

By: Callegari

H.B. No. 3868

Substitute the following for H.B. No. 3168:

By: Caine

C.S. H.B. No. 3168

A BILL TO BE ENTITLED

1 AN ACT
2 relating to state personnel and other human resources matters and
3 the purchase and management of certain goods.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 ARTICLE 1. REPEAL OF LONGEVITY PAY AND IMPLEMENTATION OF MERIT PAY
6 PROGRAM

7 SECTION 1.01. Section 30.024(b), Education Code, is amended
8 to read as follows:

9 (b) The governing board of the school may enter into an
10 employment contract with any employee who provides, or supervises
11 any employee who provides, direct and regular educational services
12 to students or who provides other professional educational
13 services. An employee employed under this subsection is not
14 subject to Section 2252.901, Government Code. Each teacher shall
15 be employed under a term contract as provided by Subchapter E,
16 Chapter 21, or under a probationary contract as provided by
17 Subchapter C, Chapter 21. An employee employed under a contract
18 under this subsection:

19 (1) shall be paid in accordance with a salary
20 structure adopted by the superintendent with the concurrence of the
21 board that provides salaries, including assignment stipends,
22 equal, on a daily-rate basis, to salaries, including assignment
23 stipends, paid to employees employed in comparable positions by the
24 Austin Independent School District;

1 (2) [~~is not eligible for longevity pay under~~
2 ~~Subchapter D, Chapter 659, Government Code, and~~] is not entitled to
3 a paid day off from work on any national or state holiday;

4 (3) is eligible for sick leave accrual under the
5 General Appropriations Act in each month in which at least one day
6 of the month is included in the term of the employment contract and
7 in any other month in which work is performed or paid leave is
8 taken;

9 (4) may be permitted by the board to take paid time off
10 from work during the term of the employment contract for personal
11 reasons as designated by the board, but the paid time off may not
12 exceed three days per contract term and may not be carried forward
13 from one contract term to a subsequent contract term;

14 (5) may be permitted by the board to be paid the salary
15 designated in the employment contract in 12 monthly installments;
16 and

17 (6) shall work the hours established by the
18 superintendent.

19 SECTION 1.02. Section 30.055(b), Education Code, is amended
20 to read as follows:

21 (b) The governing board of the school may enter into an
22 employment contract with any employee who provides, or supervises
23 any employee who provides, direct and regular educational services
24 to students or who provides other professional, educational
25 services. An employee employed under this subsection is not
26 subject to Section 2252.901, Government Code. Each teacher shall
27 be employed under a term contract as provided by Subchapter E,

1 Chapter 21, or under a probationary contract as provided by
2 Subchapter C, Chapter 21. An employee employed under a contract
3 under this subsection:

4 (1) shall be paid in accordance with a salary
5 structure adopted by the superintendent with the concurrence of the
6 board that provides salaries, including assignment stipends,
7 equal, on a daily-rate basis, to salaries, including assignment
8 stipends, paid to employees employed in comparable positions by the
9 Austin Independent School District;

10 (2) ~~[is not eligible for longevity pay under~~
11 ~~Subchapter D, Chapter 659, Government Code, and]~~ is not entitled to
12 a paid day off from work on any national or state holiday;

13 (3) is eligible for sick leave accrual under the
14 General Appropriations Act in each month in which at least one day
15 of the month is included in the term of the employment contract and
16 in any other month in which work is performed or paid leave is
17 taken;

18 (4) may be permitted by the board to use a maximum of
19 four days per contract term of accrued sick leave for personal
20 reasons as designated by the board but the number of sick leave days
21 not used for personal reasons during a contract term may not be
22 carried forward to a subsequent contract term for use as personal
23 leave;

24 (5) shall be paid the salary designated in the
25 employment contract in 12 monthly installments if the employee
26 chooses to be paid in that manner;

27 (6) shall work the hours established by the

1 superintendent; and

2 (7) in addition to the contract salary received during
3 the employee's first year of employment with the school and for the
4 purpose of reducing a vacancy in a position that is difficult to
5 fill because of the specialized nature and the limited number of
6 qualified applicants, may be paid a salary supplement, not to
7 exceed any salary supplement paid by the Austin Independent School
8 District to an employee employed in a comparable position.

9 SECTION 1.03. Section 51.969(a), Education Code, as added
10 by Chapter 889 (H.B. 2426), Acts of the 80th Legislature, Regular
11 Session, 2007, is amended to read as follows:

12 (a) The president of a medical and dental unit, as defined
13 by Section 61.003, shall determine whether a nurse employed by the
14 unit for patient care or clinical activities is a full-time
15 employee for purposes of:

16 (1) employees group benefits under Chapter 1551 or
17 1601, Insurance Code; and

18 (2) leave under Chapter 661 or 662, Government Code[~~7~~

19 [~~(3) longevity pay under Section 659.043, Government~~
20 ~~Code~~].

21 SECTION 1.04. The heading to Subchapter D, Chapter 659,
22 Government Code, is amended to read as follows:

23 SUBCHAPTER D. MERIT [~~LONGEVITY~~] PAY

24 SECTION 1.05. Section 659.042, Government Code, is amended
25 to read as follows:

26 Sec. 659.042. EXCLUSIONS. The following are not entitled
27 to merit [~~longevity~~] pay under this subchapter:

- 1 (1) a member of the legislature;
- 2 (2) an individual who holds a statewide office that is
3 normally filled by vote of the people[, ~~except as provided by~~
4 ~~Section 659.0445~~];
- 5 (3) an independent contractor or an employee of an
6 independent contractor;
- 7 (4) a temporary employee;
- 8 (5) an officer or employee of a public junior college;
- 9 (6) an academic employee of a state institution of
10 higher education; or
- 11 (7) a state employee who retired from state employment
12 on or after June 1, 2011 [~~2005~~], and who receives an annuity based
13 wholly or partly on service as a state officer or state employee in
14 a public retirement system, as defined by Section 802.001, that was
15 credited to the state employee.

16 SECTION 1.06. Section 659.043, Government Code, is amended
17 to read as follows:

18 Sec. 659.043. ELIGIBILITY [~~ENTITLEMENT~~]. [~~(a)~~] A state
19 employee is eligible [~~entitled~~] to receive merit [~~longevity~~] pay in
20 accordance with the merit pay policy adopted by the state agency
21 employing the individual [~~to be included in the employee's monthly~~
22 ~~compensation if the employee:~~

23 ~~[(1) is a full-time state employee on the first~~
24 ~~workday of the month;~~

25 ~~[(2) is not on leave without pay on the first workday~~
26 ~~of the month; and~~

27 ~~[(3) has accrued at least two years of lifetime~~

1 ~~service credit not later than the last day of the preceding month].~~

2 ~~[(b) Notwithstanding Subsection (a)(2), an employee of the~~
3 ~~Texas School for the Blind and Visually Impaired or the Texas School~~
4 ~~for the Deaf who is otherwise eligible for longevity pay is entitled~~
5 ~~to longevity pay for each month that the employee is in a full-time~~
6 ~~paid status on the first workday for which the school has work~~
7 ~~scheduled for the employee.]~~

8 SECTION 1.07. Section 659.044, Government Code, is amended
9 to read as follows:

10 Sec. 659.044. AMOUNT APPROPRIATED FOR MERIT PAY;
11 LIMITATIONS. (a) During a state fiscal year, a state agency may
12 not be appropriated more than an amount equal to \$200 times the
13 number of full-time employees authorized for the state agency by
14 the General Appropriations Act for merit pay under this subchapter.
15 ~~[Except as provided by Subsections (e) and (f) and Section~~
16 ~~659.0445, the monthly amount of longevity pay is \$20 for every two~~
17 ~~years of lifetime service credit.]~~

18 (b) A state agency may not award more than 10 percent of the
19 amount appropriated to the state agency for merit pay during the
20 state fiscal year to a single employee. ~~[The amount increases when~~
21 ~~the 4th, 6th, 8th, 10th, 12th, 14th, 16th, 18th, 20th, 22nd, 24th,~~
22 ~~26th, 28th, 30th, 32nd, 34th, 36th, 38th, 40th, and 42nd years of~~
23 ~~lifetime service credit are accrued.]~~

24 (c) The amount of merit pay that a state employee receives
25 during a state fiscal year may not exceed 25 percent of the
26 employee's base salary or wages ~~[An increase is effective beginning~~
27 ~~with the month following the month in which the 4th, 6th, 8th, 10th,~~

1 ~~12th, 14th, 16th, 18th, 20th, 22nd, 24th, 26th, 28th, 30th, 32nd,~~
2 ~~34th, 36th, 38th, 40th, and 42nd years of lifetime service credit~~
3 ~~are accrued].~~

4 ~~[(d) An employee may not receive from the state as longevity~~
5 ~~pay more than the amount determined under Subsection (a) or (e), as~~
6 ~~applicable, regardless of the number of positions the employee~~
7 ~~holds or the number of hours the employee works each week.~~

8 ~~[(e) This subsection applies only to an employee of the~~
9 ~~Texas Youth Commission who is receiving less than the maximum~~
10 ~~amount of hazardous duty pay that the commission may pay to the~~
11 ~~employee under Section 659.303. The employee's monthly amount of~~
12 ~~longevity pay is the sum of:~~

13 ~~[(1) \$4 for each year of lifetime service credit,~~
14 ~~which may not include any period served in a hazardous duty~~
15 ~~position; and~~

16 ~~[(2) the lesser of:~~

17 ~~[(A) \$4 for each year served in a hazardous duty~~
18 ~~position; or~~

19 ~~[(B) the difference between:~~

20 ~~[(i) \$7 for each year served in a hazardous~~
21 ~~duty position; and~~

22 ~~[(ii) the amount paid by the commission for~~
23 ~~each year served in a hazardous duty position.~~

24 ~~[(f) A state employee who retired from state employment~~
25 ~~before June 1, 2005, and who returned to state employment before~~
26 ~~September 1, 2005, is entitled to receive longevity pay. The~~
27 ~~monthly amount of longevity pay the employee is entitled to receive~~

1 ~~equals the amount of longevity pay the employee was entitled to~~
2 ~~receive immediately before September 1, 2005. A state employee who~~
3 ~~retired from state employment before June 1, 2005, and who returns~~
4 ~~to state employment on or after September 1, 2005, is not entitled~~
5 ~~to receive longevity pay.]~~

6 SECTION 1.08. Section 659.045, Government Code, is amended
7 to read as follows:

8 Sec. 659.045. CHANGE IN STATUS. If a state employee ceases
9 being a full-time state employee after the first workday of a month
10 but otherwise qualifies for merit [~~longevity~~] pay, the employee's
11 compensation for the month may include merit [~~includes full~~
12 ~~longevity~~] pay.

13 SECTION 1.09. Subchapter D, Chapter 659, Government Code,
14 is amended by adding Section 659.0451 to read as follows:

15 Sec. 659.0451. MERIT PAY POLICY REQUIRED. Each state
16 agency shall adopt a policy governing the agency's distribution of
17 merit pay. The policy must include guidelines for determining when
18 an employee's job performance warrants the distribution of merit
19 pay.

20 SECTION 1.10. Chapter 659, Government Code, is amended by
21 adding Subchapter D-1 to read as follows:

22 SUBCHAPTER D-1. LONGEVITY PAY FOR CERTAIN EMPLOYEES

23 Sec. 659.051. DEFINITIONS. In this subchapter:

24 (1) "Eligible state employee" means an individual who
25 was on August 31, 2011:

26 (A) employed by a state agency and eligible for
27 longevity pay under Subchapter D as that subchapter existed on that

1 date;

2 (B) using unpaid leave from a position with a
3 state agency, if the individual would have been eligible for
4 longevity pay under Subchapter D as that subchapter existed on that
5 date had the individual not been using unpaid leave from the
6 position; or

7 (C) not working for a state agency if:

8 (i) the individual was not working on that
9 date solely because the individual's employment with the agency
10 customarily does not include the summer months;

11 (ii) the individual had contracted with the
12 agency not later than that date for the individual to resume working
13 for the agency not later than September 2, 2011; and

14 (iii) the position held by the individual
15 on September 2, 2011, would have made the individual eligible for
16 longevity pay under Subchapter D as that subchapter existed on
17 August 31, 1995, if the employee had held the position on that date.

18 (2) "Eligible state-paid judge" means an individual
19 who on August 31, 2011:

20 (A) held office; and

21 (B) was eligible for longevity pay under
22 Subchapter D as that subchapter existed on that date.

23 Sec. 659.052. AMOUNT OF LONGEVITY PAY. An eligible state
24 employee is entitled to longevity pay to be included in the
25 employee's monthly compensation in the amount of \$20 for every two
26 years of lifetime service credit the employee has on August 31,
27 2011.

1 Sec. 659.053. LOSS OF ELIGIBILITY TO RECEIVE LONGEVITY PAY.

2 (a) An eligible state employee who leaves state employment after
3 August 31, 2011, for at least 30 consecutive days, on returning to
4 state employment, is ineligible to receive longevity pay.

5 (b) An eligible state-paid judge who leaves office after
6 August 31, 2011, for at least 30 consecutive days, on return to
7 state office or on accepting state employment, is ineligible to
8 receive longevity pay.

9 (c) For purposes of Subsection (a), a state employee is not
10 considered to have left state employment:

11 (1) while the state employee is on an unpaid leave of
12 absence as provided by Section 661.904 or 661.909; or

13 (2) during a period of time the employee is not working
14 for the state because the employee's employment with the state
15 customarily does not include that period of time, such as a teacher
16 whose employment does not invariably include the summer months.

17 (d) An eligible state employee who retired from state
18 employment and who receives an annuity based wholly or partly on
19 service as a state officer or state employee in a public retirement
20 system, as defined by Section 802.001, that was credited to the
21 state employee is ineligible to receive longevity pay.

22 Sec. 659.054. ADMINISTRATION. The comptroller may adopt
23 rules and establish procedures and reporting requirements to
24 administer this subchapter.

25 SECTION 1.11. Section 661.904(b), Government Code, is
26 amended to read as follows:

27 (b) The employee on an unpaid leave of absence during

1 military duty described by Subsection (a) continues to accrue:

2 (1) [~~state service credit for purposes of longevity~~
3 ~~pay~~;

4 [~~2~~] vacation leave; and

5 (2) [~~3~~] sick leave.

6 SECTION 1.12. Section 661.909(f), Government Code, is
7 amended to read as follows:

8 (f) Except for an employee who returns to state employment
9 from military leave without pay under Section 661.904, a full
10 calendar month during which an employee is on leave without pay is
11 not counted in computing:

12 (1) [~~total state service for purposes related to~~
13 ~~longevity pay or to~~] the rate of accrual of vacation leave; or

14 (2) continuous state service for purposes related to
15 merit salary provisions or vacation leave.

16 SECTION 1.13. Section 301.355(a), Occupations Code, is
17 amended to read as follows:

18 (a) The president of a medical and dental unit, as defined
19 by Section 61.003, Education Code, shall determine whether a nurse
20 who is employed by the unit for practice in patient care or in
21 clinical activities is a full-time employee for purposes of:

22 (1) employees group benefits under Chapter 1551 or
23 1601, Insurance Code; and

24 (2) leave under Chapter 661 or 662, Government Code[
25 ~~and~~

26 [~~3~~] ~~longevity pay under Section 659.043, Government~~
27 ~~Code~~].

1 SECTION 1.14. The following sections of the Government Code
2 are repealed:

- 3 (1) Section 659.041(1);
- 4 (2) Section 659.0411;
- 5 (3) Section 659.0445; and
- 6 (4) Section 659.046.

7 SECTION 1.15. The change in law made by this article applies
8 beginning with the first full pay period that begins on or after
9 September 1, 2011.

10 ARTICLE 2. STATE PERSONNEL AND OTHER STATE HUMAN RESOURCES MATTERS

11 SECTION 2.01. Section 2056.0021, Government Code, is
12 amended to read as follows:

13 Sec. 2056.0021. WORKFORCE PLANNING. (a) As part of the
14 strategic plan required under Section 2056.002, a state agency
15 shall conduct a strategic staffing analysis and develop a workforce
16 plan, according to guidelines developed by the state auditor, to
17 address critical staffing and training needs of the agency,
18 including the need for experienced employees to impart knowledge to
19 their potential successors.

20 (b) A workforce plan required by this section must include:

21 (1) the training and education rules adopted by the
22 state agency under Section 656.048; and

23 (2) a detailed list of the state agency's managerial
24 training requirements, including the minimum hourly requirements
25 for annual or biennial managerial training.

26 (c) The state auditor shall analyze the workforce plans
27 submitted by state agencies in accordance with this section and use

1 information gathered from the analysis to:

2 (1) identify state agencies that would benefit from
3 workforce planning assistance; and

4 (2) provide targeted evaluative and corrective
5 information to the identified state agencies to help the agencies:

6 (A) identify their core competencies and match
7 staff knowledge, skills, and abilities with those competencies;

8 (B) decide whether to maintain or develop the
9 ability to perform a function or contract with another entity to
10 perform the function;

11 (C) use information technology capabilities to
12 record and organize the knowledge and job skills of current and
13 retiring employees; and

14 (D) use recruiting, training, and rewarding
15 programs to obtain qualified employees, improve agency management
16 and employee productivity, and provide reward incentives for
17 capable employees.

18 (d) In addition to providing targeted information under
19 Subsection (c), the state auditor shall, on request, provide
20 training and technical assistance to any state agency to help the
21 agency develop and improve a workforce plan required by this
22 section.

23 SECTION 2.02. Section 670.002, Government Code, is amended
24 to read as follows:

25 Sec. 670.002. HUMAN RESOURCES STAFFING FOR LARGE STATE
26 AGENCIES. A state agency with 500 or more full-time equivalent
27 employees shall adjust the agency's human resources staff to

1 achieve a human resources employee-to-staff ratio of not more than
2 one human resources employee for every 100 ~~[85]~~ staff members.

3 SECTION 2.03. The heading to Section 670.003, Government
4 Code, is amended to read as follows:

5 Sec. 670.003. HUMAN RESOURCES STAFFING FOR ~~[MEDIUM-SIZED~~
6 ~~AND]~~ SMALL STATE AGENCIES; OUTSOURCING.

7 SECTION 2.04. Section 670.003(a), Government Code, is
8 amended to read as follows:

9 (a) The State Council on Competitive Government shall
10 determine the cost-effectiveness of consolidating the human
11 resources functions of or contracting with private entities to
12 perform the human resources functions of state agencies that employ
13 100 or fewer ~~[than 500]~~ full-time equivalent employees.

14 SECTION 2.05. Chapter 670, Government Code, is amended by
15 adding Section 670.004 to read as follows:

16 Sec. 670.004. HUMAN RESOURCES STAFFING FOR MEDIUM-SIZED
17 STATE AGENCIES; OUTSOURCING. A state agency with fewer than 500
18 full-time equivalent employees but more than 100 full-time
19 equivalent employees shall:

20 (1) adjust the agency's human resources staff to
21 achieve a human resources employee-to-staff ratio of not more than
22 one human resources employee for every 100 staff members; or

23 (2) contract with a private entity to perform the
24 human resources functions of the agency, if the State Council on
25 Competitive Government determines that the agency's contracting
26 with a private entity is cost-effective.

27 SECTION 2.06. Subtitle B, Title 6, Government Code, is

1 amended by adding Chapter 673 to read as follows:

2 CHAPTER 673. MANAGEMENT PERFORMANCE PROGRAM

3 Sec. 673.001. DEFINITION. In this chapter, "state agency"
4 means an agency in the executive branch of state government.

5 Sec. 673.002. UPPER MANAGEMENT PERFORMANCE
6 AGREEMENTS. (a) The governing body of a state agency shall
7 develop and enter into agreements with employees of the agency who
8 serve in upper management positions, including the chief executive
9 or chief administrator of the agency.

10 (b) An agreement under this section shall:

11 (1) communicate to the upper management employee the
12 agency's overall organizational goals and specific strategic aims;

13 (2) identify the specific performance measures and
14 targets applicable to the unique programs for which the upper
15 management employee is responsible; and

16 (3) explain the procedures that will be used by the
17 agency to hold the upper management employee accountable for
18 performance under the agreement, including annual performance
19 review procedures.

20 SECTION 2.07. Subchapter F, Chapter 201, Transportation
21 Code, is amended by adding Sections 201.407 and 201.408 to read as
22 follows:

23 Sec. 201.407. ALLOCATION OF EMPLOYEES. (a) The department
24 shall examine the department's core business and administrative
25 units and develop a plan to streamline the department's operation
26 by:

27 (1) transferring employees in engineering,

1 technician, and engineering assistant positions from the statewide
2 headquarters office to district offices;

3 (2) transferring employees in support positions from
4 the division offices to the state headquarters office; and

5 (3) increasing the department's staff-to-manager
6 ratio.

7 (b) In conducting the examination under Subsection (a), the
8 department shall focus primarily on the following units:

9 (1) bridge and roadway design;

10 (2) construction;

11 (3) environmental affairs;

12 (4) maintenance; and

13 (5) transportation planning and programming.

14 (c) The department shall present the plan required by this
15 section to the 83rd Legislature and shall begin the transfer of
16 personnel as required by this section not later than August 31,
17 2013. This section expires September 1, 2013.

18 Sec. 201.408. LIMITATION ON CERTAIN EMPLOYEES. The
19 department may not employ more than one employee who performs
20 duties relating to human resources per 100 department employees.

21 ARTICLE 3. REPEAL OF LIMITATIONS ON STATE AGENCY PURCHASES OF
22 PAPER SUPPLIES AND FILING CABINETS

23 SECTION 3.01. Section 2051.021, Government Code, is
24 repealed.

25 ARTICLE 4. STATE VEHICLE FLEET MANAGEMENT

26 SECTION 4.01. Subchapter C, Chapter 2171, Government Code,
27 is amended by adding Section 2171.1011 to read as follows:

1 Sec. 2171.1011. CENTRALIZED FLEET MANAGEMENT. (a) The
2 comptroller shall devise and implement a statewide system of state
3 agency vehicle fleet management, including the following
4 functions:

5 (1) vehicle acquisition and maintenance and repair
6 activities, including preventive maintenance;

7 (2) fueling operations;

8 (3) management of inventory and the use, collection,
9 and reporting of data; and

10 (4) disposal or sale of excess inventory.

11 (b) The comptroller may negotiate a contract with a private
12 fleet management provider:

13 (1) to operate one or all of the fleet management
14 functions of the agency; or

15 (2) for fleet management data software and services,
16 if the provider can demonstrate expertise necessary to perform the
17 functions required by Subsection (a).

18 SECTION 4.02. The following sections of the Government Code
19 are repealed:

20 (1) Section 2171.101;

21 (2) Section 2171.102;

22 (3) Section 2171.104;

23 (4) Section 2171.1045; and

24 (5) Section 2171.105.

25 ARTICLE 5. EFFECTIVE DATE

26 SECTION 5.01. This Act takes effect September 1, 2011.