

REFERENCE TITLE: state personnel administration; exemptions.

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1352

Introduced by
Senators Soltero, Garcia

AN ACT

AMENDING SECTIONS 38-610.01 AND 41-771, ARIZONA REVISED STATUTES; RELATING TO
STATE PERSONNEL ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-610.01, Arizona Revised Statutes, is amended to
3 read:

4 38-610.01. Leave of absence and compensation for officers and
5 employees during active military service

6 A. If the president of the United States or the governor of this state
7 declares that a state of emergency exists, an officer or employee of this
8 state who is ordered to active military service of the United States or this
9 state as a member of the national guard, air national guard, army reserve,
10 naval reserve, marine corps reserve, air force reserve or coast guard reserve
11 and whose state employment is covered by title 41, chapter 4, articles 5 and
12 6 or who is exempt pursuant to section 41-771, subsection A, paragraph 1, 2,
13 3, 4, 5, 7, 8, 9, 10, 11, ~~OR 12 or 13~~ or subsection B, paragraph 1, 2, 3, 4,
14 ~~5, 6 OR 7 or 8~~ is eligible for an additional leave of absence until released
15 from active duty by competent authority. During the additional leave of
16 absence, the officer or employee shall continue to receive the officer's or
17 employee's salary or compensation, less the amount of all pay and allowances
18 for military activities while on active duty.

19 B. An officer or employee who receives salary or compensation pursuant
20 to subsection A of this section is not entitled to accrue annual leave or
21 sick leave during the period of active duty. Before qualifying for the
22 compensation pursuant to subsection A of this section, the officer or
23 employee must exhaust all military leave balances by the time of activation
24 or at any time during the active duty period.

25 C. An officer or employee may receive compensation pursuant to
26 subsection A of this section for the continuous duration of the officer's or
27 employee's order.

28 D. Within sixty days after an officer or employee who receives pay
29 differential pursuant to this section completes the period of active duty,
30 the officer or employee shall provide proof that the officer or employee
31 rendered honorable service while on active duty during any period for which
32 the officer or employee received the pay differential pursuant to this
33 section. The state may seek recovery of the pay differential from any person
34 who fails to provide proof of honorable service.

35 E. The director of the department of administration shall establish
36 procedures to be used by an eligible officer or employee to receive
37 compensation pursuant to subsection A of this section.

38 Sec. 2. Section 41-771, Arizona Revised Statutes, is amended to read:
39 41-771. Exemptions

40 A. This article and article 6 of this chapter do not apply to:

41 1. Elected state officers.

42 2. State officers and members of boards and commissions who are
43 appointed by the legislature or the governor, the employees of the governor's
44 office, the employees of the Arizona legislative council and the employees of
45 the supreme court and the court of appeals.

1 3. State officers and employees who are appointed or employed by the
2 legislature or either house of the legislature.

3 4. The curator, curatorial aides and tour guides and any other person
4 who is employed to work in the state capitol museum.

5 5. Officers or employees of state universities and personnel of the
6 Arizona state schools for the deaf and the blind.

7 6. Patients or inmates who are employed in state institutions.

8 7. Officers and enlisted personnel of the national guard of Arizona.

9 8. The single administrative or executive director and one deputy
10 director of each state department or agency.

11 9. Not more than two assistants who serve in the office of an elected
12 state officer, if that elected state officer is the sole elected head of the
13 department.

14 10. One administrative assistant who serves a board or commission
15 elected to head a state agency, department or division, and one assistant for
16 each elected member of such a board or commission.

17 11. Persons who report directly to the governor.

18 12. Employees of the department of emergency and military affairs who
19 occupy Arizona national guard positions identified as mobilization assets.

20 ~~13. Except as otherwise required by federal law and except for~~
21 ~~certified peace officers as defined in section 38-842, correctional officers~~
22 ~~and juvenile correctional officers, state officers and employees who are~~
23 ~~appointed or employed after December 31, 2006 and who are at a pay grade of~~
24 ~~twenty-four or above.~~

25 ~~14.~~ 13. Any other position exempted by law.

26 B. Except for section 41-772, subsections D, E and F, this article and
27 article 6 of this chapter do not apply to those positions determined by the
28 director to meet any of the following criteria:

29 1. Top level positions in a department or agency that determine and
30 publicly advocate substantive program policy. This includes those persons
31 who are engaged in the direction of line operations if they report directly
32 to the director or deputy director of the agency ~~and in large multiprogram~~
33 ~~agencies those persons who report directly to the head of a primary component~~
34 ~~of the department or agency.~~

35 ~~2. Those persons who are required to maintain a direct confidential~~
36 ~~working relationship with an exempt official.~~

37 ~~3.~~ 2. Persons who provide legal counsel.

38 ~~4.~~ 3. Positions that are part time.

39 ~~5.~~ 4. Positions that are temporary and that are established for the
40 purpose of conducting a special project, study or investigation.

41 ~~6.~~ 5. Positions that are essentially for rehabilitation purposes.

42 ~~7.~~ 6. Positions that are determined by the director to be directly or
43 indirectly engaged in establishing policy or enforcement standards.

44 ~~8.~~ 7. Directors of all institutions that maintain supervision or care
45 on a twenty-four hour per day basis other than halfway houses or group homes.