employee, the employing agency, the class title, pay, status and such other data as may be deemed desirable to produce significant facts pertaining to personnel administration.

4. Establish and direct a program of employee-management relations designed to improve communications between employees and agencies of the Commonwealth.

5. Establish and administer a system of performance evaluation for all employees in the service of the Commonwealth, based on the quality of service rendered, related where practicable to specific standards of performance. In no event shall workers' compensation leave affect the total number of hours credited during a performance cycle for purposes of calculating incentive increases in salary based on such performance evaluations.

6. Establish and administer a system of recruitment designed to attract high quality employees to the service of the Commonwealth. In administering this system, applicants shall be rated on the basis of relative merit and classified in accordance with their suitability for the various classes of positions in the service of the Commonwealth, and a record thereof shall be maintained in the open register.

7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work performed by the applicant.

8. Establish and administer a comprehensive and integrated program of employee training and management development.

9. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

10. Establish and administer a program to ensure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.

11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than ~~ten~~ 10 days of any state employee who is under investigation without a hearing conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.

12. Adopt and implement a centralized program to provide awards to employees who propose procedures or ideas that are adopted and that will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect. The centralized program shall be designed to (i) protect the identity of the individual making the proposal while it is being evaluated for implementation by a state agency, (ii) publicize the acceptance of proposals and financial awards to state employees, and (iii) include a reevaluation process that individuals making proposals may access if their proposals are rejected by the evaluating agency. The reevaluation process must include individuals from the private sector.

13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the international network of computer systems commonly known as the

Internet. At a minimum, the Department's acceptable use policy shall contain provisions that (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to ensure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department shall have no authority with respect to the state grievance procedures.

13. *a. Develop state personnel policies, with the approval of the Governor, that permit any full-time state employee who is also a member of the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard to carry forward from year to year the total of his accrued annual leave time without regard to the regulation or policy of his agency regarding the maximum number of hours allowed to be carried forward at the end of a calendar year. Any amount over the usual amount allowed to be carried forward shall be reserved for use only as leave taken pursuant to active military service as provided by § 2.2-2903.1. Such leave and its use shall be in addition to leave provided under § 44-93. Any leave carried forward for the purposes described remaining upon termination of employment with the Commonwealth or any department, institution or agency thereof that has not been used in accordance with § 2.2-2903.1 shall not be paid or credited in any way to the employee.*

14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year and the net gains and losses in personnel for each agency for a three-year period.

15. Submit a report to the General Assembly on or before September 30 of each year showing the number of employees who voluntarily and involuntarily terminated their employment with each department, agency or institution in the previous fiscal year.

16. Administer the workers' compensation insurance plan for state employees in accordance with § 2.2-2821.

§ 2.2-2903.1. State employees ordered to active military service.

A. As used in this section, unless the context requires a different meaning:

"Active military duty" means federally funded military duty as (i) a member of the armed forces of the United States on active duty pursuant to Title 10 U.S.C. or (ii) a member of the Virginia National Guard on active duty pursuant to either Title 10 or Title 32 U.S.C.

"State employee" means any person who is regularly employed full time on either a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution or agency thereof.

B. For any state employee who has been ordered to active military service in the armed forces of the United States or in the organized reserve forces of any of the armed services of the United States or of the Virginia National Guard, the Commonwealth shall allow the use of accrued annual leave for active military duty according to personnel policies developed by the Department of Human Resource Management.