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HOUSE BILL 51

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO STATE PERSONNEL; LIMITING CERTAIN PERSONNEL
POSITIONS IN CABINET DEPARTMENTS; ELIMINATING THE PERSONNEL
BOARD'S AUTHORITY TO EXEMPT POSITIONS FROM THE COVERED SERVICE;
CLARIFYING AND LIMITING EXEMPT ASSISTANTS.

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

SECTION 1. Section 9-1-4 NMSA 1978 (being Laws 1977,
Chapter 248, Section 4) is amended to read:

"9-1-4. CABINET DEPARTMENTS--STRUCTURE.--

A. Except as otherwise provided by law for its
internal structure, the executive branch shall adhere to the
following standard terms:

(1) the principal unit of the executive branch
is a "department", headed by a "secretary" who shall be
appointed by the governor with the consent of the senate and

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1 who shall serve at [~~his~~] the governor's pleasure;

2 (2) the principal unit of a department is a
3 "division", headed by a "director" who shall be appointed by
4 the secretary with the approval of the governor and who shall
5 serve at the secretary's pleasure;

6 (3) the principal unit of a division is a
7 "bureau", headed by a "chief" who is employed by the secretary
8 and who is covered by, and subject to, the provisions of the
9 Personnel Act; and

10 (4) the principal unit of a bureau is a
11 "section", headed by a "supervisor" who is employed by the
12 secretary and who is covered by, and subject to, the provisions
13 of the Personnel Act.

14 B. An appointed secretary shall serve and have all
15 of the duties, responsibilities and authority of that office
16 during the period of time prior to final action by the senate
17 confirming or rejecting [~~his~~] the secretary's appointment.

18 C. A department shall not have more than one
19 assistant or deputy secretary and not more than one assistant
20 or deputy division director for each division.

21 D. A secretary may have no more than one
22 administrative assistant and one secretary who are exempt from
23 the classified service."

24 SECTION 2. Section 10-9-4 NMSA 1978 (being Laws 1961,
25 Chapter 240, Section 4, as amended) is amended to read:

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1 "10-9-4. COVERAGE OF SERVICE.--The Personnel Act and the
2 service cover all state positions except:

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

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

7 C. heads of agencies appointed by boards or
8 commissions;

9 D. directors of department divisions;

10 E. those in educational institutions and in public
11 schools;

12 F. those employed by state institutions and by
13 state agencies providing educational programs and who are
14 required to hold valid certificates as certified school
15 instructors as defined in Section 22-1-2 NMSA 1978 issued by
16 the [~~state board of~~] public education department;

17 G. those in the governor's office;

18 H. those in the state militia or the commissioned
19 officers of the New Mexico state police division of the
20 department of public safety;

21 I. those in the judicial branch of government;

22 J. those in the legislative branch of government;

23 K. not more than [~~two assistants~~] one
24 administrative assistant and one secretary in the office of
25 each official listed in Subsections A, B and C of this section,

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1 excluding members of boards and commissions in Subsection B of
2 this section;

3 L. not more than one assistant or deputy secretary
4 in a cabinet department;

5 [~~L.~~] M. those of a professional or scientific
6 nature [~~which~~] that are temporary in nature;

7 [~~M.~~] N. those filled by patients or inmates in
8 charitable, penal or correctional institutions; and

9 [~~N. state employees if the personnel board in its~~
10 ~~discretion decides that the position is one of policymaking;~~
11 ~~and]~~

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

19 (1) the term "disadvantaged youth" shall be
20 defined for purposes of this exemption by regulation duly
21 promulgated by the board; and

22 (2) the board shall:

23 (a) require that all the criteria of
24 this subsection have been met;

25 (b) establish employment lists for the

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1 certification of the highest-standing candidates to the
2 prospective employers; and
3 (c) establish the pay rates for such
4 employees."

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