

SB 104-FN-A - AS AMENDED BY THE HOUSE

02/11/2021 0217s  
03/11/2021 0597s  
3Jun2021... 1514h

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

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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.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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            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            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
27	FF	department of health and human services	director of communications
28	FF	department of health and human services	senior project manager

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VI. All reviews and recommendations shall be completed no later than [4] 7 years from the effective date of this section. The commissioner of the department of health and human services shall issue a progress report every 6 months from the effective date of this section to the fiscal committee of the general court until the process is completed.

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

**PART II**

Relative to reverse auctions.

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

21-I:11-e Electronic Reverse Auctions.

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

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

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

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

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

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

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

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

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

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

1 from the release of the reverse auction RFB until the contract is approved by the governor and  
2 executive council, or, if the contract does not require approval from the governor and executive  
3 council, until the contract has been actually awarded as determined by the issuing agency, except:

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

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

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

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

17 2 Effective Date. Part II of this act shall take effect 60 days after its passage.

18  
19 Part III

20 Relative to the organization of the department of administrative services.

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

23 21-I:2 Commissioner; Directors.

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

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

33 ***III. The commissioner shall appoint each unclassified deputy division director, a***  
34 ***state budget officer, a chief financial officer, a deputy state comptroller, the internal***  
35 ***auditor, the senior operational analyst, 2 superintendents of buildings and grounds, a***  
36 ***superintendent of court facilities, an education and training officer, and the manager of***  
37 ***employee relations, each of whom shall serve at the pleasure of the commissioner.***

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

4           2 New Paragraph; Duties of Commissioner; Authority to Establish Divisions, Units, and  
5           Officers. Amend RSA 21-I:13 by inserting after paragraph XVII the following new paragraph:

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

10          3 Department of Administrative Services; State Budget Office. Amend the introductory  
11          paragraph of RSA 21-I:6 to read as follows:

12          21-I:6 Budget ~~[Unit]~~ **Office**. There is hereby established within the office of the commissioner of  
13          administrative services a state budget ~~[unit]~~ **office** under the supervision of an unclassified budget  
14          director who shall:

15          4 Assistant Commissioner. Amend RSA 21-I:3-a, II to read as follows:

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

20          5 Manager of Employee Relations. Amend the introductory paragraph o f RSA 21-I:44, II to  
21          read as follows:

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

26          6 Manager of Employee Relations and Education and Training Officer. Amend RSA 21-I:44, IV  
27          to read as follows:

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

34          7 Director of the Division of Public Works Design and Construction. Amend RSA 21-I:11, I(b) to  
35          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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1                   (3) Planning for any additional office space needs of the state in consultation with  
2 the division of public works design and construction.

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

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

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

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

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

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

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

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

29                   (d) **Be responsible for** the department's functions relating to energy management,  
30 managed by such personnel as may be assigned by the commissioner.

31                   (e) **Be responsible for** the department's support of facilities of the department of health  
32 and human services managed by such personnel as may be assigned by the commissioner.

33                   12 Positions and Transfers.

34                   I. The salaries of the state budget officer, the chief financial officer, the deputy state  
35 comptroller, the deputy director of financial data management, the deputy director of plant and  
36 property management, the deputy director of personnel, the deputy director of procurement and  
37 support services, the director of public works design and construction, the deputy director of public



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1 works design and construction, the internal auditor, the 2 superintendents of buildings and grounds,  
2 and the superintendent of court facilities shall be determined after assessment and review of the  
3 appropriate temporary letter grade allocation in RSA 94:1-a, I(b) for the position, which shall be  
4 conducted pursuant to RSA 94:1-d and RSA 14:14-c.

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

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

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

17 13 Repeal. The following are repealed:

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

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

20 14 Effective Date. Part III of this act shall take effect July 1, 2021.

**SB 104-FN-A- FISCAL NOTE**  
AS AMENDED BY THE SENATE (AMENDMENT #2021-0597s)

AN ACT                    adopting omnibus legislation relative to the classification of state employee positions and reverse auctions.

**PART I Relative to the classification of certain state employee positions.**

This part has no fiscal impact.

**PART II Relative to reverse auctions.**

**FISCAL IMPACT:**    ☒ State                    ☒ County                    ☒ Local                    ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable

**METHODOLOGY:**

This bill states the Department of Administrative Services, Division of Procurement and Support Services may conduct an electronic "reverse auction" when the Department determines it is in the best interest of the state. The process allows vendors to electronically compete against each other to provide items to the state at the lowest price. The Department states this process has been used in the past and may be utilized even without this legislation. The legislation specifies factors to be considered to determine whether a reverse auction is needed and if a third party may conduct the auction for the state and what procedures should be utilized for conducting the auction. The Department is unable to determine the fiscal impact of these provisions due to unknown costs compared to the standard bidding process for future transactions. Counties and

municipalities that obtain items under a state contract may also be impacted by these provisions but such impacts are indeterminable.

It is assumed this bill will be effective July 1, 2021.

**AGENCIES CONTACTED:**

Department of Administrative Services