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HOUSE BILL NO. 347

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 2.2-1201, 2.2-1212, and 51.1-1101 of the Code of Virginia and to repeal § 2.2-1211 of the Code of Virginia, relating to Department of Human Resources Management; cultural competency training.

Patron—Freitas

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1201, 2.2-1212, 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. ~~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. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

~~11. 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.~~

~~12. 11. 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. 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~~

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59 designed to (i) protect the identity of the individual making the proposal while it is being evaluated for
60 implementation by a state agency, (ii) publicize the acceptance of proposals and financial awards to state
61 employees, and (iii) include a reevaluation process that individuals making proposals may access if their
62 proposals are rejected by the evaluating agency. The reevaluation process must include individuals from
63 the private sector. State employees who make a suggestion or proposal under this section shall receive
64 initial confirmation of receipt within 30 days. A determination of the feasibility of the suggestion or
65 proposal shall occur within 60 days of initial receipt.

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

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

92 ~~14b.~~ 15. Develop state personnel policies that provide break time for nursing mothers to express
93 breast milk. Such policies shall require an agency to provide (i) a reasonable break time for an
94 employee to express breast milk for her nursing child after the child's birth each time such employee has
95 need to express the breast milk and (ii) a place, other than a bathroom, that is shielded from view and
96 free from intrusion from coworkers and the public and that may be used by an employee to express
97 breast milk. Such break time shall, if possible, run concurrently with any break time already provided to
98 the employee. An agency shall not be required to compensate an employee receiving reasonable break
99 time for any work time spent for such purpose. For purposes of this subdivision, "reasonable," with
100 regard to break time provided for nursing mothers to express breast milk, means a break time that
101 complies with the guidance for employers in assessing the frequency and timing of breaks to express
102 breast milk set forth in the U.S. Department of Labor's Request for Information RIN 1235-ZA00, 75
103 Federal Register 80073 (December 21, 2010).

104 ~~15.~~ 16. Ascertain and publish on an annual basis, by agency, the number of employees in the service
105 of the Commonwealth, including permanent full-time and part-time employees, those employed on a
106 temporary or contractual basis, and constitutional officers and their employees whose salaries are funded
107 by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel
108 from the previous fiscal year and the net gains and losses in personnel for each agency for a three-year
109 period.

110 ~~16.~~ 17. Submit a report to the members of the General Assembly on or before September 30 of each
111 year showing (i) the total number of full-time and part-time employees, (ii) contract temporary
112 employees, (iii) hourly temporary employees, and (iv) the number of employees who voluntarily and
113 involuntarily terminated their employment with each department, agency or institution in the previous
114 fiscal year.

115 ~~17.~~ 18. Administer the workers' compensation insurance plan for state employees in accordance with
116 § 2.2-2821.

117 ~~18.~~ 19. Work jointly with the Department of General Services and the Virginia Information
118 Technologies Agency to develop expedited processes for the procurement of staff augmentation to
119 supplement salaried and wage employees of state agencies. Such processes shall be consistent with the
120 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. 20. 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.

§ 2.2-1212. 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. 20 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.

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

A. The Board shall develop, implement, and administer a sick leave, short-term disability, and long-term disability benefits program in accordance with the provisions of this chapter. The Board is authorized to delegate or assign to any person any of the duties required to be performed by the Board pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for participating employees. The policies shall be purchased from and carried with a disability insurance company which is authorized to do business in the Commonwealth. Each policy shall contain a provision stipulating the maximum expense and risk charges that are determined by the Board to be on a basis consistent with the general level of charges made by disability insurance companies under policies of long-term disability insurance issued to large employers. The Board may require that the policies have reinsurance with a disability insurance company incorporated or organized under the laws of and authorized to do business in the Commonwealth. This section is not intended to abrogate the final authority of the Director of the Department of Human Resource Management under ~~subdivision~~ *subdivisions A 14 and 15* of § 2.2-1201 to establish and interpret personnel policy and procedures, such as the sick leave policy.

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

2. That § 2.2-1211 of the Code of Virginia is repealed.