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HOUSE BILL NO. 1090

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend and reenact §§ 2.2-1201, 2.2-2900, and 51.1-1101 of the Code of Virginia, relating to the Virginia Personnel Act; equal pay for equal work; policy of the Commonwealth.

Patrons—Boysko, Ayala, Bagby, Convirs-Fowler, Gooditis, Hope, Krizek, Levine, Mullin, Plum, Rasoul, Rodman, Simon, Turpin and Tyler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1201, 2.2-2900, and 51.1-1101 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1201. Duties of Department; Director.

A. 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 a program to ensure equal pay for equal work to state employees in all incidents of employment as provided in § 2.2-2900.*

12. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than 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.~~ 13. 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. State employees who make a suggestion or proposal under this section shall receive

58 initial confirmation of receipt within 30 days. A determination of the feasibility of the suggestion or
59 proposal shall occur within 60 days of initial receipt.

60 ~~13.~~ 14. Develop state personnel policies and, after approval by the Governor, disseminate and
61 interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an
62 employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued
63 paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid
64 sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of
65 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an
66 acceptable use policy for the Internet. At a minimum, the Department's acceptable use policy shall
67 contain provisions that (i) prohibit use by state employees of the Commonwealth's computer equipment
68 and communications services for sending, receiving, viewing, or downloading illegal material via the
69 Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An
70 agency head may supplement the Department's acceptable use policy with such other terms, conditions,
71 and requirements as he deems appropriate. The Director of the Department shall have the final authority
72 to establish and interpret personnel policies and procedures and shall have the authority to ensure full
73 compliance with such policies. However, unless specifically authorized by law, the Director of the
74 Department shall have no authority with respect to the state grievance procedures.

75 ~~13a.~~ 14a. Develop state personnel policies, with the approval of the Governor, that permit any
76 full-time state employee who is also a member of the organized reserve forces of any of the armed
77 services of the United States or of the Virginia National Guard to carry forward from year to year the
78 total of his accrued annual leave time without regard to the regulation or policy of his agency regarding
79 the maximum number of hours allowed to be carried forward at the end of a calendar year. Any amount
80 over the usual amount allowed to be carried forward shall be reserved for use only as leave taken
81 pursuant to active military service as provided by § 2.2-2903.1. Such leave and its use shall be in
82 addition to leave provided under § 44-93. Any leave carried forward for the purposes described
83 remaining upon termination of employment with the Commonwealth or any department, institution or
84 agency thereof that has not been used in accordance with § 2.2-2903.1 shall not be paid or credited in
85 any way to the employee.

86 ~~14.~~ 15. Ascertain and publish on an annual basis, by agency, the number of employees in the service
87 of the Commonwealth, including permanent full-time and part-time employees, those employed on a
88 temporary or contractual basis, and constitutional officers and their employees whose salaries are funded
89 by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel
90 from the previous fiscal year and the net gains and losses in personnel for each agency for a three-year
91 period.

92 ~~15.~~ 16. Submit a report to the members of the General Assembly on or before September 30 of each
93 year showing (i) the total number of full-time and part-time employees, (ii) contract temporary
94 employees, (iii) hourly temporary employees, and (iv) the number of employees who voluntarily and
95 involuntarily terminated their employment with each department, agency or institution in the previous
96 fiscal year.

97 ~~16.~~ 17. Administer the workers' compensation insurance plan for state employees in accordance with
98 § 2.2-2821.

99 ~~17.~~ 18. Work jointly with the Department of General Services and the Virginia Information
100 Technologies Agency to develop expedited processes for the procurement of staff augmentation to
101 supplement salaried and wage employees of state agencies. Such processes shall be consistent with the
102 Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Department may perform contract
103 administration duties and responsibilities for any resulting statewide augmentation contracts.

104 B. The Director may convene such ad hoc working groups as the Director deems appropriate to
105 address issues regarding the state workforce.

106 **§ 2.2-2900. Short title; purpose.**

107 A. This chapter shall be known and may be cited as the "Virginia Personnel Act."

108 B. The purpose of this chapter is to ensure for the Commonwealth a system of personnel
109 administration based on merit principles and objective methods of appointment, promotion, transfer,
110 layoff, removal, discipline, and other incidents of state employment.

111 C. *It shall be the policy of the Commonwealth that there shall be no discrimination between*
112 *employees on the basis of sex by paying wages to employees at a rate less than the rate at which it*
113 *pays wages to employees of the opposite sex for equal work.*

114 **§ 51.1-1101. Sickness and disability program; disability insurance policies.**

115 A. The Board shall develop, implement, and administer a sick leave, short-term disability, and
116 long-term disability benefits program in accordance with the provisions of this chapter. The Board is
117 authorized to delegate or assign to any person any of the duties required to be performed by the Board
118 pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for
119 participating employees. The policies shall be purchased from and carried with a disability insurance

120 company which is authorized to do business in the Commonwealth. Each policy shall contain a
121 provision stipulating the maximum expense and risk charges that are determined by the Board to be on
122 a basis consistent with the general level of charges made by disability insurance companies under
123 policies of long-term disability insurance issued to large employers. The Board may require that the
124 policies have reinsurance with a disability insurance company incorporated or organized under the laws
125 of and authorized to do business in the Commonwealth. This section is not intended to abrogate the
126 final authority of the Director of the Department of Human Resource Management under subdivision A
127 ~~13~~ 14 of § 2.2-1201 to establish and interpret personnel policy and procedures, such as the sick leave
128 policy.

129 B. Notwithstanding the provisions of subsection A, the Board may self-insure long-term disability
130 benefits in accordance with the standards set forth in § 51.1-124.30.