

AN ACT

*Codification
District of
Columbia
Code
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish special rules governing the assignment of employees of private sector organizations to a District government agency through a personnel exchange agreement, to require a District agency head to explain in a written determination and findings why other District government personnel or procurement procedures cannot be used before the agency enters into a personnel exchange agreement with a private sector organization, to bar a private sector organization from earning a profit through a personnel exchange agreement with a District agency, to bar an employee of a private sector organization assigned to the District through a personnel exchange agreement from receiving salary or benefits greater than he or she would have received in the absence of the agreement, to limit the reimbursement of a private sector organization in a personnel exchange agreement to the cost of salary, benefits, and general and administrative overhead, to require a private sector organization to certify the accuracy of costs reimbursed by the District in a personnel exchange agreement, to authorize a District agency to audit the costs reimbursed to a private sector organization in a personnel exchange agreement, to prohibit a former District government employee presently working for a private sector organization from being assigned to a District agency in a personnel exchange agreement for a period of 2 years following the individual's separation from the District government, and to require the Director of Personnel to issue regulations within 90 days of the effective date of this act governing the allowable reimbursement of general and administrative costs in a personnel exchange agreement with a private organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District Government Personnel Exchange Agreement Amendment Act of 2000".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978 is amended by adding a new section 2706 to read as follows:

"Sec. 2706. Special Rules Governing the Assignment of Employees from Private Sector Organizations to the District

"(a) In addition to the requirements set forth in section 2705, the requirements in this section shall apply to all written agreements in which an employee of a private sector organization is assigned to work for a District government agency.

"(b) Prior to entering into an agreement to assign a private sector employee to a District agency, the head of the agency shall prepare a written determination and findings explaining why the agency cannot use other District government personnel or procurement policies or procedures to secure the professional services that would be provided through the agreement. The head of the District agency shall not enter into an agreement for interagency personnel exchange with a private sector organization unless the Director of Personnel or the independent personnel authority certifies in writing that the agency has exhausted every effort to recruit its human resource needs through standard recruitment practices or fill its professional needs through standard procurement procedures without success. The Director of Personnel or the independent personnel authority shall retain a copy of the determination and findings as part of the official file for the agreement.

"(c) The agreement which contains the terms and conditions for the payment or reimbursement of salary, benefits, and other expenses to the private sector organization shall provide that:

"(1) The private sector organization shall not receive compensation in a manner to earn a profit from the assignment of its personnel to the District agency;

"(2) An individual assigned to the District government from a private sector organization may receive compensation and fringe benefits equal to those he or she would have received from the private sector organization in the absence of the assignment to the District agency. In no event shall the individual receive greater compensation or fringe benefits than he or she would have received from the private sector organization in the absence of the assignment to the District agency; and

"(3) The District agency shall reimburse the private sector organization by paying for the documented salary; the cost of applicable fringe benefits including payroll taxes, social security, unemployment insurance, worker's compensation insurance, health insurance, pensions, Federal Insurance Contributions Act payments; and general and administrative costs calculated in accordance with subsection (e) of this section.

"(4) The private sector organization shall certify the accuracy of the cost of the salary, fringe benefits, and general and administrative costs included in the reimbursement agreement. The District agency shall reserve the right to audit those costs under the circumstances and methods it deems appropriate.

"(d) A former District government employee shall be prohibited, for a period of 2 years after his or her separation from District government employment, from participating in a personnel exchange agreement between the District government and a private sector

organization.

"(e) Within 90 days of the effective date of the District Government Personnel Exchange Agreement Amendment Act of 2000, the Director of Personnel shall issue regulations governing the allowable reimbursement of general and administrative costs for the employees of private sector organizations assigned to work for a District agency. In developing the regulations, the Director of Personnel shall review standards used to calculate general and administrative costs for off-site employees found in federal law and regulation, and District of Columbia procurement regulations, and shall incorporate those standards into the implementing regulations for this title as the Director deems appropriate.

"(f) For the purpose of this section, the term:

(1) "General and administrative costs" means any management, financial, or other expense which is incurred by or allocated to a business unit and which is for the general management and administration of the business unit as a whole.

(2) "Off-site employee" means an employee who is detailed or assigned to the work site of another organization."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

ENROLLED ORIGINAL

December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia