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HOUSE BILL NO. 581

Offered January 8, 2020

Prefiled January 6, 2020

A BILL to amend and reenact §§ 2.2-1201 and 51.1-1101 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1211, relating to the Department of Human Resource Management; required online training for LGBTQ cultural competency.

Patrons—Guzman, Hope and Levine; Senator: Morrissey

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1201 and 51.1-1101 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1211 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. *Develop an online training module addressing lesbian, gay, bisexual, transgender, and queer (LGBTQ) cultural competency that shall be available for use by all employees and agencies of the Commonwealth. Such training module shall include information on (i) LGBTQ identities, (ii) strategies to protect LGBTQ employees from discrimination and to ensure that they are treated in an inclusive and equitable manner, (iii) strategies to ensure equity and inclusion in state employee recruitment and hiring, and (iv) strategies to ensure that state employees provide equitable, competent, and welcoming services to LGBTQ persons.*

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

~~11.~~ 11. Establish and administer a program to ensure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.

~~12.~~ 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.

~~13.~~ 13. Adopt and implement a centralized program to provide awards to employees who propose

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59 procedures or ideas that are adopted and that will result in eliminating or reducing state expenditures or
60 improving operations, provided such proposals are placed in effect. The centralized program shall be
61 designed to (i) protect the identity of the individual making the proposal while it is being evaluated for
62 implementation by a state agency, (ii) publicize the acceptance of proposals and financial awards to state
63 employees, and (iii) include a reevaluation process that individuals making proposals may access if their
64 proposals are rejected by the evaluating agency. The reevaluation process must include individuals from
65 the private sector. State employees who make a suggestion or proposal under this section shall receive
66 initial confirmation of receipt within 30 days. A determination of the feasibility of the suggestion or
67 proposal shall occur within 60 days of initial receipt.

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

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

94 ~~13b.~~ 14b. Develop state personnel policies that provide break time for nursing mothers to express
95 breast milk. Such policies shall require an agency to provide (i) a reasonable break time for an
96 employee to express breast milk for her nursing child after the child's birth each time such employee has
97 need to express the breast milk and (ii) a place, other than a bathroom, that is shielded from view and
98 free from intrusion from coworkers and the public and that may be used by an employee to express
99 breast milk. Such break time shall, if possible, run concurrently with any break time already provided to
100 the employee. An agency shall not be required to compensate an employee receiving reasonable break
101 time for any work time spent for such purpose. For purposes of this subdivision, "reasonable," with
102 regard to break time provided for nursing mothers to express breast milk, means a break time that
103 complies with the guidance for employers in assessing the frequency and timing of breaks to express
104 breast milk set forth in the U.S. Department of Labor's Request for Information RIN 1235-ZA00, 75
105 Federal Register 80073 (December 21, 2010).

106 ~~14.~~ 15. Ascertain and publish on an annual basis, by agency, the number of employees in the service
107 of the Commonwealth, including permanent full-time and part-time employees, those employed on a
108 temporary or contractual basis, and constitutional officers and their employees whose salaries are funded
109 by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel
110 from the previous fiscal year and the net gains and losses in personnel for each agency for a three-year
111 period.

112 ~~15.~~ 16. Submit a report to the members of the General Assembly on or before September 30 of each
113 year showing (i) the total number of full-time and part-time employees, (ii) contract temporary
114 employees, (iii) hourly temporary employees, and (iv) the number of employees who voluntarily and
115 involuntarily terminated their employment with each department, agency or institution in the previous
116 fiscal year.

117 ~~16.~~ 17. Administer the workers' compensation insurance plan for state employees in accordance with
118 § 2.2-2821.

119 ~~17.~~ 18. Work jointly with the Department of General Services and the Virginia Information
120 Technologies Agency to develop expedited processes for the procurement of staff augmentation to

121 supplement salaried and wage employees of state agencies. Such processes shall be consistent with the
122 Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Department may perform contract
123 administration duties and responsibilities for any resulting statewide augmentation contracts.

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

126 **§ 2.2-1211. Required LGBTQ cultural competency training.**

127 *All state employees commencing or recommencing employment with the Commonwealth on or after*
128 *January 1, 2021, shall complete an online lesbian, gay, bisexual, transgender, and queer (LGBTQ)*
129 *cultural competency training module provided by the Department pursuant to subdivision A 9 of*
130 *§ 2.2-1201 within 90 days of commencing or recommencing such employment. Each state agency shall*
131 *maintain records showing that each employee has completed the training required by this section and*
132 *the date on which such training was completed.*

133 **§ 51.1-1101. Sickness and disability program; disability insurance policies.**

134 A. The Board shall develop, implement, and administer a sick leave, short-term disability, and
135 long-term disability benefits program in accordance with the provisions of this chapter. The Board is
136 authorized to delegate or assign to any person any of the duties required to be performed by the Board
137 pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for
138 participating employees. The policies shall be purchased from and carried with a disability insurance
139 company which is authorized to do business in the Commonwealth. Each policy shall contain a
140 provision stipulating the maximum expense and risk charges that are determined by the Board to be on
141 a basis consistent with the general level of charges made by disability insurance companies under
142 policies of long-term disability insurance issued to large employers. The Board may require that the
143 policies have reinsurance with a disability insurance company incorporated or organized under the laws
144 of and authorized to do business in the Commonwealth. This section is not intended to abrogate the
145 final authority of the Director of the Department of Human Resource Management under subdivision A
146 14 of § 2.2-1201 to establish and interpret personnel policy and procedures, such as the sick leave
147 policy.

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

150 **2. That the Department of Human Resource Management shall develop an online training module**
151 **addressing lesbian, gay, bisexual, transgender, and queer (LGBTQ) cultural competency that shall**
152 **be available by January 1, 2021, for use by all employees and agencies of the Commonwealth.**

153 **3. That any person employed with the Commonwealth on January 1, 2021, shall complete the**
154 **training required by § 2.2-1211 of the Code of Virginia, as created by this act, no later than April**
155 **1, 2021.**