
HOUSE BILL No. 1073

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-15; IC 12-13-2-3.

Synopsis: State merit employment. Amends the policies and purposes of the state personnel act by adopting the current federal standards for merit systems of personnel administration. Provides that classified service vacancies shall be filled by means approved by the state personnel director in accordance with merit system principles. Reconciles language on disqualification of applicants with the federal Americans with Disabilities Act. Abolishes the state personnel advisory board. Repeals provisions that: (1) require the state personnel director to administer tests and certify eligible lists; (2) establish the career bipartisan personnel system; and (3) require each agency that employs engineers to adopt rules establishing a merit system. Makes conforming and other technical amendments.

Effective: July 1, 2003.

Liggett

January 7, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1073



A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-15-1.8-7 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The department
- 3 shall do the following:
- 4 (1) Develop personnel policies, methods, procedures, and
- 5 standards for all state agencies.
- 6 (2) Formulate, establish, and administer position classification
- 7 plans and salary and wage schedules, all subject to final approval
- 8 by the governor.
- 9 (3) Allocate positions in the state agencies to their proper
- 10 classifications.
- 11 (4) Approve employees for transfer, demotion, promotion,
- 12 suspension, layoff, and dismissal.
- 13 (5) Rate employees' service.
- 14 (6) Arrange with state agency heads for employee training.
- 15 (7) Investigate the need for positions in the state agencies.
- 16 (8) Promulgate and enforce personnel rules.
- 17 (9) Make and administer examinations for employment and for



- 1 promotions.
- 2 (10) Maintain personnel records and a roster of the personnel of
- 3 all state agencies.
- 4 (11) Render personnel services to the political subdivisions of
- 5 Indiana.
- 6 (12) Investigate the operation of personnel policies in all state
- 7 agencies.
- 8 (13) Assist state agencies in the improvement of their personnel
- 9 procedures.
- 10 (14) Conduct a vigorous program of recruitment of qualified and
- 11 able persons for the state agencies.
- 12 (15) Advise the governor and the general assembly of legislation
- 13 needed to improve the personnel system of this state.
- 14 (16) Furnish any information and counsel requested by the
- 15 governor or the general assembly.
- 16 (17) Establish and administer an employee training and career
- 17 advancement program.
- 18 (18) Administer the state personnel law, IC 4-15-2.
- 19 (19) Institute an employee awards system designed to encourage
- 20 all state employees to submit suggestions that will reduce the
- 21 costs or improve the quality of state agencies.
- 22 (20) Survey the administrative organization and procedures,
- 23 including personnel procedures, of all state agencies, and submit
- 24 to the governor measures to secure greater efficiency and
- 25 economy, to minimize the duplication of activities, and to effect
- 26 better organization and procedures among state agencies.
- 27 (b) Salary and wage schedules established by the department under
- 28 subsection (a) must provide for the establishment of overtime policies,
- 29 which must include the following:
- 30 (1) Definition of overtime.
- 31 (2) Determination of employees or classes eligible for overtime
- 32 pay.
- 33 (3) Procedures for authorization.
- 34 (4) Methods of computation.
- 35 (5) Procedures for payment.
- 36 (6) A provision that there shall be no mandatory adjustments to an
- 37 employee's established work schedule in order to avoid the
- 38 payment of overtime.
- 39 ~~(c) The state personnel advisory board shall advise the director and~~
- 40 ~~cooperate in the improvement of all the personnel policies of the state.~~
- 41 ~~(d) By January 1, 1984, (c) The department shall establish programs~~
- 42 of temporary appointment for employees of state agencies. A program

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1 established under this subsection must contain at least the following
2 provisions:

3 (1) A temporary appointment may not exceed one hundred eighty
4 (180) working days in any twelve (12) month period.

5 (2) The department may allow exceptions to the prohibition in
6 subdivision (1) with the approval of the state budget agency.

7 (3) A temporary appointment in an agency covered by IC 4-15-2
8 is governed by the procedures of that chapter.

9 SECTION 2. IC 4-15-2-1 IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter shall be known and
11 may be cited as the "State Personnel Act". This chapter shall be
12 liberally construed to effectuate its policies and purposes to increase
13 governmental efficiency **and responsiveness** and to ensure the
14 appointment of qualified persons to the state service ~~sotely~~ on the basis
15 of ~~proved merit, to offer any person a fair and equal opportunity to~~
16 ~~enter the state service, and to afford the employees in state service an~~
17 ~~opportunity for public service and individual advancement according~~
18 ~~to fair standards of accomplishment based upon merit principles To~~
19 ~~these ends there is by this chapter established a personnel system based~~
20 ~~on merit and scientific methods relating to the appointment,~~
21 ~~compensation, promotion, transfer, lay off, removal, and discipline of~~
22 ~~employees and to other incidents of state employment. providing for~~
23 ~~the following:~~

24 (1) **Recruitment, selection, and promotion of employees on the**
25 **basis of an individual's relative ability, knowledge, and skills,**
26 **including open consideration of qualified applicants for initial**
27 **employment in appropriate positions and consideration of**
28 **relevant state experience for advancement.**

29 (2) **Providing equitable and adequate compensation.**

30 (3) **Training employees to ensure high quality performance.**

31 (4) **Retaining employees on the basis of the quality of the**
32 **employees' performance, correcting inadequate performance,**
33 **and separating from employment employees whose**
34 **inadequate performance is not corrected.**

35 (5) **Ensuring fair treatment of applicants and employees in all**
36 **aspects of personnel administration without regard to**
37 **political affiliation, race, color, national origin, gender,**
38 **religious creed, age, or disability, and with proper regard for**
39 **the applicants' and employees' privacy and constitutional**
40 **rights as citizens.**

41 (6) **Ensuring that an employee is protected from coercion for**
42 **partisan political purposes and is prohibited from using the**

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1 **employee's official authority for the purpose of interfering**
 2 **with or affecting the result of an election or nomination for**
 3 **office.**

4 SECTION 3. IC 4-15-2-2.6 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.6. "Department"
 6 means the Indiana personnel advisory board; **refers to** the state
 7 personnel director and the employees of the board and the director:
 8 **department established by IC 4-15-1.8-2.**

9 SECTION 4. IC 4-15-2-3.7 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.7. "Regular
 11 employee" means an employee who has

- 12 (1) ~~met the minimum qualifications;~~
- 13 (2) ~~passed the examination;~~
- 14 (3) completed the working test period and
- 15 (4) ~~been certified by the appointing authority;~~

16 for a class of positions.

17 SECTION 5. IC 4-15-2-6 IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The director shall direct and
 19 supervise all administrative and technical activities. In addition to the
 20 duties imposed elsewhere in this chapter, the director shall do the
 21 following:

- 22 (1) Establish and maintain a roster of all employees in the state
 23 service.
- 24 (2) Prepare or cause to be prepared and recommend a
 25 classification and pay plan.
- 26 (3) Administer the classification and pay plan.
- 27 (4) Allocate all positions in the state service to their proper class.
 28 ~~Formulate eligible lists. Certify persons qualified for appointment.~~
 29 ~~Certify~~
- 30 (5) **Approve** employees for **appointment**, transfer, demotion,
 31 promotion, suspension, layoff, and dismissal.
- 32 (6) Rate employees' services.
- 33 (7) Arrange with heads of the divisions of the service for
 34 employee training.
- 35 (8) Attend to and perform all other duties imposed by this chapter.
- 36 (2) (9) Appoint, under this chapter, ~~such~~ employees of the
 37 department and ~~such~~ experts and special assistants as may be
 38 necessary to carry out effectively this chapter.
- 39 (3) (10) Investigate systems of appointment and promotion
 40 already in operation in various departments or divisions of the
 41 state government.
- 42 (4) (11) Investigate and approve the need for positions, existing

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1 and to be created, in the state service.

2 ~~(5)~~ **(12)** Investigate from time to time the operation and effect of
3 this chapter and of the rules and report the director's findings and
4 recommendations to the ~~board~~; **governor**.

5 ~~(6)~~ **(13)** Administer, enforce, and make effective this chapter and
6 the rules.

7 **(14)** Discharge all duties imposed upon the director by the ~~board~~;
8 **and governor**.

9 **(15)** Perform any other lawful acts which the director may
10 consider necessary or desirable to carry out the purposes of this
11 chapter.

12 (b) The director shall appoint one (1) or more employees of the
13 department to be the director's deputies.

14 (c) The director shall employ ~~such~~ expert or special examiners for
15 the conduct of tests as may be required. The director may select
16 officers or employees in the state service to act as examiners in the
17 preparation and rating of tests. An appointing authority may excuse any
18 employee in the authority's division of the service from the employee's
19 regular duties for the time required for work as an examiner. Officers
20 and employees shall not be entitled to extra pay for their service as
21 examiners but shall be entitled to reimbursement for necessary
22 traveling and other expense.

23 (d) The director shall adopt rules under IC 4-22-2 as the director
24 may consider necessary, appropriate, or desirable to carry out this
25 chapter.

26 (e) The director shall institute an employee awards system designed
27 to encourage state employees to submit suggestions that will reduce the
28 costs, or improve the quality, of state services. All full-time employees
29 are eligible to receive suggestion awards except:

- 30 (1) members of boards and commissions;
31 (2) the chief executive officer of any agency or institution **and** the
32 officer's principal deputies or assistants; or
33 (3) persons whose normal job duties include cost analyses.

34 (f) A state suggestion committee shall determine the amount of any
35 award to be given under subsection (e). The state suggestion committee
36 consists of the state personnel director, the director of the budget
37 agency, and the state examiner of the state board of accounts. Any
38 officer of state who is made a member of the suggestion committee
39 may delegate that responsibility to a subordinate employee.

40 SECTION 6. IC 4-15-2-8 IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~(a)~~ Whenever additional agencies
42 or institutions are brought within the provisions of this chapter, either

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1 through a separate statute or by amendment to this chapter, persons in
 2 ~~such the~~ agencies or institutions who are in and have been in positions
 3 or similar positions in the state service not ~~theretofore~~ subject to the
 4 merit provisions of this chapter shall be entitled to continue to hold
 5 ~~such the~~ positions until they have an opportunity to acquire regular
 6 status. ~~Persons who have been in the same or similar positions for six~~
 7 ~~(6) months or more shall receive regular status by passing a~~
 8 ~~noncompetitive qualifying examination for the classification to which~~
 9 ~~their position has been allocated. Persons with less than six (6) months'~~
 10 ~~service in the same or similar positions shall hold their positions~~
 11 ~~temporarily subject to the entrance examination requirements of this~~
 12 ~~chapter. All qualifying examinations shall be held within one (1) year~~
 13 ~~after the agency or institution is brought under this chapter, unless the~~
 14 ~~period for holding such examinations is extended by the board with~~
 15 ~~adequate reasons for such extension made a part of the official minutes~~
 16 ~~of the board.~~

17 (b) Upon the recommendation of the director and the approval of the
 18 board, those employees in any department or division of the state
 19 government who have been appointed under a merit system
 20 satisfactorily complying with the provisions of this chapter may be
 21 brought into the classified service without examination and retain their
 22 existing position.

23 SECTION 7. IC 4-15-2-12 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. Vacancies in the
 25 classified service shall be filled only by

- 26 (1) appointment from an eligible list certified by the director;
- 27 (2) provisional appointments under section 22 of this chapter;
- 28 (3) temporary appointments made under IC 4-15-1.8-7;
- 29 (4) transfer, promotion or demotion of a regular employee; or
- 30 (5) reinstatement under section 35 of this chapter.

31 **means approved by the director in accordance with the merit**
 32 **system principles set forth in section 1 of this chapter.**

33 SECTION 8. IC 4-15-2-16 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. The director may
 35 establish qualifications for admission to any test. Subject to such
 36 limitations as the director considers in the best interests of the service,
 37 admission to tests shall be open to all persons who appear to possess
 38 the required qualifications and may be lawfully appointed to a position
 39 in the class for which a list is to be established. The director may reject
 40 the application of any person for admission to a test or may strike the
 41 name of any person from a list or refuse to certify the name of any
 42 person on a list for a position if he finds that such person: An



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1 **application for employment may be rejected if it is determined that**
 2 **the applicant:**

- 3 (1) lacks any of the required qualifications;
 4 (2) is **physically unfit to perform effectively the duties incapable**
 5 **of performing the essential functions** of the position in which **he**
 6 **the applicant** seeks employment;
 7 (3) is addicted to the habitual excessive use of drugs or
 8 intoxicating liquor;
 9 (4) (3) has been convicted for a crime or is guilty of any
 10 notoriously disgraceful conduct;
 11 (5) (4) has been dismissed from the public service for
 12 delinquency; or
 13 (6) (5) has made a false statement of a material fact or practiced
 14 or attempted to practice any fraud or deception in **his the**
 15 **application or test** or in attempting to secure appointment.

16 SECTION 9. IC 4-15-2-17 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) The director
 18 shall give adequate public notice of each entrance test, except as
 19 otherwise provided in section 26 of this chapter: **inform any**
 20 **prospective applicant for state employment of the means and**
 21 **processes for obtaining state employment.**

22 (b) The director may also advertise tests in professional and trade
 23 publications, post notices of the tests in schools and colleges, and
 24 employ any other methods of publicizing tests which he considers
 25 appropriate: **opportunities for employment in state service.**

26 (c) This section does not apply to noncompetitive qualifying
 27 promotional examinations.

28 SECTION 10. IC 4-15-2-18 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) The rating of
 30 each test shall be completed and the resulting list established not later
 31 than thirty (30) days after the date on which the test was held, unless
 32 such time is extended by the director for reasons which the director
 33 shall record in the official records of the department. The final earned
 34 rating of each person competing in any test shall be determined by the
 35 weighted average of the earned ratings of the test, according to weights
 36 for each phase established by the director in advance of the giving of
 37 the test. The names of all persons attaining the minimum final earned
 38 ratings established by the director in advance of the giving of the tests
 39 shall be placed upon the eligible list in order of their ratings. The
 40 names of persons who have indicated in writing that they are unwilling
 41 to accept appointment may be dropped from the list. All persons
 42 competing in any test shall be given written notice of their final earned



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1 ratings. Statements of former employers of the applicants shall be
 2 confidential. A manifest error in rating a test shall be corrected if called
 3 to the attention of the director, but such correction shall not invalidate
 4 any appointment previously made from such a list.

5 ~~(b)~~ In certification for appointment; ~~(a)~~ In appointment, in
 6 reinstatement, and in reemployment in any state service, preference
 7 shall be given to former members of the military services of the United
 8 States who served on active duty in any branch of the armed forces and
 9 who at no time received a discharge or separation under other than
 10 honorable conditions, except corrected separation or discharge to read
 11 "honorable" as evidenced by appropriate records presented from the
 12 United States Department of Defense or appropriate branch of the
 13 military service.

14 ~~(c)~~ ~~(b)~~ Preference shall be given in the following priorities:

15 (1) Former members of the military service who have established
 16 the present existence of a service connected disability of ten
 17 percent (10%) or more, as evidenced by records of the United
 18 States Department of Veterans Affairs or disability retirement
 19 benefits as evidenced by laws administered by the United States
 20 Department of Defense.

21 (2) The spouse of such service connected disabled veterans and
 22 the unremarried spouse of deceased veterans.

23 (3) Those former members of the military service who are
 24 wartime veterans.

25 (4) Veterans of the military service who served more than one
 26 hundred eighty-one (181) days on active duty, regardless of when
 27 served.

28 ~~(d)~~ ~~(c)~~ In all written examinations to determine the qualifications of
 29 applicants for entrance into state service:

30 (1) ten (10) points shall be added to the earned rating of persons
 31 taking ~~competitive a written~~ examination under subsection ~~(c)(1)~~
 32 ~~or (c)(2); (b)(1) or (b)(2);~~

33 (2) five (5) points shall be added to the earned ratings of persons
 34 taking ~~competitive a written~~ examination under subsection
 35 ~~(c)(3); (b)(3); and~~

36 (3) two (2) points shall be added to the earned rating of persons
 37 taking ~~competitive a written~~ examination under subsection
 38 ~~(c)(4); (b)(4).~~

39 ~~(e)~~ ~~(d)~~ All points specified in subsection ~~(d)~~ ~~(c)~~ shall be added to the
 40 total combined test scores of the person and shall not be allocated to
 41 any single feature or part of ~~the competitive a written~~ examination.
 42 Rating shall be based on a scale of one hundred (100) points as the

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1 maximum attainable.

2 ~~(f)~~ (e) When veterans preference in state service employment is
3 limited to wartime veterans, this subsection applies for the purpose of
4 defining "war":

5 (1) World War II - December 7, 1941, to December 31, 1946.

6 (2) Korean Conflict - June 27, 1950, to January 31, 1955.

7 (3) Viet Nam Conflict - August 5, 1964, to May 7, 1975.

8 (4) Actual combat or duty equally hazardous, regardless of time,
9 or service in any foreign war, insurrection, or expedition, which
10 service is recognized by the award of a service or campaign medal
11 of the United States.

12 (5) Participation as a regularly assigned crew member of any
13 military craft in a mission in support of a military operation,
14 regardless of time, as designated by the armed forces of the
15 United States.

16 ~~(g)~~ (f) Active duty consists of:

17 (1) ninety (90) days or more wartime service;

18 (2) ninety (90) days or more consecutive service which began or
19 ended during wartime period;

20 (3) ninety (90) days or more combined service in two (2) or more
21 wartime periods;

22 (4) service of less than ninety (90) days, if discharged for a
23 disability in line of duty; or

24 (5) service qualifying under subsection ~~(f)~~(4) (e)(4) or ~~(f)~~(5);
25 (e)(5), which must be documented by appropriate records of the
26 United States Department of Defense.

27 ~~(h) In examinations where experience is an element of qualification;~~
28 ~~time spent in the armed forces of the United States shall be credited in~~
29 ~~a veteran's rating where the veteran's actual employment in a similar~~
30 ~~vocation to that for which the veteran is examined was interrupted by~~
31 ~~such service. In all examinations to determine the qualifications of a~~
32 ~~veteran applicant, credit shall be given for all valuable experience;~~
33 ~~including experience gained in religious, civic, welfare, service, and~~
34 ~~organizational activities; regardless of whether any compensation was~~
35 ~~received for the experience.~~

36 (i) In determining qualifications for examination, appointment,
37 promotion, retention, transfer, or reinstatement, with respect to
38 preference eligibles, the department shall waive requirements as to age,
39 height, and weight, if the requirement is not essential to the
40 performance of the duties of the position for which examination is
41 given. The department, after giving due consideration to the
42 recommendation of any accredited physician, shall waive the physical

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1 requirements in the case of any veteran, if the veteran is, in the opinion
 2 of the director, physically able to discharge efficiently the duties of the
 3 position for which the examination is given. No minimum educational
 4 requirement may be prescribed in any civil service examination except
 5 for such scientific, technical, or professional positions; the duties of
 6 which the department decides cannot be performed by a person who
 7 does not have such education. The director shall make a part of the
 8 department's public records the director's reasons for such decision.

9 (j) The names of preference eligibles shall be entered on the
 10 appropriate registers or lists of eligibles in accordance with their
 11 respective augmented ratings. The name of a preference eligible shall
 12 be entered ahead of all others having the same rating.

13 (k) The director shall adopt appropriate rules under IC 4-22-2 for
 14 the administration and enforcement of this section.

15 (†) (g) In any reduction in personnel in any state service, competing
 16 employees shall be released in accordance with board regulations
 17 which shall **rules that must** give due effect to **tenure of employment**
 18 **status**, military preference, length of service, and efficiency ratings.
 19 The length of time spent in active service in the armed forces of the
 20 United States of each such employee shall be credited in computing
 21 length of total service. **Veteran's preference points shall be added to the**
 22 **retention score of a preference eligible. When any of the functions of**
 23 **any state agency are transferred to, or when any state agency is**
 24 **replaced by, some other state agency or agencies, all preference**
 25 **employees in the function or functions transferred or in the agency**
 26 **replaced shall first be transferred to the replacing agency or agencies**
 27 **for employment in positions for which they are qualified, before the**
 28 **agency or agencies appoint additional employees from any other**
 29 **sources for such positions.**

30 (m) (h) Any preference eligible who has resigned may, at the
 31 request of any appointing officer, be **certified for and** appointed to any
 32 position for which the preference eligible has been a regular employee
 33 in the state service.

34 (n) Any preference eligible who has been furloughed or separated
 35 without delinquency or misconduct, upon request, shall have the
 36 preference eligible's name placed on all appropriate registers and
 37 employment lists, for every position for which the preference eligible's
 38 qualifications have been established.

39 (o) Applicants claiming preference of their own service must submit
 40 either:

41 (1) original discharge or separation or certified copies or photostat
 42 copies of the originals;

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1 (2) an official statement from the United States Department of
2 Defense showing record of service; or

3 (3) an official statement from the United States Department of
4 Veterans Affairs supporting the claim for disability.

5 SECTION 11. IC 4-15-2-19.5 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19.5. (a) As used in this
7 section, "individual with a disability" means an individual:

8 (1) with a physical or mental impairment that substantially limits
9 one (1) or more of the major life activities of the individual; or

10 (2) who:

11 (A) has a record of; or

12 (B) is regarded as;

13 having an impairment described in subdivision (1).

14 (b) Notwithstanding other provisions of this chapter, ~~the director~~
15 ~~may waive minimum qualifications and an examination for an~~
16 ~~approved individual upon certification by an Indiana rehabilitation~~
17 ~~facility or the rehabilitation services bureau of the division of disability,~~
18 ~~aging, and rehabilitative services~~ **may certify that the an** individual:

19 (1) is an individual with a disability; and

20 (2) possesses the required knowledge, skill, and ability to perform
21 the essential functions of a position classification with or without
22 reasonable accommodation or with special accommodation for
23 supported employment.

24 (c) ~~The names of applicants~~ **An applicant** with a disability qualified
25 under subsection (b) ~~shall be certified with or in addition to the names~~
26 ~~certified on the eligibility list under section 19 of this chapter.~~ **may be**
27 **appointed to a position in a classification for which the applicant**
28 **has been certified.**

29 SECTION 12. IC 4-15-2-21 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) Every person
31 appointed to a ~~position class~~ in the classified service ~~after certification~~
32 ~~of his name from a promotion list or an eligible list~~ shall be tested by
33 a working test while occupying ~~the a position in the class~~. The period
34 of the working test ~~shall commence~~ **begins** immediately upon
35 appointment and ~~shall continue~~ **continues** for ~~such the time as shall be~~
36 established by the director. At least once during the working test period
37 and in ~~such the~~ manner as the director may require, the appointing
38 authority shall prepare for the director a full performance appraisal of
39 the employee's work. At any time after the first two (2) months of an
40 employee's working test period, the appointing authority may remove
41 an employee, if, in the opinion of the appointing authority, the working
42 test indicates:



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- 1 (1) that the employee is unable or unwilling to perform ~~his the~~ **employee's** duties satisfactorily; or
- 2
- 3 (2) that ~~his the employee's~~ **employee's** habits and dependability do not merit
- 4 ~~his the employee's~~ **employee's** continuance in the position.

5 Upon ~~such~~ removal, the appointing authority shall immediately report
 6 to the director and to the employee removed ~~his the appointing~~ **authority's** action and the reason for the action. ~~No~~ **Not** more than
 7 three (3) employees ~~shall may~~ be removed successively from the same
 8 position during ~~their the employees'~~ **employees'** working test periods without the
 9 approval of the director. The appointing authority may remove an
 10 employee within the first two (2) months of ~~his the employee's~~ **employee's**
 11 working test period only with the approval of the director. The director
 12 may remove an employee during ~~his the employee's~~ **employee's** working test
 13 period if ~~he the director~~ finds, after giving ~~him the employee~~ notice
 14 and an opportunity to be heard, that the employee was appointed as a
 15 result of error or fraud.

16
 17 (b) ~~Prior to Before~~ the expiration of an employee's working test
 18 period, the appointing authority shall notify the director in writing
 19 whether the services of the employee have been satisfactory and
 20 whether ~~he the appointing authority~~ will continue the employee in ~~his~~ **the**
 21 ~~the employee's~~ **employee's** position. A copy of the notice shall be given to the
 22 employee. ~~No~~ **An** employee ~~shall may not~~ be paid for work performed
 23 after the expiration of ~~his the employee's~~ **employee's** working test period unless,
 24 ~~prior to before~~ the performance of the work, the appointing authority
 25 has notified the director that the employee will be continued in ~~his the~~ **the**
 26 ~~employee's~~ **employee's** position.

27 SECTION 13. IC 4-15-2-24 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. An appointing
 29 authority may at any time assign an employee from one **(1)** position to
 30 another position in the same class or rank in ~~his the employee's~~ **employee's**
 31 division of the service. Upon making such an assignment, the
 32 appointing authority shall immediately give written notice of ~~his the~~ **the**
 33 ~~appointing authority's~~ **appointing authority's** action to the director. A transfer of an
 34 employee from a position in one **(1)** division of the service to a position
 35 in the same class or rank in another division of the service may be
 36 made with the approval of the director and of the appointing authorities
 37 of both divisions of the service. ~~No~~ **An** employee ~~shall may not~~ be
 38 transferred from a position in one **(1)** class to a position in another class
 39 of a higher rank or for which there are substantially dissimilar
 40 requirements for appointment unless ~~he the employee~~ is appointed to
 41 the latter position ~~after certification of his name from a list in~~
 42 accordance with this chapter. Any change of a regular employee from

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1 a position in one **(1)** class to a position in a class of a lower rank shall
 2 be considered a demotion and ~~shall~~ **may** be made only in accordance
 3 with the procedure prescribed by section 34 of this chapter for cases of
 4 dismissal. An employee thus demoted shall have the right to appeal
 5 under section 35 of this chapter. The removal of an employee from a
 6 promotional working test is not appealable unless the removal results
 7 in a dismissal or ~~lay-off.~~ **layoff.**

8 SECTION 14. IC 4-15-2-25 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Resignations from
 10 the classified service shall be subject to such rules as the director may
 11 prescribe. ~~Any person~~ **An individual** who has resigned while in good
 12 standing from the classified service and whose resignation has been
 13 accepted may, at the discretion of the director, not later than two (2)
 14 years after the date of ~~his~~ **the individual's** resignation, ~~have his name~~
 15 ~~placed on the appropriate reemployment list by submitting a written~~
 16 ~~request to the director.~~ **be reemployed in the same classification**
 17 **without requalifying under section 12 of this chapter.**

18 SECTION 15. IC 4-15-2-27 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) In cooperation
 20 with appointing authorities, the director shall establish, and may from
 21 time to time amend, standards of performance and output for
 22 employees in each class of positions in the classified service or for
 23 groups of classes, and a system of service ratings based upon these
 24 standards. In ~~such the~~ manner and with ~~such the~~ weight as ~~shall be~~
 25 provided in the rules, service ratings shall be considered:

- 26 (1) in determining salary increases and decreases within the limits
 27 established by law and by the pay plan;
 28 (2) as a factor in promotion tests;
 29 (3) as a factor in determining the order of ~~lay-off~~ **layoff** when
 30 forces are reduced because of lack of funds or work, and the order
 31 in which names are to be placed on reemployment lists; and
 32 (4) as a means of discovering employees who should be
 33 promoted, transferred, or who, because of their low-service value,
 34 should be demoted or dismissed.

35 In ~~such the~~ manner and at ~~such the~~ time as the rules may require, each
 36 appointing authority shall make and report to the director the service
 37 ratings of employees in ~~his~~ **the appointing authority's** division of the
 38 service or such information as the director may request as a basis for
 39 determining the service ratings.

40 (b) All officers and employees of the state, shall, during usual
 41 business hours, grant to the ~~members of the board,~~ the director, and any
 42 agent or employee of the ~~board~~ **department** designated by it ~~or him;~~



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1 **the director**, free access to the premises and records pertaining to
 2 personnel matters under their control and shall furnish them ~~such the~~
 3 facilities, assistance, and information as may be required in
 4 administering the provisions of this chapter.

5 SECTION 16. IC 4-15-2-30 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. (a) Every
 7 appointment, transfer, promotion, demotion, dismissal, change of salary
 8 rate, absence from duty, and other temporary or permanent changes in
 9 the status of employees in both the unclassified and the classified
 10 service shall be reported to the director at ~~such the~~ time, in ~~such the~~
 11 form, and together with ~~such the~~ supporting or pertinent information,
 12 as the director may prescribe.

13 (b) The director shall maintain a perpetual roster of all officers and
 14 employees in the unclassified service and the classified service,
 15 showing for each such **person individual the following information:**

16 (1) The title of the position held. ~~his~~

17 (2) **The individual's** departmental or other agency assignment.
 18 ~~his~~

19 (3) **The individual's** salary rate.

20 (4) **The individual's** date of appointment.

21 (5) **The individual's** complete employment history. ~~and such~~

22 (6) Other data as the director considers pertinent.

23 (c) The director shall also maintain ~~such~~ other personnel records as
 24 ~~he may consider the director considers~~ desirable. ~~or as the board shall~~
 25 ~~direct, and~~

26 (d) **The director** shall make available to the governor, the general
 27 assembly, the budget director, department and institution executives,
 28 and other persons having a proper interest ~~therein~~ tabulations and
 29 analyses of ~~such~~ personnel data as ~~he~~ **that the director** has available.

30 SECTION 17. IC 4-15-2-31 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) A public
 32 disbursing officer, auditing officer, or other fiscal officer of the state
 33 ~~shall may~~ not draw, sign, or issue or authorize the drawing, signing, or
 34 issuing of any warrant or check upon the treasurer of state or another
 35 disbursing officer of the state for the payment of a salary or other
 36 compensation for personal services within the state service. The
 37 treasurer of state or another disbursing officer of the state ~~shall may~~ not
 38 pay any salary or other compensation for personal services unless a
 39 payroll or account for the salary or other compensation containing the
 40 name of every **person individual** to be paid and the accounts to be paid
 41 to the **person individual** has been certified:

42 (1) by the director or a person designated by the director;



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1 (2) to the effect that the ~~persons~~ **individuals** named on the payroll
 2 or account are either in the unclassified service or have been
 3 appointed or otherwise established in their positions according to
 4 the provisions of this chapter; and

5 (3) that the payment of the amounts shown on the payroll or
 6 account will not violate the provisions of the pay plan or the rules
 7 pertaining to the payment.

8 (b) Any payment violating the provisions of the pay plan or the rules
 9 pertaining to the payment, or made to a ~~person~~ **an individual** appointed
 10 or established in the ~~person's~~ **individual's** position in a manner
 11 contrary to the provisions of this chapter, may be recovered from the
 12 appointing authority, the director, or any officer or person making the
 13 payment, whichever is liable, or from the sureties on the official bond
 14 for the officer or person. Action for recovery may be maintained by ~~the~~
 15 ~~board or any member of the board;~~ **any an** officer or employee of the
 16 state service or any citizen of the state. All money recovered under this
 17 section shall be paid into the state treasury. Any citizen may maintain
 18 a suit to restrain a disbursing officer from making any payment in
 19 contravention of any provision of this chapter or of any lawful rule or
 20 order under this chapter.

21 (c) ~~Any person~~ **An individual** appointed or employed in
 22 contravention of any provision of this chapter or of any rule or order
 23 under this chapter who performs service for which the ~~person~~
 24 **individual** is not paid ~~shall have and~~ may maintain an action against
 25 the officer or officers who purported so to appoint or employ the ~~person~~
 26 **individual** to recover the agreed pay for services, or the reasonable
 27 value of the services if ~~no~~ pay was **not** agreed upon. ~~No~~ **An** officer
 28 ~~shall may not~~ be reimbursed by the state at any time for any sum paid
 29 to the ~~person~~ **individual** on account of the services.

30 (d) If the director wrongfully withholds certification of the payroll
 31 voucher or account of any employee, the employee may maintain a
 32 proceeding to compel the director to certify the payroll voucher or
 33 account.

34 SECTION 18. IC 4-15-2-32 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. (a) An appointing
 36 authority may ~~lay-off~~ **lay off** employees in the classified service
 37 whenever it is ~~deemed~~ **considered** necessary, due to shortage of work
 38 or funds, or the ~~abolishment~~ **elimination** of a position, or other material
 39 change in duties or organization. For purposes of this section, offices
 40 and positions of employment in each county where the division of
 41 service operates is considered ~~one an~~ **an** autonomous unit and ~~lay-off~~
 42 **layoff** procedures will apply within the county affected by the ~~lay-off~~.



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1 **layoff.** When a ~~lay-off~~ **layoff** is necessary, the appointing authority ~~will~~
2 **shall do the following:**

3 (1) Determine in which class or classes the ~~lay-off~~ **layoff** or
4 ~~lay-offs~~ **layoffs** will occur.

5 (2) **Determine** the number of employees to be laid off within each
6 affected class, **and** the county or counties where ~~lay-offs~~ **layoffs**
7 are to occur. ~~and~~

8 (3) Give written notice to the director a reasonable time before the
9 effective date of the ~~lay-off.~~ **layoff.**

10 The director, in accordance with the rules, shall compute retention
11 points to determine the order of ~~lay-off~~ **layoff** within each county. The
12 retention points ~~will~~ **must** be computed as of the effective date of the
13 ~~lay-off~~ **layoff** and ~~will~~ **must** reflect systematic consideration of
14 seniority, service ratings, veterans' preference status, and employment
15 status. The director shall provide the appointing authority with a
16 written notice containing the names and retention points of employees
17 to be laid off in each county, and ~~such~~ **any** orders relating to the ~~lay-off~~
18 ~~as deemed~~ **layoff considered** necessary to secure compliance with this
19 section.

20 (b) ~~Any~~ **An** employee in the classified service who has been notified
21 of a pending ~~lay-off~~ **layoff** and who has permanent status in a lower
22 class has the right, provided ~~they have~~ **the employee has** more
23 retention points, to displace within the same affected county, the
24 employee with the least retention points in that lower class. ~~Any~~ **An**
25 employee in the classified service who has permanent status in a lower
26 class and is displaced by another employee has the right, ~~provided they~~
27 ~~have if the employee has~~ **more retention points**, to displace within the
28 same affected county the employee with the least retention points in
29 that lower class. This procedure shall continue until the employee with
30 the least retention points in the lowest class, in the same affected
31 county, of the same appointing authority has been reached, and if
32 necessary, laid off. Should a layoff result in the closing of all offices in
33 a county, ~~any~~ **an** employee in the classified service who has been
34 notified of pending ~~lay-off~~ **layoff** and who has permanent status in the
35 class from which ~~they are~~ **the employee is** laid off may, provided ~~they~~
36 ~~have the employee has~~ **more retention points**, displace within the
37 division of service in any contiguous county the employee with the
38 least retention points in that class.

39 (c) Employees who have been reduced or laid off ~~will~~ **shall** be
40 ~~placed on appropriate re-employment lists~~ **offered reemployment** in
41 accordance with rules established by the director. Those employees
42 with the highest retention points in each affected class ~~will be~~ **placed**

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1 at the top of the list are entitled to the first offer of reemployment
 2 followed by employees ranked in descending order of the employees'
 3 retention points. An employee who is laid off will retain
 4 re-employment retains reemployment rights for a period of one (1)
 5 year from the lay-off layoff date. During this one (1) year period, the
 6 appointing authority, for the division of service affected, shall may not
 7 hire nor or promote anyone into a class affected by the lay-off layoff
 8 until all laid off employees on the re-employment list for entitled to
 9 reemployment in that class have been reinstated or decline the
 10 position when it is offered. Employees who fail to respond within five
 11 (5) days to a written offer sent to their last known address will be
 12 deemed are considered to have declined. Even though a lay-off layoff
 13 applies only to affected counties, re-employment rights extend to all
 14 counties, and at the request of the laid off or reduced employee, their
 15 name will be placed on the appropriate re-employment list for
 16 reemployment rights must extend to any or all counties.

17 SECTION 19. IC 4-15-2-40 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 40. (a) In applying the
 19 provisions of this chapter or in doing any of the things provided for in
 20 this chapter, no an officer or employee shall may not give any weight
 21 whatsoever to political, religious, or racial considerations. No person
 22 An individual holding a position in the state service nor any member
 23 of the board shall may not be forced to make political contributions,
 24 nor or be required to participate in any form of political activity
 25 whatsoever other than to express freely his the individual's views as
 26 a citizen and to cast his the individual's vote in any election.

27 (b) No person An individual elected to state or federal public office
 28 may not, during the term for which he the individual was elected, be
 29 appointed to any position in the classified service.

30 (c) Any An employee in the classified service who becomes a
 31 candidate for local office shall, upon request, be granted a leave of
 32 absence. any An employee in the classified service who is elected to a
 33 state or federal public office shall be considered to have resigned from
 34 the service. This subsection does not apply to precinct committeemen,
 35 state or national party convention delegates, or candidates for these
 36 party positions.

37 SECTION 20. IC 4-15-2-41 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 41. (a) No A person
 39 shall may not make any false statement, certificate, mark, rating, or
 40 report with regard to any test, certification, or appointment made under
 41 any provision of this chapter or in any manner commit or attempt to
 42 commit any fraud preventing the impartial execution of this chapter



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and the rules.

(b) ~~No~~ **A person shall may not** directly or indirectly give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

(c) ~~No~~ **An** employee of the division, examiner, or other person ~~shall~~ **may not** defeat, deceive, or obstruct any person in ~~his~~ **the person's** right to ~~examination, eligibility certification, or for~~ appointment under this chapter.

SECTION 21. IC 12-13-2-3, AS AMENDED BY P.L.272-1999, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The director is responsible for the following:

(1) The appointment of state investigators or boards of review provided by law that are necessary to ensure a fair hearing to an applicant or a recipient. A fair hearing shall be granted at the request of an aggrieved person who desires a hearing. The division shall review cases upon the request of an applicant, a recipient, or an aggrieved person.

(2) The adoption of all policies and rules for the division.

(3) The administrative and executive duties and responsibilities of the division.

(4) The establishment of salaries for the officers and employees of the division within the salary ranges of the pay plan adopted by the ~~Indiana state~~ **personnel advisory board department** and approved by the budget committee.

(5) The establishment of minimum standards of assistance for old age and dependent children recipients. A standard established under this subdivision must apply to all individuals in Indiana.

SECTION 22. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 4-15-1; IC 4-15-1.5-8; IC 4-15-2-2.2; IC 4-15-2-2.9; IC 4-15-2-3.1; IC 4-15-2-3.2; IC 4-15-2-3.3; IC 4-15-2-3.4; IC 4-15-2-3.6; IC 4-15-2-5; IC 4-15-2-13; IC 4-15-2-14; IC 4-15-2-15; IC 4-15-2-19; IC 4-15-2-22; IC 4-15-2-26; IC 4-15-2.5; IC 4-15-3.

SECTION 23. [EFFECTIVE JULY 1, 2003] (a) **As used in this SECTION, "board" refers to the Indiana personnel advisory board created by IC 4-15-1-1.**

(b) **As used in this SECTION, "department" refers to the state personnel department established by IC 4-15-1.8-2.**

(c) **On July 1, 2003, the board is abolished and all powers, duties, and functions adhering to the board are transferred to the department.**

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- 1 **(d) On July 1, 2003, the:**
- 2 **(1) appropriations;**
- 3 **(2) records; and**
- 4 **(3) real and personal property;**
- 5 **of the board are transferred to the department.**
- 6 **(e) Any fund under the control or supervision of the board on**
- 7 **June 30, 2003, is transferred to the control or supervision of the**
- 8 **department on July 1, 2003.**
- 9 **(f) Rules adopted by the board before July 1, 2003, are**
- 10 **considered rules of the department after June 30, 2003.**
- 11 **(g) This SECTION expires July 2, 2003.**

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