

1 SB502
2 117681-3
3 By Senator Mitchell
4 RFD: Governmental Affairs
5 First Read: 04-MAR-10

2
3
4
5
6
7
8 SYNOPSIS: Existing law grants certain rights to Merit
9 System employees when a state agency or appointing
10 authority determines to lay off employees and
11 prohibits laying off a Merit System employee if the
12 state agency or appointing authority is employing a
13 non-Merit System employee to perform similar
14 duties. Also under existing law, there is no
15 specific authority for the furlough of Merit System
16 employees.

17 This bill would also authorize a state
18 department or appointing authority to implement a
19 voluntary furlough program with the approval of the
20 State Personnel Department; provided that such
21 voluntary furlough plan is applicable to an entire
22 department.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Section 36-26-26, Code of Alabama 1975, as
2 amended by Act No. 2009-502, 2009 Regular Session (Acts 2009,
3 p. 928), relating to furloughs of state employees, to
4 establish terms of furloughs for Merit System employees.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 36-26-26, Code of Alabama 1975,
7 as amended by Act No. 2009-502, 2009 Regular Session (Acts
8 2009, p. 928), is amended to read as follows:

9 "§36-26-26.

10 "(a) In accordance with the rules, an appointing
11 authority may lay off an employee in the classified service
12 whenever he deems it necessary by reason of shortage of work
13 or funds or the abolition of a position or other material
14 change in duties or organization. The seniority and service
15 ratings of employees shall be considered, in such manner as
16 the rules shall provide, among the factors in determining the
17 order of layoffs. The appointing authority shall give written
18 notice to the director of every proposed layoff a reasonable
19 time before the effective date thereof, and the director shall
20 make such orders relating thereto as he considers necessary to
21 secure compliance with the rules. The name of every regular
22 employee so laid off shall be placed on the appropriate
23 reemployment list.

24 "(b) In addition to any rights currently provided to
25 state employees, any permanent state employee who is laid off
26 from a position under the state Merit System shall have
27 priority for any other position in the same class filled from

1 an open competitive register by any appointing authority in
2 accordance with rules adopted by the State Personnel Board.

3 "(c) No state agency or appointing authority may
4 abolish a classified position through the layoff provisions if
5 the state agency or appointing authority is employing an
6 individual or individuals outside the Merit System to perform
7 similar duties, as determined by the State Personnel
8 Department. In the event of a layoff, the non-merit employee
9 shall be separated before a classified employee is laid off.
10 This subsection shall not apply if there is no classified
11 employee in a substantially similar position, as determined by
12 the State Personnel Department, who will accept the duties and
13 conditions of the non-merit employee who would otherwise be
14 separated.

15 "(d) A non-merit employee shall not be hired until
16 all classified employees who have been laid off from a
17 substantially similar position, as determined by the State
18 Personnel Department, have been offered the position and have
19 likewise rejected the offer for the position.

20 "(e) A state department or appointing authority may
21 enact a voluntary furlough plan for employees if the voluntary
22 furlough plan is approved by the State Personnel Department.

23 "(f) Any furlough plan adopted by a state department
24 or appointing authority shall be applicable to the entire
25 department affected.

1 "~~(e)~~(g) The provisions of this section are
2 supplemental and shall not be construed to repeal any law not
3 in direct conflict."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.