

IN THE SENATE

SENATE BILL NO. 1252

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO THE DIVISION OF HUMAN RESOURCES; AMENDING SECTION 67-5309, IDAHO
CODE, TO REVISE PROVISIONS RELATING TO A RULE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5309, Idaho Code, be, and the same is hereby
amended to read as follows:

67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL
COMMISSION. The administrator of the division of human resources shall
have the power and authority to adopt, amend, or rescind such rules as may
be necessary for proper administration of this chapter. Such rules shall
include:

(a) A rule requiring the administrator, after consulting with each
department to develop, adopt, and make effective, a job classification
system for positions covered by this chapter, based upon an analysis of the
duties and responsibilities of the positions. The job classification shall
include an appropriate title for each class, and a description of duties and
responsibilities of positions in the classes and the requirements of minimum
training, experience and other qualifications, suitable for the performance
of duties of the position.

(b) A rule describing the relevant labor markets and benchmark job
classifications used in the administrator's salary surveys.

(c) A rule requiring that all classes of positions which are common to
the departments concerned shall have the same titles, minimum requirements
and compensation ranges.

(d) A rule providing for review by the administrator of the personnel
system including classifications and compensation policies and procedures.

(e) A rule that, notwithstanding the procedure for examination and
ranking of eligibles on a register provided in subsection (f) of this
section, an agency may appoint an individual directly into an entrance or
promotional probation if the division of vocational rehabilitation, Idaho
commission for the blind and visually impaired or the industrial commission
certifies, with the concurrence of division of human resources staff, that
the individual (1) has a disability or handicap as defined under state
or federal law; (2) is qualified to perform the essential functions of a
particular classified position with or without reasonable accommodation;
and (3) lacks competitiveness in the examination process due to the
disability or handicap. The probationary period as provided in subsection
(j) of this section shall be the sole examination for such individuals.

(f) A rule requiring fair and impartial selection of appointees to
all positions other than those defined as nonclassified in this chapter,
on the basis of open competitive merit examinations or evaluations. An
application for an examination will be accepted after the closing date of the

1 examination from a person who was serving in the armed forces, or undergoing
2 service-connected hospitalization up to one (1) year following discharge.
3 The application must be submitted within one hundred twenty (120) days
4 of separation from the armed forces or hospitalization and prior to the
5 expiration of the register established as a result of the examination. A
6 disabled veteran may file an application at any time up until a selection
7 has been made for any position for which the division maintains a register
8 as a source for future job openings or for which a register is about to be
9 established, provided he or she has not already been examined twice for the
10 same position and grade for which application is made, does not have current
11 eligibility on that register, or is not serving in a competitive position in
12 the same grade for which application is made. Examinations may be assembled
13 or unassembled and may include various examining techniques such as rating
14 of training and experience, written tests, oral interviews, recognition of
15 professional licensing, performance tests, investigations and any other
16 measure of ability to perform the duties of the position. Examinations
17 shall be scored objectively. Five (5) percentage points shall be added to
18 the earned rating of any veteran as defined in section 65-502, Idaho Code,
19 and the widow or widower of any veteran as defined in section 65-502, Idaho
20 Code, as long as he or she remains unmarried. Pursuant to section 65-504,
21 Idaho Code, ten (10) percentage points shall be added to the earned rating
22 of any disabled veteran as defined in section 65-502, Idaho Code, the widow
23 or widower of any disabled veteran as long as he or she remains unmarried or
24 the spouse of any eligible disabled veteran who cannot qualify for any public
25 employment because of a service-connected disability. Employment registers
26 shall be established in order of final score except that the names of all five
27 (5) and ten (10) percentage point preference eligibles resulting from any
28 merit system or civil service examination shall be placed on the register
29 in accordance with their augmented rating. Certification of eligibility
30 for appointment to vacancies shall be in accordance with a formula which
31 limits selection by the hiring department from among the ~~ten~~ fifty (~~10~~ 50) top
32 ranking available eligibles plus the names of all individuals with scores
33 identical to the tenth ranking eligible on the register. A register with
34 at least five (5) eligibles shall be adequate. Selective certification
35 shall be permitted when justified by the hiring department, under rules to
36 be made by the division defining adequate justification based on the duties
37 and requirements of the positions. Such examinations need not be held until
38 after the rules have been adopted, the service classified and a pay plan
39 established, but shall be held not later than one (1) year after departments
40 commence participation in the personnel system.

41 (g) A rule that, whenever practicable, a vacancy in a classified
42 position shall be filled by the promotion of a qualified employee of the
43 agency in which the vacancy occurs. An interagency promotion shall be made
44 through competitive examination and all qualified state employees shall
45 have the opportunity to compete for such promotions. If an employee's name
46 appears within certifiable range on a current register for a higher class of
47 position, he shall be eligible for a transfer and promotion.

48 (h) A rule for development and maintenance of a system of service
49 ratings and the use of such ratings by all departments in connection with
50 promotions, demotions, retentions, separations and reassignments. The

1 rule shall require that an evaluation of each classified employee shall be
2 made after each two thousand eighty (2,080) hour period of credited state
3 service, and that a copy of the evaluation shall be filed with the division.

4 (i) A rule prohibiting disqualification of any person from taking an
5 examination, from appointment to a position, from promotion, or from holding
6 a position because of race or national origin, color, sex, age, political or
7 religious opinions or affiliations, and providing for right of appeal.

8 (j) A rule establishing a probation period not to exceed one thousand
9 forty (1,040) hours of credited state service for all appointments and
10 promotions, except that peace officers as defined in section 19-5101, Idaho
11 Code, shall be subject to a probation period of two thousand eighty (2,080)
12 hours of credited state service, and for the appointing authority to provide
13 the employee and the administrator a performance evaluation indicating
14 satisfactory or unsatisfactory performance not later than thirty (30) days
15 after the expiration of the probationary period. The rule shall provide
16 that if the appointing authority fails to provide a performance evaluation
17 within thirty (30) days after the expiration of the probationary period,
18 the employee shall be deemed to have satisfactorily completed the probation
19 unless the appointing authority receives approval from the administrator to
20 extend the probationary period for good cause for an additional specified
21 period not to exceed one thousand forty (1,040) hours of credited state
22 service. If an employee is performing in an unsatisfactory manner during
23 the entrance probationary period, the appointing authority shall ask the
24 employee to resign, and if no resignation is submitted, shall terminate the
25 employment of such employee without the right of grievance or appeal.

26 (k) A rule concerning provisional appointments.

27 (l) A rule concerning temporary appointments.

28 (m) A rule governing the employment of consultants and persons retained
29 under independent contract.

30 (n) A rule for the disciplinary dismissal, demotion, suspension or
31 other discipline of employees only for cause with reasons given in writing.
32 Such rule shall provide that any of the following reasons shall be proper
33 cause for the disciplinary dismissal, demotion or suspension of any employee
34 in the state classified service:

35 1. Failure to perform the duties and carry out the obligations imposed
36 by the state constitution, state statutes and rules of the employee's
37 department, or rules of the administrator or the division.

38 2. Inefficiency, incompetency, or negligence in the performance of
39 duties, or job performance that fails to meet established performance
40 standards.

41 3. Physical or mental incapability for performing assigned duties.

42 4. Refusal to accept a reasonable and proper assignment from an
43 authorized supervisor.

44 5. Insubordination or conduct unbecoming a state employee or conduct
45 detrimental to good order and discipline in the employee's department.

46 6. Intoxication on duty.

47 7. Careless, negligent, or improper use or unlawful conversion of state
48 property, equipment or funds.

- 1 8. Use of any influence which violates the principles of the merit
2 system in an attempt to secure a promotion or privileges for individual
3 advantage.
- 4 9. Conviction of official misconduct in office, or conviction of any
5 felony, or conviction of any other crime involving moral turpitude.
- 6 10. Acceptance of gifts in exchange for influence or favors given in the
7 employee's official capacity.
- 8 11. Habitual pattern of failure to report for duty at the assigned place
9 and time.
- 10 12. Habitual improper use of sick leave privileges.
- 11 13. Unauthorized disclosure of confidential information from official
12 records.
- 13 14. Absence without leave.
- 14 15. Misstatement or deception in the application for the position.
- 15 16. Failure to obtain or maintain a current license or certificate
16 lawfully required as a condition for performing the duties of the job.
- 17 17. Prohibited participation in political activities.
- 18 (o) A rule to establish procedures for maintenance of a record of the
19 employment history and appropriate information relating to performance of
20 all employees under the personnel system. For the purposes of this rule, the
21 state shall be considered one (1) employer.
- 22 (p) Rules to provide for recruitment programs in cooperation with
23 department heads and the employment security agency in keeping with current
24 employment conditions and labor market trends.
- 25 (q) Rules to establish procedures for examinations as necessary for
26 the purpose of maintaining current registers from which to fill employment
27 vacancies.
- 28 (r) Other rules not inconsistent with the foregoing provisions of
29 this section as may be necessary and proper for the administration and
30 enforcement of this chapter.
- 31 (s) A rule concerning "project exempt" appointments.
- 32 (t) Rules relating to leave for state employees from official duties
33 including, but not limited to, sick leave, military leave, jury duty,
34 leaves of absence without compensation and such other forms of absence from
35 performance of duties in the course of state employment as may be necessary.
- 36 (u) A rule providing up to twenty-five percent (25%) shift differential
37 pay based on local market practices.
- 38 (v) A rule to establish guidelines for awarding employee suggestion
39 awards set forth in sections 59-1603 and 67-5309D, Idaho Code.
- 40 (w) A rule to establish the reimbursement of moving expenses for a
41 current or newly-hired state employee.
- 42 (x) A rule to allow, at the request of the hiring agency, temporary
43 and acting appointment service time to count toward fulfilling entrance
44 probationary requirements as established in section 67-5309(j), Idaho Code.