

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: _____ *Check all that apply:*
Bill Number: HB129 Original Correction
 Amendment Substitute

Sponsor: Szczepanski and Caballero **Agency Name and Code** State Personnel Office 378
Short Title: Public Employee Probation Period **Number:** _____
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 129 shortens the probationary period from one year to 180 days (6 months). It also provides explicit language stating that “once an employee has completed the initial probationary period, that employee shall not be required to complete any additional probationary period upon electing to transfer or otherwise move to another service assignment...”

FISCAL IMPLICATIONS

Shortening the probationary period carries a fiscal impact. Classified employees who complete the probationary period are granted two (2) personal leave days upon completion, are eligible for legislative increases and may begin to utilize Fitness and Wellness Leave at two (2) hours per week. Those individuals would be eligible for annual pay increases significantly earlier by reducing the probationary period from one year to 180 days.

In addition, employees who have completed their probation and are in “career status” and can appeal disciplinary actions, including termination, likely increasing the number of appeals before adjudicators. SPO suggests this could require the agency to hire an additional administrative law judge.

SIGNIFICANT ISSUES

The amendment is to NMSA 1978 Section 10-9-13 which is SPO’s rulemaking authority and not in the Definition section of the Personnel Act.

SPO recommends removing the added language to page 2 line 15-19. ... *“provided that, once an employee has completed the initial probationary period, that employee shall not be required to complete any additional probationary period upon electing to transfer or otherwise move to another service assignment;”* This protection is already in SPO Board Rule and is therefore redundant. The rule also better states the protections given to state employees regarding the probationary period. It states:

“1.7.2.8 PROBATION:

A. A probationary period of one year is required of all employees unless otherwise provided for by these rules.

B. The probationary period includes all continuous employment in the classified service except temporary service.

C. A break in employment of at least one work day or more will require an employee to serve another probationary period upon rehire into the classified service with the exception of those employees returned to work under 1.7.10.10 or 1.7.10.14 NMAC.

D. Any full-time continuous leave, except for military leave, taken during the probationary period exceeding 30 calendar days, shall extend the probationary period by the number of days of leave that exceeds 30 calendar days.

E. A probationer may have their appointment expired for non-disciplinary reasons with a minimum of 24 hours' written notice without right of appeal to the board. Such employees shall be advised in writing of the reason(s) for the expiration of appointment."

In addition, SPO recommends removing the added language to page 2 line 15-19 because it is unnecessarily unclear. Current Personnel Board rules require employees to undergo an additional probationary period when they have a break in service of at least one day. *See* NMAC 1.7.2.8(C) above. Employees who apply and accept another job within the classified service, without a break in employment, do not repeat their probationary period. It is unclear if the intent the language of HB129 is to prohibit an employee with a lengthy break in service from repeating a probationary period or if it intended to allow a person with a minimal break in service from repeating a probationary period. If the former, this will have significant policy implications for state agencies, particularly if the person returning to state service is in a new job classification with little resemblance to their former employment.

PERFORMANCE IMPLICATIONS

The current probationary period for classified employees is 365 days. Of the 3,146 total probationary employees in FY24, 2,080 completed (66.12%), 1,066 did not complete (33.88%).

Applying analysis of a shortened probationary period would change the FY24 completion rates as follows:

90% for 90-day probationary period;
82% for a 180-day probationary period; and
74% for a 270-day probationary period.

Completion rates for shortened probationary periods to date for FY25 are consistent with FY24.

Of the 1,066 employees who did not complete probation in FY24, 264 employees (24.8%), were involuntarily terminated. Of those involuntarily terminated, 123 (47%) were terminated within 180 days of hire. Of those involuntarily terminated, 184 (70.0%), were terminated within 270 days of hire.

New Mexico's new employee turnover numbers reflect the national average. *See [2023 Retention Report](#) pg. 18* ("35% of turnover occurred within the first year of employment with 37% of that occurring within the first 90 days of employment.")

ADMINISTRATIVE IMPLICATIONS

Comparator State governments and the Federal government vary in the length of their respective probationary periods. State of California utilizes a six (6) month or one (1) year probationary period, dependent upon the employee's classification. New employees to the federal government, State of Arizona, and the State of Colorado must complete a probationary period of one (1) year.

The proposed amendments do not allow management to extend probation period if necessary.

Many local governments allow for a shorter probationary period but also allow management to extend the probationary period when relevant.

For reference:

1) City of Albuquerque

305. PROBATIONARY PERIOD

For police officers, Fire Fighters, and correction officers, the probationary period shall be twelve (12) months immediately following the original appointment date or from the date of graduation from the police academy or fire academy, whichever is later, whether or not such appointee has been previously employed by the city.

The probationary period for all other classified employees shall be for a period of six (6) months immediately following the original classified appointment date.... **Upon the supervisor's recommendation, the department director may extend the probationary period, one time, for up to a maximum of sixty (60) days.**

2) Los Alamos County

Rule 410.1 Probation Period for New Employees

All new full-time and part-time regular employees shall serve a probationary period of not less than six (6) months from the initial hiring date. Police Officer and Firefighter personnel shall serve a probationary period of not less than one twelve (12) months from the initial hiring date. **A probationer shall be removed from probation at the end of the probationary period unless certification is made by the Department Director to the County Manager or Utilities Manager for Utilities employees that the employee's performance is marginal. In the event a probationer's performance is marginal, neither clearly unsatisfactory nor clearly satisfactory, and the supervisor feels that an additional period of time, not to exceed ninety (90) days, is required to evaluate the employee properly, the probationary period may be extended** (with the exception of Police Officer and Firefighter personnel), upon the written recommendation of the Department Director with the approval of the County Manager or Utilities Manager for Utilities employees prior to the expiration of the probationary period.

3) University of New Mexico

7.1. General Probationary Period

All new employees hired into regular positions, except police command staff (see Section 7.2), are employed on a probationary basis for the first six (6) calendar months of their employment.... **Probationary periods may be extended for more than six (6) months for other bona fide reasons with the advance approval of the Vice President for HR.**

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

SPO recommends removing the added language to page 2 Section E, line 15-19, however, if it is included, the statute should not include the word "transfer" (line 18), as it is confusing in terms of agency operations and application. There are only a few exceptions to the standard recruitment process under the Personnel Act, as it is a system of administration based solely on qualification and ability. SPO suggests using "applying and accepting" new employment within the state classified service instead of "electing to transfer."

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS