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BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EMPLOYMENT; EXEMPTING POSITIONS OF CERTAIN
EDUCATIONAL RETIREMENT BOARD EMPLOYEES FROM COVERAGE UNDER THE
PERSONNEL ACT; REQUIRING INCLUSION OF SALARIES FOR THOSE
EMPLOYEES IN AN EXEMPT SALARIES PLAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-9-4 NMSA 1978 (being Laws 1961,
Chapter 240, Section 4, as amended) is amended to read:

"10-9-4. COVERAGE OF SERVICE.--The Personnel Act and the
service cover all state positions except:

A. officials elected by popular vote or appointed
to fill vacancies to elective offices;

B. members of boards and commissions and heads of
agencies appointed by the governor;

C. heads of agencies appointed by boards or

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- 1 commissions;
- 2 D. directors of department divisions;
- 3 E. those in educational institutions and in public
4 schools;
- 5 F. those employed by state institutions and by
6 state agencies providing educational programs and who are
7 required to hold valid certificates as certified school
8 instructors as defined in Section 22-1-2 NMSA 1978 issued by
9 the public education department;
- 10 G. those in the governor's office;
- 11 H. those in the state militia or the commissioned
12 officers of the New Mexico state police division of the
13 department of public safety;
- 14 I. those in the judicial branch of government;
- 15 J. those in the public defender department, upon
16 implementation of personnel policies and rules by the public
17 defender commission;
- 18 K. those in the legislative branch of government;
- 19 L. those hired and employed, on or after July 1,
20 2015, by the educational retirement board as investment
21 professionals;
- 22 [~~H.~~] M. not more than two assistants and one
23 secretary in the office of each official listed in Subsections
24 A, B and C of this section, excluding members of boards and
25 commissions in Subsection B of this section;

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1 ~~[M-]~~ N. those of a professional or scientific
2 nature that are temporary in nature;

3 ~~[N-]~~ O. those filled by patients or inmates in
4 charitable, penal or correctional institutions;

5 ~~[O-]~~ P. state employees if the board in its
6 discretion decides that the position is one of policymaking;
7 and

8 ~~[P-]~~ Q. disadvantaged youth under twenty-two years
9 of age regularly enrolled or to be enrolled in a secondary
10 educational institution approved by the public education
11 department or in an accredited state institution of advanced
12 learning or vocational training and who are to be employed for
13 not more than seven hundred twenty hours during any calendar
14 year:

15 (1) the term "disadvantaged youth" shall be
16 defined for purposes of this exemption by regulation duly
17 promulgated by the board; and

18 (2) the board shall:

19 (a) require that all the criteria of
20 this subsection have been met;

21 (b) establish employment lists for the
22 certification of the highest-standing candidates to the
23 prospective employers; and

24 (c) establish the pay rates for such
25 employees."

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1 SECTION 2. Section 10-9-5 NMSA 1978 (being Laws 1978,
2 Chapter 96, Section 1, as amended) is amended to read:

3 "10-9-5. PUBLIC OFFICERS AND PUBLIC EMPLOYEES--EXECUTIVE
4 BRANCH--ANNUAL EXEMPT SALARIES PLAN.--

5 A. The department of finance and administration
6 shall prepare, by December 1 of each year, an exempt salaries
7 plan for the governor's approval. The plan shall specify
8 salary ranges for the following public officer and public
9 employee positions of the executive branch of government:

- 10 (1) members of boards and commissions
11 appointed by the governor;
- 12 (2) heads of agencies or departments appointed
13 by the governor;
- 14 (3) heads of agencies or departments appointed
15 by the respective boards and commissions of the agencies;
- 16 (4) directors of department divisions;
- 17 (5) employees in the governor's office;
- 18 (6) positions in the state militia and the
19 commissioned officers of the New Mexico state police division
20 of the department of public safety;
- 21 (7) assistants and secretaries in the offices
22 of each official covered by Paragraphs (2), (3) and (10) of
23 this subsection;
- 24 (8) positions of a professional or scientific
25 nature [~~which~~] that are temporary in nature;

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1 (9) state employees whose positions the
2 personnel board has classified as policymaking positions and
3 exempt employees of elective public officials; ~~and~~

4 (10) secretaries of departments appointed by
5 the governor; and

6 (11) investment professionals employed by the
7 educational retirement board.

8 B. Excluded from the provisions of this section are
9 employees of the ~~[commission on]~~ higher education department
10 and employees of state educational institutions named in
11 Article 12, Section 11 of the constitution of New Mexico.

12 C. The exempt salaries plan for the ensuing fiscal
13 year, as prepared by the department of finance and
14 administration and approved by the governor, shall be published
15 as a part of the executive budget document presented to the
16 legislature at its next regular session following the
17 preparation of the plan.

18 D. Upon the governor's approval, the plan shall
19 take effect at the beginning of the subsequent fiscal year."

20 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
21 provisions of this act is July 1, 2015.