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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 348 Session of  
2023

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INTRODUCED BY D. MILLER, MERCURI, KINSEY, MADDEN, SANCHEZ,  
HOHENSTEIN, HILL-EVANS, FLEMING, HARKINS, DEASY AND KHAN,  
MARCH 13, 2023

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 13, 2023

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AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania  
2 Consolidated Statutes, in civil service reform, providing for  
3 excepted service hiring and promotion authority; and imposing  
4 duties on the Office of Vocational Rehabilitation.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 71 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 34

10 EXCEPTED SERVICE HIRING AND

11 PROMOTION AUTHORITY

12 Sec.

13 3401. Scope of chapter.

14 3402. Purpose.

15 3403. Definitions.

16 3404. Eligibility, documentation and certification generally.

17 3405. Hiring and promotion.

18 3406. Conversion.

1 3407. Customized employment job classification.

2 3408. Administrative support.

3 § 3401. Scope of chapter.

4 This chapter relates to excepted service hiring and promotion  
5 authority for individuals with disabilities.

6 § 3402. Purpose.

7 The purpose of this chapter is to establish an excepted  
8 service hiring and promotion authority that enables an  
9 appointing authority to more effectively and efficiently hire  
10 and promote qualified, working-age adults, whose physical or  
11 mental impairments impact their ability to participate in the  
12 competitive hiring and promotion process within this  
13 Commonwealth's workforce.

14 § 3403. Definitions.

15 The following words and phrases when used in this chapter  
16 shall have the meanings given to them in this section unless the  
17 context clearly indicates otherwise:

18 "Customized employment." The development of job descriptions  
19 based on a flexible process that:

20 (1) Is designed to personalize the employment  
21 relationship between a job candidate and an employer in a way  
22 that meets the needs of both.

23 (2) Is based on an individualized match between the  
24 strengths, conditions and interests of a job candidate and  
25 the identified needs of an employer.

26 (3) May take the form of any of the following:

27 (i) Task reassignment, which involves some of the  
28 job tasks of incumbent workers being reassigned to a new  
29 employee. The reassignment shall:

30 (A) allow the incumbent worker to focus on the

1 critical functions of the incumbent worker's job, in  
2 the nature of primary job responsibilities and to  
3 complete more of the central work of the job; and

4 (B) typically take the form of job creation,  
5 whereby a new job description is negotiated based on  
6 current and unmet workplace needs.

7 (ii) Job carving, which involves an existing job  
8 description being modified so that one or more, but not  
9 all, of the tasks are changed from the original job  
10 description.

11 (iii) Job sharing, which involves two or more  
12 individuals sharing the tasks and responsibilities of a  
13 job based on the strengths of each individual.

14 "Working-age adult with a significant disability." An  
15 individual who is a resident of this Commonwealth, is at least  
16 18 years of age, has not reached 65 years of age and meets any  
17 of the following conditions:

18 (1) Is or was a client of, or has a current eligibility  
19 determination for vocational rehabilitation services by, the  
20 Office of Vocational Rehabilitation.

21 (2) Has been determined to be eligible to receive Social  
22 Security disability benefits or Supplemental Security income  
23 benefits on the basis of disability, including an individual  
24 who is eligible to participate in the Ticket to Work Program.

25 (3) Is eligible for appointment under Schedule A of 5  
26 CFR Pt. 213 Subpt. C (relating to excepted schedules) on the  
27 basis of disability.

28 (4) Has been determined to be eligible for services,  
29 supports or benefits under programs administered by the  
30 Department of Human Services through the Office of

1 Developmental Programs, the Office of Long Term Living or the  
2 Office of Mental Health and Substance Abuse Services.

3 (5) Has been determined to be eligible for services,  
4 supports or benefits under a program for disabled veterans  
5 administered by the United States Department of Veterans  
6 Affairs or the Department of Military and Veterans Affairs.

7 (6) Has relocated to this Commonwealth and had at the  
8 time of relocation an eligibility determination in good  
9 standing from a vocational rehabilitation office governed by  
10 the Rehabilitation Services Administration located in another  
11 state or territory of the United States.

12 (7) Is eligible to receive services, supports or  
13 benefits under a program administered by an agency of the  
14 Commonwealth that has been determined by the agency head to  
15 be comparable to a program described under paragraph (1),  
16 (2), (3), (4), (5) or (6).

17 § 3404. Eligibility, documentation and certification generally.

18 (a) Appointment.--An appointing authority may  
19 noncompetitively appoint a working-age adult with a significant  
20 disability to a temporary position or permanent position in  
21 accordance with this chapter.

22 (b) Proof of disability.--

23 (1) An appointing authority shall require proof of an  
24 applicant's significant disability prior to making a  
25 noncompetitive appointment under this section.

26 (2) The appointing authority shall accept as proof of a  
27 significant disability a letter or other official  
28 certification from the Office of Vocational Rehabilitation.

29 § 3405. Hiring and promotion.

30 (a) Temporary appointment.--An appointing authority may

1 noncompetitively appoint a working-age adult with a significant  
2 disability to a temporary position if the appointing authority  
3 determines the following:

4 (1) The Office of Vocational Rehabilitation has  
5 certified the working-age adult as eligible for  
6 noncompetitive appointment under this chapter.

7 (2) It is necessary to observe the working-age adult on  
8 the job to establish that the working-age adult is able or  
9 ready to perform the duties of the position.

10 (b) Permanent appointment.--Subject to subsection (c), an  
11 appointing authority may noncompetitively appoint a working-age  
12 adult with a significant disability to a permanent position if  
13 the appointing authority determines that the working-age adult:

14 (1) provided a copy of a document from the Office of  
15 Vocational Rehabilitation certifying that the working-age  
16 adult is eligible for noncompetitive appointment under this  
17 chapter; and

18 (2) is likely to succeed in the performance of the  
19 duties of the position for which the working-age adult is  
20 applying. In determining whether the working-age adult is  
21 likely to succeed in the performance of the duties of the  
22 position, the appointing authority may rely upon the working-  
23 age adult's employment, educational or other relevant  
24 experience, including service under classified service or  
25 unclassified service.

26 (c) Probationary periods.--Appointment to a noncompetitive  
27 permanent position shall be subject to the probationary periods  
28 described in section 2404 (relating to probationary period).

29 § 3406. Conversion.

30 (a) Satisfactory performance of duties.--When an appointing

1 authority makes an appointment of a working-age adult with a  
2 significant disability to a temporary position under section  
3 3405(a) (relating to hiring and promotion) in order to determine  
4 the working-age adult's job readiness, the appointing authority  
5 may convert the working-age adult with a significant disability  
6 to a permanent position under section 3405(b) if the appointing  
7 authority determines that the working-age adult is able to  
8 perform the duties of the position. Time spent in a temporary  
9 position shall not count toward the completion of the  
10 probationary period described in section 2404 (relating to  
11 probationary period).

12 (b) Classified service.--When an appointing authority makes  
13 an appointment of a working-age adult with a significant  
14 disability to a permanent position under section 3405(b), the  
15 appointing authority shall convert the working-age adult to  
16 classified service upon completion of the probationary period  
17 consistent with section 2404 if the appointing authority  
18 determines that the working-age adult's work has been  
19 satisfactory. Prior to the completion of the probationary  
20 period, the appointing authority shall notify the working-age  
21 adult in writing whether the working-age adult's work has been  
22 satisfactory.

23 § 3407. Customized employment job classification.

24 (a) Development and implementation.--The appointing  
25 authority shall develop and implement a customized employment  
26 job classification.

27 (b) Limitation.--Eligibility for placement into a position  
28 under a customized employment job classification shall be  
29 limited to individuals who have been determined eligible for  
30 vocational rehabilitation services by the Office of Vocational

1 Rehabilitation.

2 § 3408. Administrative support.

3 The Office of Vocational Rehabilitation shall, with its  
4 appropriation, provide all necessary supports, including the  
5 following:

6 (1) Identifying State agencies that will hire a working-  
7 age adult with a significant disability under this chapter.

8 (2) Identifying eligible candidates for work under this  
9 chapter.

10 (3) Developing customized employment job  
11 classifications.

12 (4) Providing or arranging job coaching or other needed  
13 services as necessary under this chapter.

14 (5) Providing or arranging another service for a  
15 working-age adult that is customarily provided by the Office  
16 of Vocational Rehabilitation to similarly situated customers  
17 of the Office of Vocational Rehabilitation.

18 Section 2. This act shall take effect in 60 days.