

SENATE BILL NO. 50—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE REHABILITATION DIVISION
OF THE DEPARTMENT OF EMPLOYMENT,
TRAINING AND REHABILITATION)

PREFILED NOVEMBER 19, 2018

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing the temporary limited appointment of persons with disabilities by state agencies. (BDR 23-230)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to the state personnel system; revising provisions governing the temporary limited appointment of persons with disabilities by state agencies; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

With limited exceptions, existing law requires agencies of the Executive Department of the State Government to make temporary limited appointments of persons with disabilities who are certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to certain positions in state service for a period not to exceed 700 hours. (NRS 284.327) This bill makes such appointments by those agencies discretionary, but requires the agencies to consider for a temporary limited appointment to such an available position any person with a disability who is certified by the Rehabilitation Division and is eligible for appointment to the position.

For purposes of temporary limited appointments, existing law requires a person with a disability who is certified by the Rehabilitation Division to: (1) possess the training and skills necessary for the position for which the person is certified; and (2) be able to perform, with or without accommodation, the essential functions of that position. (NRS 284.327) This bill clarifies that such an accommodation must be reasonable.

Existing law prohibits an appointing authority from making a temporary limited appointment of a certified person with a disability if the certified person with a disability currently receives benefits from the agency of the Executive Department



19 of the State Government in which the position exists. (NRS 284.327) This bill
20 removes this prohibition and requires that the receipt of such benefits by a certified
21 person with a disability not be deemed to create an actual or potential conflict of
22 interest for purposes of the additional prohibition in existing law against an
23 appointing authority making a temporary limited appointment in circumstances
24 where an actual or potential conflict of interest would be created between the
25 certified person with a disability and the agency in which the position exists.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 284.327 is hereby amended to read as follows:

2 284.327 1. Except as otherwise provided in subsection ~~[4.]~~ **5,**
3 if an appointing authority has a position available and the position is
4 not required to be filled in another manner pursuant to this chapter,
5 to assist persons with disabilities certified by the Rehabilitation
6 Division of the Department of Employment, Training and
7 Rehabilitation, the appointing authority ~~[shall,~~
8 ~~if possible, make a]~~ :

9 *(a) Shall consider for the position any such certified person*
10 *with a disability who is eligible for appointment to the position;*
11 *and*

12 *(b) May make a temporary limited appointment of any such*
13 *certified person with a disability to the position.*

14 2. A temporary limited appointment of a certified person with a
15 disability ~~[for a period]~~ *pursuant to this section must* not ~~[to]~~
16 exceed *a period of* 700 hours notwithstanding that the position so
17 filled is a continuing position.

18 ~~[2.]~~ 3. A person with a disability who is certified by the
19 Rehabilitation Division must be placed on the appropriate list for
20 which the person is eligible. Each such person must:

21 (a) Possess the training and skills necessary for the position for
22 which the person is certified; and

23 (b) Be able to perform, with or without *reasonable*
24 accommodation, the essential functions of that position.

25 ~~[3.]~~ 4. The Rehabilitation Division must be notified of an
26 appointing authority's request for a list of eligibility on which the
27 names of one or more certified persons with disabilities appear. A
28 temporary limited appointment of a certified person with a disability
29 pursuant to this section constitutes the person's examination as
30 required by NRS 284.215.

31 ~~[4.]~~ 5. An appointing authority shall not make a temporary
32 limited appointment of a certified person with a disability pursuant
33 to this section ~~[-~~



1 ~~—(a) If the certified person with a disability currently receives~~
2 ~~benefits from the agency of the Executive Department of the State~~
3 ~~Government in which the position exists; or~~

4 ~~—(b) In~~ *in* any ~~[other circumstances]~~ *circumstance* that the
5 appointing authority determines would create an actual or potential
6 conflict of interest between the certified person with the disability
7 and the agency of the Executive Department of the State
8 Government in which the position exists. *For the purposes of this*
9 *subsection, the receipt of benefits by the certified person with the*
10 *disability from the agency of the Executive Department of the*
11 *State Government in which the position exists shall not be deemed*
12 *to create an actual or potential conflict of interest between the*
13 *certified person with the disability and the agency.*

14 ~~[5.]~~ 6. Each appointing authority shall ensure that there is at
15 least one person on the staff of the appointing authority who has
16 training concerning:

17 (a) Making a temporary limited appointment of a certified
18 person with a disability pursuant to this section; and

19 (b) The unique challenges a person with a disability faces in the
20 workplace.

21 ~~[6.]~~ 7. The Commission shall adopt regulations to carry out the
22 provisions of subsections 1 ~~and 2.~~

23 ~~—7.] , 2 and 3.~~

24 8. This section does not deter or prevent appointing authorities
25 from employing:

26 (a) A person with a disability if the person is available and
27 eligible for permanent employment.

28 (b) A person with a disability who is employed pursuant to the
29 provisions of subsection 1 in permanent employment if the person
30 qualifies for permanent employment before the termination of the
31 person's temporary limited appointment.

32 ~~[8.]~~ 9. If a person appointed pursuant to this section is
33 subsequently appointed to a permanent position during or after the
34 700-hour period, the 700 hours or portion thereof counts toward the
35 employee's probationary period.

36 **Sec. 2.** This act becomes effective upon passage and approval
37 for the purposes of adopting regulations and performing any other
38 preparatory administrative tasks that are necessary to carry out the
39 provisions of this act, and on July 1, 2019, for all other purposes.



