HB12-1321

Colorado Legislative Council Staff Fiscal Note

FINAL FISCAL NOTE

Drafting Number:	LLS 12-0671	**Date:**	June 28, 2012
Prime Sponsor(s):	Rep. Ferrandino; Vaad Sen. Johnston; King K.	**Bill Status:**	Signed into Law
		Fiscal Analyst:	Kerry White (303-866-3469)

TITLE: CONCERNING THE STATE PERSONNEL SYSTEM, AND, IN CONNECTION THEREWITH, ENACTING THE "MODERNIZATION OF THE STATE PERSONNEL SYSTEM ACT".

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Transfers and Diversions Multiple accounts to the State Employee Reserve Fund	Potential increase.	Potential increase.
State Expenditures	Increase.	
FTE Position Change		
Effective Date: The bill was signed into law by the Governor on June 6, 2012, and takes effect September 1, 2012, assuming no referendum petition is filed. Sections 5, 9, 10, and 12 of the bill only take effect if House Concurrent Resolution 12-1001 is approved by the voters at the next general election and becomes law.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill creates the Modernization of the State Personnel System Act. The bill does not apply to tenured or tenure track faculty, an employee of a unit of local government, or any certified employee who is separated from state service and receives post-employment compensation or other benefits.

Merit pay. The bill establishes a new merit pay system for employees in the state personnel system to replace the current system of pay-for-performance. All merit pay increases are funded from annual reversions of personal services costs, with increases awarded for meeting specified criteria. An employee who is at or above the maximum amount of his or her salary range is not eligible for a merit pay salary increase, but may receive a non-base building merit payment.

Executive branch agencies are authorized to submit annual merit pay recommendations to the Department of Personnel and Administration (DPA) for inclusion in the annual compensation report and budget request. DPA is also directed to review the effectiveness of the system on or after September 1, 2015, and each successive two years, and to make any necessary adjustments.

Employees separated from state service. The bill makes several changes regarding separating state employees. Specifically, the bill:

- requires DPA to develop procedures to separate or demote a certified employee and limits the current practice of "bumping rights" to persons who are eligible for retirement within five years of January 1, 2013;
- mandates that appointing authorities from departments consider qualified certified employees that were separated from service for any vacant, funded positions; and
- directs DPA to establish by rule a layoff plan for use by departments to provide, within certain parameters, post-employment compensation or other benefits to employees separated from state service.

Conditional changes to the appointment of state employees. Provided voters approve an amendment to the state constitution under HCR12-1001, the bill also:

- allows personnel appointments and promotions to be based on a comparative analysis of candidates using objective criteria developed by the State Personnel Director of the DPA rather than competitive tests;
- clarifies requirements for appointments and elections to the State Personnel Board in order to align with the proposed constitutional changes;
- allows persons affected by the new selection and/or comparative analysis processes to petition the State Personnel Board following a final decision by the State Personnel Director;
- allows the top six persons on an employment eligibility list to be considered for an appointment rather than only the top three persons; and
- extends the constitutional limit on temporary employment from six to nine months and establishes a four-month waiting period between temporary appointments for the same position.

State Transfers and Diversions

The bill creates the State Employee Reserve Fund, with subaccounts for each state department. It provides that any allowable annual reversions of money appropriated for personal services-related line items and other moneys may be credited to the respective subaccount of each department. Up to $2 million may be reallocated between departments by the Governor. Each department is granted continuous spending authority to use these moneys, subject to approval from the Governor's Office of State Planning and Budgeting, for providing merit pay increases to eligible certified employees. As of this writing, no information about the amount of reversions from personal services items was available.

State Expenditures

The bill will increase workload within the Department of Personnel and Administration by a minimal amount. Specifically, the department is tasked with completing certain rule-making and reporting procedures. Other state agencies may also experience increases in workload should they opt to submit merit pay recommendations to DPA. The requirements for DPA and other state agencies are anticipated to be minimal and can be absorbed within existing appropriations.

Subject to approval of HCR12-1001, it is also possible that caseload within the State Personnel Board may be increased as a result of challenges to the new selection and comparative analysis processes. For each appeal that is filed, work will increase within the Division of Human Resources in the DPA in order to prepare findings for the board's consideration. The fiscal note assumes any increase in workload for either entity beyond a minimal amount will be addressed through the annual budget process.

Departments Contacted

All Departments