

SHB 2998 - S COMM AMD
By Committee on Ways & Means

ADOPTED 02/09/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the current
4 economic crisis is requiring sacrifices by citizens and businesses all
5 across the state. The legislature acknowledges the sacrifices also
6 being made by the many state employees who have volunteered for unpaid
7 furlough days including those, such as our ferry workers, who
8 volunteered for pay freezes. The recession requires us to continue to
9 find every possible cost savings while striving to continue to deliver
10 key services to our citizens. Therefore, the legislature finds it
11 necessary to immediately suspend recognition awards given to state
12 employees. Until the economic climate permits the resumption of
13 appropriate cash awards, the legislature encourages supervisors
14 throughout state agencies to look for nonmonetary ways to acknowledge
15 outstanding contributions to Washington's citizens by our state's civil
16 servants.

17 **Sec. 2.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each
18 reenacted and amended to read as follows:

19 (1) The provisions of this chapter do not apply to:

20 (a) The members of the legislature or to any employee of, or
21 position in, the legislative branch of the state government including
22 members, officers, and employees of the legislative council, joint
23 legislative audit and review committee, statute law committee, and any
24 interim committee of the legislature;

25 (b) The justices of the supreme court, judges of the court of
26 appeals, judges of the superior courts or of the inferior courts, or to
27 any employee of, or position in the judicial branch of state
28 government;

1 (c) Officers, academic personnel, and employees of technical
2 colleges;

3 (d) The officers of the Washington state patrol;

4 (e) Elective officers of the state;

5 (f) The chief executive officer of each agency;

6 (g) In the departments of employment security and social and health
7 services, the director and the director's confidential secretary; in
8 all other departments, the executive head of which is an individual
9 appointed by the governor, the director, his or her confidential
10 secretary, and his or her statutory assistant directors;

11 (h) In the case of a multimember board, commission, or committee,
12 whether the members thereof are elected, appointed by the governor or
13 other authority, serve ex officio, or are otherwise chosen:

14 (i) All members of such boards, commissions, or committees;

15 (ii) If the members of the board, commission, or committee serve on
16 a part-time basis and there is a statutory executive officer: The
17 secretary of the board, commission, or committee; the chief executive
18 officer of the board, commission, or committee; and the confidential
19 secretary of the chief executive officer of the board, commission, or
20 committee;

21 (iii) If the members of the board, commission, or committee serve
22 on a full-time basis: The chief executive officer or administrative
23 officer as designated by the board, commission, or committee; and a
24 confidential secretary to the chair of the board, commission, or
25 committee;

26 (iv) If all members of the board, commission, or committee serve ex
27 officio: The chief executive officer; and the confidential secretary
28 of such chief executive officer;

29 (i) The confidential secretaries and administrative assistants in
30 the immediate offices of the elective officers of the state;

31 (j) Assistant attorneys general;

32 (k) Commissioned and enlisted personnel in the military service of
33 the state;

34 (l) Inmate, student, part-time, or temporary employees, and part-
35 time professional consultants, as defined by the Washington personnel
36 resources board;

37 (m) The public printer or to any employees of or positions in the
38 state printing plant;

1 (n) Officers and employees of the Washington state fruit
2 commission;

3 (o) Officers and employees of the Washington apple commission;

4 (p) Officers and employees of the Washington state dairy products
5 commission;

6 (q) Officers and employees of the Washington tree fruit research
7 commission;

8 (r) Officers and employees of the Washington state beef commission;

9 (s) Officers and employees of the Washington grain commission;

10 (t) Officers and employees of any commission formed under chapter
11 15.66 RCW;

12 (u) Officers and employees of agricultural commissions formed under
13 chapter 15.65 RCW;

14 (v) Officers and employees of the nonprofit corporation formed
15 under chapter 67.40 RCW;

16 (w) Executive assistants for personnel administration and labor
17 relations in all state agencies employing such executive assistants
18 including but not limited to all departments, offices, commissions,
19 committees, boards, or other bodies subject to the provisions of this
20 chapter and this subsection shall prevail over any provision of law
21 inconsistent herewith unless specific exception is made in such law;

22 (x) In each agency with fifty or more employees: Deputy agency
23 heads, assistant directors or division directors, and not more than
24 three principal policy assistants who report directly to the agency
25 head or deputy agency heads;

26 (y) All employees of the marine employees' commission;

27 (z) Staff employed by the department of (~~community, trade, and~~
28 ~~economic development~~) commerce to administer energy policy functions
29 and manage energy site evaluation council activities under RCW
30 43.21F.045(2)(m);

31 (aa) Staff employed by Washington State University to administer
32 energy education, applied research, and technology transfer programs
33 under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

34 (2) The following classifications, positions, and employees of
35 institutions of higher education and related boards are hereby exempted
36 from coverage of this chapter:

37 (a) Members of the governing board of each institution of higher
38 education and related boards, all presidents, vice presidents, and

1 their confidential secretaries, administrative, and personal
2 assistants; deans, directors, and chairs; academic personnel; and
3 executive heads of major administrative or academic divisions employed
4 by institutions of higher education; principal assistants to executive
5 heads of major administrative or academic divisions; other managerial
6 or professional employees in an institution or related board having
7 substantial responsibility for directing or controlling program
8 operations and accountable for allocation of resources and program
9 results, or for the formulation of institutional policy, or for
10 carrying out personnel administration or labor relations functions,
11 legislative relations, public information, development, senior computer
12 systems and network programming, or internal audits and investigations;
13 and any employee of a community college district whose place of work is
14 one which is physically located outside the state of Washington and who
15 is employed pursuant to RCW 28B.50.092 and assigned to an educational
16 program operating outside of the state of Washington;

17 (b) The governing board of each institution, and related boards,
18 may also exempt from this chapter classifications involving research
19 activities, counseling of students, extension or continuing education
20 activities, graphic arts or publications activities requiring
21 prescribed academic preparation or special training as determined by
22 the board: PROVIDED, That no nonacademic employee engaged in office,
23 clerical, maintenance, or food and trade services may be exempted by
24 the board under this provision;

25 (c) Printing craft employees in the department of printing at the
26 University of Washington.

27 (3) In addition to the exemptions specifically provided by this
28 chapter, the director of personnel may provide for further exemptions
29 pursuant to the following procedures. The governor or other
30 appropriate elected official may submit requests for exemption to the
31 director of personnel stating the reasons for requesting such
32 exemptions. The director of personnel shall hold a public hearing,
33 after proper notice, on requests submitted pursuant to this subsection.
34 If the director determines that the position for which exemption is
35 requested is one involving substantial responsibility for the
36 formulation of basic agency or executive policy or one involving
37 directing and controlling program operations of an agency or a major
38 administrative division thereof, the director of personnel shall grant

1 the request and such determination shall be final as to any decision
2 made before July 1, 1993. The total number of additional exemptions
3 permitted under this subsection shall not exceed one percent of the
4 number of employees in the classified service not including employees
5 of institutions of higher education and related boards for those
6 agencies not directly under the authority of any elected public
7 official other than the governor, and shall not exceed a total of
8 twenty-five for all agencies under the authority of elected public
9 officials other than the governor.

10 The salary and fringe benefits of all positions presently or
11 hereafter exempted except for the chief executive officer of each
12 agency, full-time members of boards and commissions, administrative
13 assistants and confidential secretaries in the immediate office of an
14 elected state official, and the personnel listed in subsections (1)(j)
15 through (v) and (y) and (2) of this section, shall be determined by the
16 director of personnel. Changes to the classification plan affecting
17 exempt salaries must meet the same provisions for classified salary
18 increases resulting from adjustments to the classification plan as
19 outlined in RCW 41.06.152.

20 For the twelve months following February 18, 2009, a salary or wage
21 increase shall not be granted to any position exempt from
22 classification under this chapter.

23 Any person holding a classified position subject to the provisions
24 of this chapter shall, when and if such position is subsequently
25 exempted from the application of this chapter, be afforded the
26 following rights: If such person previously held permanent status in
27 another classified position, such person shall have a right of
28 reversion to the highest class of position previously held, or to a
29 position of similar nature and salary.

30 Any classified employee having civil service status in a classified
31 position who accepts an appointment in an exempt position shall have
32 the right of reversion to the highest class of position previously
33 held, or to a position of similar nature and salary.

34 A person occupying an exempt position who is terminated from the
35 position for gross misconduct or malfeasance does not have the right of
36 reversion to a classified position as provided for in this section.

37 From the effective date of this section until June 30, 2011, no
38 monetary performance-based awards or incentives may be granted by the

1 director or employers to employees covered by rules adopted under this
2 section. This subsection does not prohibit the payment of awards
3 provided for in chapter 41.60 RCW.

4 **Sec. 3.** RCW 41.06.133 and 2009 c 534 s 2 and 2009 c 5 s 2 are each
5 reenacted and amended to read as follows:

6 (1) The director shall adopt rules, consistent with the purposes
7 and provisions of this chapter and with the best standards of personnel
8 administration, regarding the basis and procedures to be followed for:

9 (a) The reduction, dismissal, suspension, or demotion of an
10 employee;

11 (b) Training and career development;

12 (c) Probationary periods of six to twelve months and rejections of
13 probationary employees, depending on the job requirements of the class,
14 except that entry level state park rangers shall serve a probationary
15 period of twelve months;

16 (d) Transfers;

17 (e) Promotional preferences;

18 (f) Sick leaves and vacations;

19 (g) Hours of work;

20 (h) Layoffs when necessary and subsequent reemployment, except for
21 the financial basis for layoffs;

22 (i) The number of names to be certified for vacancies;

23 (j) Adoption and revision of a state salary schedule to reflect the
24 prevailing rates in Washington state private industries and other
25 governmental units. The rates in the salary schedules or plans shall
26 be increased if necessary to attain comparable worth under an
27 implementation plan under RCW 41.06.155 and, for institutions of higher
28 education and related boards, shall be competitive for positions of a
29 similar nature in the state or the locality in which an institution of
30 higher education or related board is located. Such adoption and
31 revision is subject to approval by the director of financial management
32 in accordance with chapter 43.88 RCW;

33 (k) Increment increases within the series of steps for each pay
34 grade based on length of service for all employees whose standards of
35 performance are such as to permit them to retain job status in the
36 classified service. For the twelve months following February 18, 2009,

1 a salary or wage increase shall not be granted to any exempt position
2 under this chapter;

3 (1) Optional lump sum relocation compensation approved by the
4 agency director, whenever it is reasonably necessary that a person make
5 a domiciliary move in accepting a transfer or other employment with the
6 state. An agency must provide lump sum compensation within existing
7 resources. If the person receiving the relocation payment terminates
8 or causes termination with the state, for reasons other than layoff,
9 disability separation, or other good cause as determined by an agency
10 director, within one year of the date of the employment, the state is
11 entitled to reimbursement of the lump sum compensation from the person;

12 (m) Providing for veteran's preference as required by existing
13 statutes, with recognition of preference in regard to layoffs and
14 subsequent reemployment for veterans and their surviving spouses by
15 giving such eligible veterans and their surviving spouses additional
16 credit in computing their seniority by adding to their unbroken state
17 service, as defined by the director, the veteran's service in the
18 military not to exceed five years. For the purposes of this section,
19 "veteran" means any person who has one or more years of active military
20 service in any branch of the armed forces of the United States or who
21 has less than one year's service and is discharged with a disability
22 incurred in the line of duty or is discharged at the convenience of the
23 government and who, upon termination of such service, has received an
24 honorable discharge, a discharge for physical reasons with an honorable
25 record, or a release from active military service with evidence of
26 service other than that for which an undesirable, bad conduct, or
27 dishonorable discharge shall be given. However, the surviving spouse
28 of a veteran is entitled to the benefits of this section regardless of
29 the veteran's length of active military service. For the purposes of
30 this section, "veteran" does not include any person who has voluntarily
31 retired with twenty or more years of active military service and whose
32 military retirement pay is in excess of five hundred dollars per month.

33 (2) Rules adopted under this section by the director shall provide
34 for local administration and management by the institutions of higher
35 education and related boards, subject to periodic audit and review by
36 the director.

37 (3) Rules adopted by the director under this section may be
38 superseded by the provisions of a collective bargaining agreement

1 negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The
2 supersession of such rules shall only affect employees in the
3 respective collective bargaining units.

4 (4)(a) The director shall require that each state agency report
5 annually the following data:

6 (i) The number of classified, Washington management service, and
7 exempt employees in the agency and the change compared to the previous
8 report;

9 (ii) The number of bonuses and performance-based incentives awarded
10 to agency staff and the base wages of such employees; and

11 (iii) The cost of each bonus or incentive awarded.

12 (b) A report that compiles the data in (a) of this subsection for
13 all agencies will be provided annually to the governor and the
14 appropriate committees of the legislature and must be posted for the
15 public on the department of personnel's agency web site.

16 (5) From the effective date of this section until June 30, 2011, no
17 monetary performance-based awards or incentives may be granted by the
18 director or employers to employees covered by rules adopted under this
19 section. This subsection does not prohibit the payment of awards
20 provided for in chapter 41.60 RCW.

21 **Sec. 4.** RCW 41.06.500 and 2009 c 5 s 3 are each amended to read as
22 follows:

23 (1) Except as provided in RCW 41.06.070, notwithstanding any other
24 provisions of this chapter, the director is authorized to adopt, after
25 consultation with state agencies and employee organizations, rules for
26 managers as defined in RCW 41.06.022. These rules shall not apply to
27 managers employed by institutions of higher education or related boards
28 or whose positions are exempt. The rules shall govern recruitment,
29 appointment, classification and allocation of positions, examination,
30 training and career development, hours of work, probation,
31 certification, compensation, transfer, affirmative action, promotion,
32 layoff, reemployment, performance appraisals, discipline, and any and
33 all other personnel practices for managers. These rules shall be
34 separate from rules adopted for other employees, and to the extent that
35 the rules adopted under this section apply only to managers shall take
36 precedence over rules adopted for other employees, and are not subject
37 to review by the board.

1 (2) In establishing rules for managers, the director shall adhere
2 to the following goals:

3 (a) Development of a simplified classification system that
4 facilitates movement of managers between agencies and promotes upward
5 mobility;

6 (b) Creation of a compensation system that provides flexibility in
7 setting and changing salaries, and shall require review and approval by
8 the director in the case of any salary changes greater than five
9 percent proposed for any group of employees;

10 (c) Establishment of a performance appraisal system that emphasizes
11 individual accountability for program results and efficient management
12 of resources; effective planning, organization, and communication
13 skills; valuing and managing workplace diversity; development of
14 leadership and interpersonal abilities; and employee development;

15 (d) Strengthening management training and career development
16 programs that build critical management knowledge, skills, and
17 abilities; focusing on managing and valuing workplace diversity;
18 empowering employees by enabling them to share in workplace decision
19 making and to be innovative, willing to take risks, and able to accept
20 and deal with change; promoting a workplace where the overall focus is
21 on the recipient of the government services and how these services can
22 be improved; and enhancing mobility and career advancement
23 opportunities;

24 (e) Permitting flexible recruitment and hiring procedures that
25 enable agencies to compete effectively with other employers, both
26 public and private, for managers with appropriate skills and training;
27 allowing consideration of all qualified candidates for positions as
28 managers; and achieving affirmative action goals and diversity in the
29 workplace;

30 (f) Providing that managers may only be reduced, dismissed,
31 suspended, or demoted for cause; and

32 (g) Facilitating decentralized and regional administration.

33 (3) For the twelve months following February 18, 2009, a salary or
34 wage increase shall not be granted to any position under this section.

35 (4) From the effective date of this section until June 30, 2011, no
36 monetary performance-based awards or growth and development progression
37 adjustments may be granted by the director or employers to the

1 Washington management service employees covered by the rules adopted
2 under this section. This subsection does not prohibit the payment of
3 awards provided for in chapter 41.60 RCW.

4 **Sec. 5.** RCW 43.180.080 and 1997 c 163 s 1 are each amended to read
5 as follows:

6 In addition to other powers and duties specified in this chapter,
7 the commission may:

8 (1) Establish in resolutions relating to any issuance of bonds, or
9 in any financing documents relating to such issuance, such standards
10 and requirements applicable to the purchase of mortgages and mortgage
11 loans or the making of loans to mortgage lenders as the commission
12 deems necessary or desirable, including but not limited to: (a) The
13 time within which mortgage lenders must make commitments and
14 disbursements for mortgages or mortgage loans; (b) the location and
15 other characteristics of single-family housing or multifamily housing
16 to be financed by mortgages and mortgage loans; (c) the terms and
17 conditions of mortgages and mortgage loans to be acquired; (d) the
18 amounts and types of insurance coverage required on mortgages, mortgage
19 loans, and bonds; (e) the representations and warranties of mortgage
20 lenders confirming compliance with such standards and requirements; (f)
21 restrictions as to interest rate and other terms of mortgages or
22 mortgage loans or the return realized therefrom by mortgage lenders;
23 (g) the type and amount of collateral security to be provided to assure
24 repayment of any loans from the commission and to assure repayment of
25 bonds; and (h) any other matters related to the purchase of mortgages
26 or mortgage loans or the making of loans to lending institutions as
27 shall be deemed relevant by the commission;

28 (2) Sue and be sued in its own name;

29 (3) Make and execute contracts and all other instruments necessary
30 or convenient for the exercise of its purposes or powers, including but
31 not limited to contracts or agreements for the origination, servicing,
32 and administration of mortgages or mortgage loans, and the borrowing of
33 money;

34 (4) Procure such insurance, including but not limited to insurance:
35 (a) Against any loss in connection with its property and other assets,
36 including but not limited to mortgages or mortgage loans, in such

1 amounts and from such insurers as the commission deems desirable, and
2 (b) to indemnify members of the commission for acts done in the course
3 of their duties;

4 (5) Provide for the investment of any funds, including funds held
5 in reserve, not required for immediate disbursement, and provide for
6 the selection of investments;

7 (6) Fix, revise, and collect fees and charges in connection with
8 the investigation and financing of housing or in connection with
9 assignments, contracts, purchases of mortgages or mortgage loans, or
10 any other actions permitted under this chapter or by the commission;
11 and receive grants and contributions;

12 (7) Make such expenditures as are appropriate for paying the
13 administrative costs of the commission and for carrying out the
14 provisions of this chapter. These expenditures may be made only from
15 funds consisting of the commission's receipts from fees and charges,
16 grants and contributions, the proceeds of bonds issued by the
17 commission, and other revenues; these expenditures shall not be made
18 from funds of the state of Washington;

19 (8) Establish such special funds, and controls on deposits to and
20 disbursements from them, as it finds convenient for the implementation
21 of this chapter;

22 (9) Conduct such investigations and feasibility studies as it deems
23 appropriate;

24 (10) Proceed with foreclosure actions or accept deeds in lieu of
25 foreclosure together with the assignments of leases and rentals
26 incidental thereto. Any properties acquired by the commission through
27 such actions shall be sold as soon as practicable through persons
28 licensed under chapter 18.85 RCW or at public auction, or by transfer
29 to a public agency. In preparation for the disposition of the
30 properties, the commission may own, lease, clear, construct,
31 reconstruct, rehabilitate, repair, maintain, manage, operate, assign,
32 or encumber the properties;

33 (11) Take assignments of leases and rentals;

34 (12) Subject to any provisions of the commission's contracts with
35 the holders of obligations of the commission, consent to any
36 modification with respect to rate of interest, time, and payment of any
37 installment of principal or interest or any other term of any contract,

1 mortgage, mortgage loan, mortgage loan commitment, contract, or
2 agreement of any kind;

3 (13) Subject to provisions of the commission's contracts with the
4 holders of bonds, permit the reduction of rental or carrying charges to
5 persons unable to pay the regular rent or schedule of charges if, by
6 reason of other income of the commission or by reason of payment by any
7 department, agency, or instrumentality of the United States or of this
8 state, the reduction can be made without jeopardizing the economic
9 stability of the housing being financed;

10 (14) Sell, at public or private sale, with or without public
11 bidding, any mortgage, mortgage loan, or other instrument or asset held
12 by the commission;

13 (15) Employ, contract with, or engage engineers, architects,
14 attorneys, financial advisors, bond underwriters, mortgage lenders,
15 mortgage administrators, housing construction or financing experts,
16 other technical or professional assistants, and such other personnel as
17 are necessary. The commission may delegate to the appropriate persons
18 the power to execute legal instruments on its behalf;

19 (16) Receive contributions or grants from any source unless
20 otherwise prohibited;

21 (17) Impose covenants running with the land in order to satisfy and
22 enforce the requirements of applicable state and federal law and
23 commission policy with respect to housing or other facilities financed
24 by the commission or assisted by federal, state, or local programs
25 administered by the commission, by executing and recording regulatory
26 agreements or other covenants between the commission and the person or
27 entity to be bound. These regulatory agreements and covenants shall
28 run with the land and be enforceable by the commission or its
29 successors or assigns against the person or entity making the
30 regulatory agreement or covenants or its successors or assigns, even
31 though there may be no privity of estate or privity of contract between
32 the commission or its successors or assigns and the person or entity
33 against whom enforcement is sought. The term of any such covenant
34 shall be set forth in the recorded agreement containing the covenant.
35 This subsection shall apply to regulatory agreements and covenants
36 previously entered into by the commission as well as regulatory
37 agreements and covenants entered into by the commission on or after
38 July 27, 1997;

1 (18) Delegate any of its powers and duties if consistent with the
2 purposes of this chapter;

3 (19) Exercise any other power reasonably required to implement the
4 purposes of this chapter.

5 From the effective date of this section through June 30, 2011,
6 neither the commission nor its designees may grant any monetary
7 performance-based awards or incentives to any employee. This
8 subsection does not prohibit the payment of awards provided for in
9 chapter 41.60 RCW.

10 NEW SECTION. Sec. 6. A new section is added to chapter 41.06 RCW
11 to read as follows:

12 From the effective date of this section until June 30, 2011, no
13 monetary performance-based awards or incentives may be granted by the
14 director or employers to employees covered by rules adopted under this
15 section. This section does not prohibit the payment of awards provided
16 for in chapter 41.60 RCW.

17 NEW SECTION. Sec. 7. This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately."

SHB 2998 - S COMM AMD
By Committee on Ways & Means

ADOPTED 02/09/2010

21 On page 1, line 2 of the title, after "increases;" strike the
22 remainder of the title and insert "amending RCW 41.06.500 and
23 43.180.080; reenacting and amending RCW 41.06.070 and 41.06.133; adding
24 a new section to chapter 41.06 RCW; creating a new section; and
25 declaring an emergency."

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