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HOUSE BILL NO. 2572

Offered January 13, 2025

Prefiled January 12, 2025

A BILL to amend and reenact §§ 2.2-1201, 2.2-1211, 2.2-1212, 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 2.2-1214, relating to Department of Human Resource Management; direct experience recruitment policy.

Patron—Leftwich

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1201, 2.2-1211, 2.2-1212, 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 2.2-1214 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. *Develop a statewide direct experience recruitment policy in accordance with the provisions of § 2.2-1214.*

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

~~8-~~ 9. Establish and administer a comprehensive and integrated program of employee training and management development.

~~9-~~ 10. In coordination with the Governor or his designee, develop an online training module addressing diversity and cultural competency that shall be available for use by all employees and agencies of the Commonwealth. Such training module shall include (i) information related to race, ethnicity, disabilities, gender, religion, and other protected classes under state law; (ii) strategies to create an inclusive and equitable culture; (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 all persons.

~~10-~~ 11. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

~~11-~~ 12. 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-~~ 13. 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-~~ 14. Adopt and implement a centralized program to provide awards to employees who propose

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

~~14-~~ 15. 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 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.

~~14a-~~ 16. 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.

~~14b-~~ 17. Develop state personnel policies that provide break time for nursing mothers to express breast milk. Such policies shall require an agency to provide (i) a reasonable break time for an employee to express breast milk for her nursing child after the child's birth each time such employee has need to express the breast milk and (ii) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public and that may be used by an employee to express breast milk. Such break time shall, if possible, run concurrently with any break time already provided to the employee. An agency shall not be required to compensate an employee receiving reasonable break time for any work time spent for such purpose. For purposes of this subdivision, "reasonable," with regard to break time provided for nursing mothers to express breast milk, means a break time that complies with the guidance for employers in assessing the frequency and timing of breaks to express breast milk set forth in the U.S. Department of Labor's Request for Information RIN 1235-ZA00, 75 Federal Register 80073 (December 21, 2010).

~~15-~~ 18. 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.

~~16-~~ 19. Submit a report to the members of the General Assembly on or before September 30 of each year showing (i) the total number of full-time and part-time employees, (ii) contract temporary employees, (iii) hourly temporary employees, and (iv) the number of employees who voluntarily and involuntarily terminated their employment with each department, agency, or institution in the previous fiscal year.

~~17-~~ 20. Administer the workers' compensation insurance plan for state employees in accordance with § 2.2-2821.

~~18-~~ 21. Work jointly with the Department of General Services and the Virginia Information Technologies Agency to develop expedited processes for the procurement of staff augmentation to supplement salaried and wage employees of state agencies. Such processes shall be consistent with the Virginia Public Procurement Act (§ 2.2-4300 et seq.). The Department may perform contract administration duties and responsibilities for any resulting statewide augmentation contracts.

~~19-~~ 22. In coordination with the Secretary of Health and Human Resources or his designee, develop an

online training module addressing safety and disaster awareness, which shall be incorporated into existing mandatory training.

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

§ 2.2-1211. Required diversity and cultural competency training.

All state employees commencing or recommencing employment with the Commonwealth on or after January 1, 2021, shall complete an online diversity and cultural competency training module provided by the Department pursuant to subdivision A 9 10 of § 2.2-1201 within 90 days of commencing or recommencing such employment. Each state agency shall maintain records showing that each employee has completed the training required by this section and the date on which such training was completed.

§ 2.2-1212. Required online safety and disaster awareness training.

All state employees shall annually complete an online safety and disaster awareness training module that includes information on public health safety provided by the Department pursuant to subdivision A 19 22 of § 2.2-1201. Each state agency shall maintain records showing that each employee has completed the training required by this section and the date on which such training was completed.

§ 2.2-1214. Direct experience recruitment policy; baseline requirements.

A. For purposes of this section:

"Baseline requirement" means the minimum skills, prior training, or prior experience necessary to perform the primary duties of a position.

"Direct experience" means any verifiable previous work experience during which (i) the applicant's primary duties were consistent with the primary duties of the position currently being sought or (ii) the skills necessary to perform the applicant's primary duties are transferrable to the position currently being sought.

"Hiring consideration" means:

1. A decision to move an applicant to a subsequent round in the hiring process;
2. A decision to include the applicant on a list of applicants for consideration for another position;
3. A decision to offer an applicant an interview;
4. An interview held in good faith between the state agency and the applicant; or
5. A final offer of employment.

"Postsecondary degree" means an associate degree, bachelor's degree, or graduate degree from an accredited institution.

B. The Department shall develop a statewide direct experience recruitment policy to provide guidance to state agencies on how to remove postsecondary degree requirements from hiring considerations and recruit qualified employees utilizing appropriate baseline requirements in accordance with this section.

C. No state agency may reject an applicant from any hiring consideration solely on the basis of the applicant lacking a postsecondary degree. Prior to publishing any job posting, a state agency shall determine the baseline requirements an applicant must have to be eligible for such position and shall publish such requirements within the relevant job posting. Such baseline requirements may include direct experience or the completion of specific certifications or courses but may not include a postsecondary degree unless allowed pursuant to subsection D or E. Each hiring consideration shall be made in accordance with the baseline requirements applicable to the position. A state agency shall provide written notice to each applicant who does not meet the baseline requirements needed to be eligible for the position of the reason the applicant did not meet such requirements.

D. A state agency may be exempt from the provisions of subsection C if the agency dedicates a portion of the job posting to substantiating the necessity of a specific postsecondary degree on the basis that (i) the postsecondary degree is the best measure to determine whether an applicant possesses specific skills or (ii) the position requires advanced accreditation, certification, or licensure that is only available to holders of specific postsecondary degrees. Such agency shall submit to the Department, in writing, evidence that the duties of a specific job position require a postsecondary degree and that the agency has complied with this subsection.

E. A state agency may include a baseline requirement with a postsecondary degree only as an alternative to a particular number of years of direct experience not to exceed:

1. Two years of direct experience for an associate degree;
2. Four years of direct experience for a bachelor's degree;
3. Six years of direct experience for a master's degree;
4. Seven years of direct experience for a professional degree; or
5. Nine years of direct experience for a doctoral degree.

F. Each state agency shall provide a quarterly report to the Department consisting of detailed information for every (i) open job posting, including the baseline requirements and any hiring considerations taken, and (ii) job position filled since the last quarterly report. If the Department determines that a state agency has violated the recruitment policy or any provision of this section, it shall require the agency to reopen the recruitment process for the affected job position, modify the job posting, or take other necessary action to

182 *comply with the recruitment policy and the provisions of this section.*

183 **§ 51.1-1101. Sickness and disability program; disability insurance policies.**

184 A. The Board shall develop, implement, and administer a sick leave, short-term disability, and long-term
185 disability benefits program in accordance with the provisions of this chapter. The Board is authorized to
186 delegate or assign to any person any of the duties required to be performed by the Board pursuant to this
187 chapter. The Board is authorized to purchase long-term disability insurance policies for participating
188 employees. The policies shall be purchased from and carried with a disability insurance company which is
189 authorized to do business in the Commonwealth. Each policy shall contain a provision stipulating the
190 maximum expense and risk charges that are determined by the Board to be on a basis consistent with the
191 general level of charges made by disability insurance companies under policies of long-term disability
192 insurance issued to large employers. The Board may require that the policies have reinsurance with a
193 disability insurance company incorporated or organized under the laws of and authorized to do business in
194 the Commonwealth. This section is not intended to abrogate the final authority of the Director of the
195 Department of Human Resource Management under subdivision A ~~44~~ 15 of § 2.2-1201 to establish and
196 interpret personnel policy and procedures, such as the sick leave policy.

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