H-0165.2

HOUSE BILL 1029

State of Washington   **68th Legislature**   **2023 Regular Session**

By Representatives Jacobsen, Walsh, Graham, Christian, Griffey, Rude, and Caldier

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1   AN ACT Relating to reemployment of state workers dismissed from
2 employment due to vaccine mandates; adding a new section to chapter
3 43.01 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5   NEW SECTION. **Sec. 1.** (1) The legislature finds that when the
6 governor issued gubernatorial proclamations making COVID-19
7 vaccination a condition of employment within executive branch
8 agencies, many employees who otherwise were qualified in their jobs
9 but who chose to not get vaccinated were dismissed from employment
10 based on the vaccination mandate. This created unnecessary hardship
11 for many state employees. In addition, not allowing qualified,
12 experienced employees to work in their professions does nothing to
13 benefit the state, especially during this time of worker shortages.
14   (2) The legislature intends to create a pathway for those
15 employees to be reemployed in their former positions if they choose.
16 It is also the intent of the legislature to encourage local
17 governments and private sector employers to create pathways to
18 reemploy employees who have lost their jobs due solely to vaccine
19 mandates.

1   NEW SECTION. **Sec. 2.** A new section is added to chapter 43.01
2   RCW to read as follows:
3   (1)(a) "Eligible employee" means an employee who was formerly
4   employed by an executive branch agency of the state as a permanent
5   employee and who received a dismissal from employment solely because
6   the employee chose not to get the COVID-19 vaccine.
7   (b) "Employer" means the executive branch agency of the state
8   that employed an eligible employee.
9   (2)(a) Except as provided in this section, an eligible employee
10   is entitled to be reemployed by his or her former employer, if the
11   eligible employee meets the requirements of this section.
12   (b) If the eligible employee is still qualified to perform the
13   duties of his or her former position, the employer must restore the
14   eligible employee to the former position or to a position of like
15   seniority, status, and pay. If the eligible employee is no longer
16   qualified for whatever reason, but is nevertheless qualified to
17   perform the duties of another position under the control of the same
18   employer, the employer shall reemploy the eligible employee in the
19   other position. The position must provide the eligible employee with
20   like seniority, status, and pay, or the nearest approximation.
21   (c) An employer is not required to reemploy an eligible employee
22   if circumstances have so changed such that reemployment would be
23   impossible or unreasonable due to a change in the employer's
24   circumstances or would impose an undue hardship on the employer.
25   (3)(a) The eligible employee must provide written notification to
26   the employer that he or she intends to apply for reemployment to his
27   or her former position.
28   (b) The employer shall respond to the eligible employee's
29   notification within 30 days of the notification.
30   (4) In any proceeding involving an issue of whether: (a)
31   Reemployment is impossible or unreasonable because of a change in an
32   employer's circumstances; or (b) reemployment would impose an undue
33   hardship on the employer, the employer has the burden of proving the
34   impossibility or unreasonableness, or undue hardship.
35   (5) If any employer fails or refuses to comply with the
36   provisions of this section, the attorney general must bring action in
37   the superior court in the county in which the employer is located to
38   obtain an order specifically requiring the employer to comply with
39   the provisions of this section, and if appropriate, to compensate the

1   eligible employee for any loss of wages or benefits suffered by
2   reason of the employer's noncompliance.

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