

CHAPTER 202
SB 104-FN-A - FINAL VERSION

02/11/2021 0217s
03/11/2021 0597s
3Jun2021... 1514h
06/24/2021 2005CofC
06/24/2021 2079EBA

2021 SESSION

21-0403
05/10

SENATE BILL ***104-FN-A***

AN ACT adopting omnibus legislation relative to the classification of state employee positions, reverse auctions, and the organization of the department of administrative services.

SPONSORS: Sen. Reagan, Dist 17

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill adopts legislation relative to:

I. The classification of certain state employee positions, as requested by the joint committee on employee classification, established in RSA 14:14-c.

II. Reverse auctions, as requested by the department of administrative services.

III. The organization of the department of administrative services and the transition of certain classified positions within the department to unclassified positions subject to appointment by the commissioner.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~.
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to the classification of state employee positions, reverse auctions, and the organization of the department of administrative services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 202:1 Sponsorship. This act consist of the following proposed legislation:

2 Part I: LSR 21-0403, relative to the classification of certain state employee positions, sponsored
3 by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Rep. P.
4 Schmidt, Straf. 19.

5 Part II: LSR 21-1021, relative to reverse auctions, sponsored by Sen. Carson, Prime/Dist 14.

6 Part III, relative to the organization of the department of administrative services.

7 202:2 Legislation Enacted. The general court hereby enacts the following legislation:

8

9

PART I

10 Relative to the classification of certain state employee positions.

11 1 Compensation of Certain State Officers; Salaries Established. Amend the salary grades in
12 RSA 94:1-a, I(b) by deleting:

13	BB	department of health and human services	program manager
14	EE	department of health and human services	director of communications
15	FF	department of health and human services	director, project management
16	FF	department of health and human services	substance abuse senior policy analyst
17	FF	department of health and human services	LEAN Coordinator
18	FF	department of corrections	director, professional standards
19	FF	department of health and human services	information security officer
20	GG	department of health and human services	substance abuse manager

21 2 Compensation of Certain State Officers; Salaries Established. Amend the salary grades in
22 RSA 94:1-a, I(b) by inserting:

23	DD	department of justice	victim/witness specialist
24	EE	department of health and human services	process improvement manager
25	EE	department of health and human services	substance use disorder planning and
26			evaluation manager

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1	FF	department of health and human services	director of communications
2	FF	department of health and human services	senior project manager
3	FF	department of justice	director of communications
4	GG	department of administrative services	deputy director, risk and benefits
5	GG	department of corrections	director, professional standards
6	GG	department of health and human services	information security officer
7	GG	department of health and human services	deputy director, division of economic and
8			housing stability
9	GG	department of safety	deputy director, division of administration
10	HH	department of health and human services	director, intergovernmental affairs
11	HH	department of administrative services	director (administrator), division of plant and
12			property management
13	HH	department of health and human services	director, employee assistance program
14	KK	department of corrections	pharmacist
15	NN	department of corrections	chief pharmacist

16 3 New Subparagraph; Salary Adjustment for Recruitment or Retention; Department of
17 Corrections; Director of Nursing. Amend RSA 94:3-b, II by inserting after subparagraph (e) the
18 following new subparagraph:

19 (f) Director of nursing, department of corrections, \$110,000 - \$155,000

20 4 Joint Committee on Employee Classification; Chairmanship. Amend RSA 14:14-c, II to read
21 as follow:

22 II. The committee shall consist of 3 members of the senate, appointed by the senate
23 president, one of whom shall be a member of the senate finance committee, and 3 members of the
24 house of representatives, appointed by the speaker of the house of representatives, one of whom
25 shall be a member of the house finance committee and 2 of whom shall be members of the house
26 committee on executive departments and administration. Members shall be appointed for their term
27 of office. All members shall be eligible for reappointment so long as they are qualified under this
28 section. Members shall be appointed no later than December 30 of the year of their election to the
29 general court, except that vacancies shall be filled for an unexpired term within 30 days of the
30 creation of such vacancy. The chairperson shall be elected by the committee members and shall
31 ~~[rotate annually]~~ **alternate every 2 years** between the house and senate members~~[- provided that a~~
32 ~~house member shall serve as the first chairperson].~~

33 5 Compensation of Certain State Officers; Health and Human Services Review; Certain
34 Unclassified Employees. Amend RSA 94:1-f, VI to read as follows:

35 VI. All reviews and recommendations shall be completed no later than [4] 7 years from the
36 effective date of this section. The commissioner of the department of health and human services

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1 shall issue a progress report every 6 months from the effective date of this section to the fiscal
2 committee of the general court until the process is completed.

3 6 Effective Date. Part I of this act shall take effect 60 days after its passage.

4
5 **PART II**

6 **Relative to reverse auctions.**

7 1 New Section; Department of Administrative Services; Electronic Reverse Auctions. Amend
8 RSA 21-I by inserting after section 11-d the following new section:

9 21-I:11-e Electronic Reverse Auctions.

10 I. An electronic reverse auction may be conducted at the direction of the director of
11 procurement and support services when it is determined by the commissioner of department of
12 administrative services or designee that it is in the best interests of the state. Such reverse auction
13 shall be conducted with bidders who have prequalified through a request for bids (RFB) process.
14 Factors to be considered in determining whether the state will utilize an electronic reverse auction
15 request for bids shall include:

16 (a) Whether specifications of requested commodities or services can be prepared that
17 permit electronic posting of bids;

18 (b) Whether financial opportunity exists associated with cost savings, cost avoidance, or
19 administrative offset, including the indirect or direct cost for preparing and executing the reverse
20 auction; and

21 (c) Whether the commodities or services to be purchased can be purchased in a
22 competitive marketplace.

23 II. The director may contract with qualified, industry-recognized third-party vendors to
24 conduct reverse auctions on behalf of the department of administrative services.

25 III. All reverse auctions shall be conducted electronically using real-time, on-line bidding
26 procedures. These procedures shall include the following:

27 (a) Participation as a bidder shall be subject to a prequalification process conducted in
28 accordance with requirements and specifications of the reverse auction request for bids.
29 Qualifications summary responses shall be opened so as to avoid disclosure of contents to competing
30 bidders.

31 (b) The solicitation shall designate both an opening date and time and a closing date and
32 time for bids during the reverse auction. At the opening date and time, the auctioneer shall begin
33 accepting real-time, online bids. The solicitation shall remain open until the closing date and time.

34 (c) At any time before the closing date and time, a bidder may offer a lower bid than the
35 lowest bid of any bidder, including the bidder's own bid. A bidder's lowest bid shall supersede any
36 prior higher bid offered by that bidder. Bid prices may not be increased at any time after the
37 opening date and time.

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IV. Notwithstanding RSA 91-A:4 and RSA 21-G:37, no information shall be available to the public or to the members of the general court or its staff concerning specific reverse auction RFB from the release of the reverse auction RFB until the contract is approved by the governor and executive council, or, if the contract does not require approval from the governor and executive council, until the contract has been actually awarded as determined by the issuing agency, except:

(a) In the case of an RFB that requires approval from the governor and executive council, the issuing agency shall, at least 5 business days prior to submitting the contract to the department of administrative services, post the vendors' names and respective final prices for each qualified bidder on its website.

(b) In the case of an RFB that does not require approval from the governor and executive council, the issuing agency shall, at minimum, post the vendors' names and respective final prices for each qualified bidder on its website at the time that the RFB is awarded.

V. Notwithstanding paragraph IV, the department of administrative services shall share such pricing information as is necessary to conduct the reverse auction. During the reverse auction, such pricing information shall be shared only with the bidders and other parties participating in the reverse auction as specified in subparagraph III(c). Such information shall include only prices proposed and not names of bidders.

VI. Reverse auction RFBs shall be subject to RSA 21-G:37, IV-VI.

2 Effective Date. Part II of this act shall take effect 60 days after its passage.

Part III

Relative to the organization of the department of administrative services.

1 Department of Administrative Services; Commissioner; Directors. Amend RSA 21-I:2 to read as follows:

21-I:2 Commissioner; Directors.

I. The commissioner of the department shall be appointed by the governor, with the consent of the council, and shall serve for a term of 4 years.

II. The commissioner shall nominate for appointment by the governor, with the consent of the council, each unclassified division director, the assistant commissioner, **and** the deputy commissioner~~[-, the internal auditor, the director of financial data management, the director of risk and benefits, and the senior operational analyst. The unclassified division directors, the assistant commissioner, the deputy commissioner, the internal auditor, the director of financial data management, the director of risk and benefits, and the senior operational analyst shall each serve for a term of 4 years].~~

III. The commissioner shall appoint each unclassified deputy division director, a state budget officer, a chief financial officer, a deputy state comptroller, the internal auditor, the senior operational analyst, 2 superintendents of buildings and grounds, a

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1 *superintendent of court facilities, an education and training officer, and the manager of*
2 *employee relations, each of whom shall serve at the pleasure of the commissioner.*

3 *IV. The commissioner may appoint such other unclassified deputy division*
4 *directors as he or she determines are necessary to carry out the functions of the divisions of*
5 *the department. Deputy directors shall serve at the pleasure of the commissioner.*

6 2 New Paragraph; Duties of Commissioner; Authority to Establish Divisions, Units, and
7 Officers. Amend RSA 21-I:13 by inserting after paragraph XVII the following new paragraph:

8 XVIII. Establish within the department such divisions, units, and officers, not expressly
9 provided for or prohibited by law, as the commissioner deems advisable for the discharge of his or
10 her duties. The commissioner may appoint such deputy division directors and other officers as he or
11 she believes are necessary to carry out the functions of the divisions of the department.

12 3 Department of Administrative Services; State Budget Office. Amend the introductory
13 paragraph of RSA 21-I:6 to read as follows:

14 21-I:6 Budget ~~[Unit]~~ **Office**. There is hereby established within the office of the commissioner of
15 administrative services a state budget ~~[unit]~~ **office** under the supervision of an unclassified budget
16 director who shall:

17 4 Assistant Commissioner. Amend RSA 21-I:3-a, II to read as follows:

18 II. The assistant commissioner shall ~~[serve as budget director]~~ **oversee the state budget**
19 **office** and shall perform such duties as are assigned by the commissioner. The assistant
20 commissioner shall assume the duties of the commissioner in the event that the commissioner is
21 unable for any reason to perform such duties.

22 5 Manager of Employee Relations. Amend the introductory paragraph of RSA 21-I:44, II to
23 read as follows:

24 II. There is established within the division a bureau of employee relations, under the
25 direction of an unclassified manager of employee relations~~[- who shall serve a 4-year term]~~. The
26 bureau of employee relations shall be responsible for the following functions, in accordance with
27 applicable laws:

28 6 Manager of Employee Relations and Education and Training Officer. Amend RSA 21-I:44, IV
29 to read as follows:

30 IV. The commissioner, after consultation with the director of personnel, shall ~~[nominate]~~
31 **appoint** the manager of employee relations and the education and training officer ~~[who shall be~~
32 ~~appointed by the governor, with the consent of the council]~~. The manager of employee relations and
33 the education and training officer shall be qualified by reason of education and experience ~~[and shall~~
34 ~~each serve a 4-year term]~~. The salary of the manager of employee relations and the education and
35 training officer shall be as specified in RSA 94:1-a.

36 7 Director of the Division of Public Works Design and Construction. Amend RSA 21-I:11, I(b) to
37 read as follows:

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(b) The division of public works design and construction~~[, which shall be under the supervision of a classified public works manager VII, who]~~ shall be responsible for the functions ~~[of the division under]~~ **set forth in** RSA 21-I:12, III.

8 Internal Audit. Amend RSA 21-I:7, I to read as follows:

I. Assist the commissioner by supplying analytical reports of examinations conducted of the department's various divisions, bureaus, units, programs and functions. Examinations will be conducted and reports prepared in accordance with standards of governmental auditing and program evaluation specified by authoritative national standard setting bodies. Reports shall contain analyses, appraisals, comments and recommendations relating to the accuracy and competence of accounting, financial, and management procedures in use. Organizational and operational practices may also be reviewed by the ~~[budget director]~~ **state budget officer**.

9 Reference Change. Department of Information Technology. Amend RSA 21-R:4, XI to read as follows:

XI. Developing, in concert with the commissioner of administrative services and the ~~[budget director as defined in RSA 21-I:1-a]~~ **state budget office established in RSA 21-I:6**, the capital and operating budget requests for implementing each agency's information technology plan, including, but not limited to, appropriate standards for the uniform presentation of the general budget requests.

10 Division of Plant and Property. Amend RSA 21-I:11, I(c)(4)-(6) to read as follows:

(4) Supervising the ~~[activities and functions of the bureau of]~~ planning and management functions of **the department under** RSA 21-I:12, II(a).

(5) Supervising the ~~[activities and functions of the bureau of]~~ general services **functions of the department** under RSA 21-I:12, II(b).

(6) Supervising the ~~[activities and functions of the bureau of]~~ **functions of the department related to** court facilities under RSA 21-I:12, II(c).

11 Division of Plant and Property. Amend RSA 21-I:12, II to read as follows:

II. The division of plant and property shall ~~[include the following internal organizational units and functions]~~:

(a) ~~[A bureau of planning and management under the supervision of a classified administrator of planning and management who shall]~~ Be responsible for the following functions **relative to planning and management**, in accordance with applicable laws:

(1) Recommending assignment of office and office-related space, including rented space, or space under consideration for rental, to the director, who shall report such recommendations to the commissioner.

(2) Preparing and maintaining an inventory of all physical space in real property rented or leased for use by the state. This inventory shall be made available to the comptroller in order to assist the comptroller to comply with accounting principles.

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(3) Planning for any additional office space needs of the state in consultation with the division of public works design and construction.

(4) Planning for any major renovation to state office buildings in consultation with the division of public works design and construction.

(5) Centrally managing all space rented by, or all proposed rentals of space by, state agencies, and providing central administration and management of the processes by which space is rented by state agencies, except as is otherwise provided by law. Unless otherwise allowed by law, agencies seeking to rent space shall do so only in consultation with the ~~[bureau of planning and management]~~ **division of plant and property**. The central management and administration provided by the ~~[bureau]~~ **division** shall include assisting agencies in their selection of property, in the formulation of rental documents, in the preparation of notices, in agencies' solicitation of bids or proposals and selection of lessors, in space planning, in office layout, and in such other matters as are necessary for effective central planning and management relative to rented space but shall not include the power to enter into rental agreements on behalf of an agency.

(b) Include the following internal organizational units and functions:

(1) ~~[A bureau of general services under the supervision of a classified administrator of general services who shall]~~ Be responsible for the following **general service** functions, in accordance with applicable laws:

(A) Providing support services, including but not limited to, mailing and messenger services to state government.

(B) Providing for the general maintenance of state-owned buildings and grounds, except as otherwise provided by law.

(2) ~~[A bureau of court facilities under the supervision of a classified administrator who shall]~~ Be responsible for the following **court facility** functions, in accordance with applicable laws:

(A) Providing suitable court facilities for the conduct of all court sessions held within each judicial district and county, subject to the availability of appropriated funds, in accordance with RSA 490-B.

(B) Providing for the general maintenance of state-owned court buildings and grounds, except as otherwise provided by law.

~~[(C)]~~ **(3)** Be responsible for the department's functions relating to energy management, managed by such personnel as may be assigned by the commissioner.

~~[(D)]~~ **(4)** Be responsible for the department's support of facilities of the department of health and human services managed by such personnel as may be assigned by the commissioner.

12 Positions and Transfers.

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I. The salaries of the state budget officer, the chief financial officer, the deputy state comptroller, the deputy director of financial data management, the deputy director of plant and property management, the deputy director of personnel, the deputy director of procurement and support services, the director of public works design and construction, the deputy director of public works design and construction, the internal auditor, the 2 superintendents of buildings and grounds, and the superintendent of court facilities shall be determined after assessment and review of the appropriate temporary letter grade allocation in RSA 94:1-a, I(b) for the position, which shall be conducted pursuant to RSA 94:1-d and RSA 14:14-c.

II. Upon completion of the actions described in paragraph I, and the appointment of each unclassified position there noted, the applicable classified position shall be abolished and its available funding shall be utilized to create an unclassified expenditure class within the applicable accounting unit.

III. For any unclassified position converting from a term of appointment to an appointment at the pleasure of the commissioner, the commissioner shall make such appointment when the term expires or when the position becomes vacant, whichever is earlier. For each such position, the commissioner shall certify to the secretary of state and the director of legislative services that the term has expired and the position is subject to the commissioner's appointment.

IV. The incumbent in any classified or unclassified position converted to a position subject to appointment by the commissioner pursuant to this act, shall be offered the opportunity to seek such appointment.

13 Repeal. The following are repealed:

I. RSA 21-I:7-d, relative to the position of deputy director of risk and benefits.

II. RSA 21-I:1-a, I-a, relative to the definition of budget director.

14 Effective Date. Part III of this act shall take effect July 1, 2021.

Approved: August 10, 2021

Effective Date:

Part I shall take effect October 9, 2021

Part II shall take effect October 9, 2021

Part III shall take effect July 1, 2021

