

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2998

61st Legislature
2010 Regular Session

Passed by the House February 10, 2010
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate February 9, 2010
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2998** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2998

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Ways & Means (originally sponsored by Representatives Seaquist, Armstrong, Hunt, Kessler, Wallace, Conway, and Darneille)

READ FIRST TIME 01/27/10.

1 AN ACT Relating to suspension of certain monetary awards and salary
2 increases; amending RCW 41.06.500 and 43.180.080; reenacting and
3 amending RCW 41.06.070 and 41.06.133; adding a new section to chapter
4 41.06 RCW; creating a new section; and declaring an emergency.

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

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

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

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

4 (a) The members of the legislature or to any employee of, or
5 position in, the legislative branch of the state government including
6 members, officers, and employees of the legislative council, joint
7 legislative audit and review committee, statute law committee, and any
8 interim committee of the legislature;

9 (b) The justices of the supreme court, judges of the court of
10 appeals, judges of the superior courts or of the inferior courts, or to
11 any employee of, or position in the judicial branch of state
12 government;

13 (c) Officers, academic personnel, and employees of technical
14 colleges;

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

16 (e) Elective officers of the state;

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

18 (g) In the departments of employment security and social and health
19 services, the director and the director's confidential secretary; in
20 all other departments, the executive head of which is an individual
21 appointed by the governor, the director, his or her confidential
22 secretary, and his or her statutory assistant directors;

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

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

27 (ii) If the members of the board, commission, or committee serve on
28 a part-time basis and there is a statutory executive officer: The
29 secretary of the board, commission, or committee; the chief executive
30 officer of the board, commission, or committee; and the confidential
31 secretary of the chief executive officer of the board, commission, or
32 committee;

33 (iii) If the members of the board, commission, or committee serve
34 on a full-time basis: The chief executive officer or administrative
35 officer as designated by the board, commission, or committee; and a
36 confidential secretary to the chair of the board, commission, or
37 committee;

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

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

6 (j) Assistant attorneys general;

7 (k) Commissioned and enlisted personnel in the military service of
8 the state;

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

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

14 (n) Officers and employees of the Washington state fruit
15 commission;

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

17 (p) Officers and employees of the Washington state dairy products
18 commission;

19 (q) Officers and employees of the Washington tree fruit research
20 commission;

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

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

23 (t) Officers and employees of any commission formed under chapter
24 15.66 RCW;

25 (u) Officers and employees of agricultural commissions formed under
26 chapter 15.65 RCW;

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

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

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

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

2 (z) Staff employed by the department of (~~community, trade, and~~
3 ~~economic development~~) commerce to administer energy policy functions
4 and manage energy site evaluation council activities under RCW
5 43.21F.045(2)(m);

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

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

12 (a) Members of the governing board of each institution of higher
13 education and related boards, all presidents, vice presidents, and
14 their confidential secretaries, administrative, and personal
15 assistants; deans, directors, and chairs; academic personnel; and
16 executive heads of major administrative or academic divisions employed
17 by institutions of higher education; principal assistants to executive
18 heads of major administrative or academic divisions; other managerial
19 or professional employees in an institution or related board having
20 substantial responsibility for directing or controlling program
21 operations and accountable for allocation of resources and program
22 results, or for the formulation of institutional policy, or for
23 carrying out personnel administration or labor relations functions,
24 legislative relations, public information, development, senior computer
25 systems and network programming, or internal audits and investigations;
26 and any employee of a community college district whose place of work is
27 one which is physically located outside the state of Washington and who
28 is employed pursuant to RCW 28B.50.092 and assigned to an educational
29 program operating outside of the state of Washington;

30 (b) The governing board of each institution, and related boards,
31 may also exempt from this chapter classifications involving research
32 activities, counseling of students, extension or continuing education
33 activities, graphic arts or publications activities requiring
34 prescribed academic preparation or special training as determined by
35 the board: PROVIDED, That no nonacademic employee engaged in office,
36 clerical, maintenance, or food and trade services may be exempted by
37 the board under this provision;

1 (c) Printing craft employees in the department of printing at the
2 University of Washington.

3 (3) In addition to the exemptions specifically provided by this
4 chapter, the director of personnel may provide for further exemptions
5 pursuant to the following procedures. The governor or other
6 appropriate elected official may submit requests for exemption to the
7 director of personnel stating the reasons for requesting such
8 exemptions. The director of personnel shall hold a public hearing,
9 after proper notice, on requests submitted pursuant to this subsection.
10 If the director determines that the position for which exemption is
11 requested is one involving substantial responsibility for the
12 formulation of basic agency or executive policy or one involving
13 directing and controlling program operations of an agency or a major
14 administrative division thereof, the director of personnel shall grant
15 the request and such determination shall be final as to any decision
16 made before July 1, 1993. The total number of additional exemptions
17 permitted under this subsection shall not exceed one percent of the
18 number of employees in the classified service not including employees
19 of institutions of higher education and related boards for those
20 agencies not directly under the authority of any elected public
21 official other than the governor, and shall not exceed a total of
22 twenty-five for all agencies under the authority of elected public
23 officials other than the governor.

24 The salary and fringe benefits of all positions presently or
25 hereafter exempted except for the chief executive officer of each
26 agency, full-time members of boards and commissions, administrative
27 assistants and confidential secretaries in the immediate office of an
28 elected state official, and the personnel listed in subsections (1)(j)
29 through (v) and (y) and (2) of this section, shall be determined by the
30 director of personnel. Changes to the classification plan affecting
31 exempt salaries must meet the same provisions for classified salary
32 increases resulting from adjustments to the classification plan as
33 outlined in RCW 41.06.152.

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

37 Any person holding a classified position subject to the provisions
38 of this chapter shall, when and if such position is subsequently

1 exempted from the application of this chapter, be afforded the
2 following rights: If such person previously held permanent status in
3 another classified position, such person shall have a right of
4 reversion to the highest class of position previously held, or to a
5 position of similar nature and salary.

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

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

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

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

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

23 (a) The reduction, dismissal, suspension, or demotion of an
24 employee;

25 (b) Training and career development;

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

30 (d) Transfers;

31 (e) Promotional preferences;

32 (f) Sick leaves and vacations;

33 (g) Hours of work;

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

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

1 (j) Adoption and revision of a state salary schedule to reflect the
2 prevailing rates in Washington state private industries and other
3 governmental units. The rates in the salary schedules or plans shall
4 be increased if necessary to attain comparable worth under an
5 implementation plan under RCW 41.06.155 and, for institutions of higher
6 education and related boards, shall be competitive for positions of a
7 similar nature in the state or the locality in which an institution of
8 higher education or related board is located. Such adoption and
9 revision is subject to approval by the director of financial management
10 in accordance with chapter 43.88 RCW;

11 (k) Increment increases within the series of steps for each pay
12 grade based on length of service for all employees whose standards of
13 performance are such as to permit them to retain job status in the
14 classified service. For the twelve months following February 18, 2009,
15 a salary or wage increase shall not be granted to any exempt position
16 under this chapter;

17 (l) Optional lump sum relocation compensation approved by the
18 agency director, whenever it is reasonably necessary that a person make
19 a domiciliary move in accepting a transfer or other employment with the
20 state. An agency must provide lump sum compensation within existing
21 resources. If the person receiving the relocation payment terminates
22 or causes termination with the state, for reasons other than layoff,
23 disability separation, or other good cause as determined by an agency
24 director, within one year of the date of the employment, the state is
25 entitled to reimbursement of the lump sum compensation from the person;

26 (m) Providing for veteran's preference as required by existing
27 statutes, with recognition of preference in regard to layoffs and
28 subsequent reemployment for veterans and their surviving spouses by
29 giving such eligible veterans and their surviving spouses additional
30 credit in computing their seniority by adding to their unbroken state
31 service, as defined by the director, the veteran's service in the
32 military not to exceed five years. For the purposes of this section,
33 "veteran" means any person who has one or more years of active military
34 service in any branch of the armed forces of the United States or who
35 has less than one year's service and is discharged with a disability
36 incurred in the line of duty or is discharged at the convenience of the
37 government and who, upon termination of such service, has received an
38 honorable discharge, a discharge for physical reasons with an honorable

1 record, or a release from active military service with evidence of
2 service other than that for which an undesirable, bad conduct, or
3 dishonorable discharge shall be given. However, the surviving spouse
4 of a veteran is entitled to the benefits of this section regardless of
5 the veteran's length of active military service. For the purposes of
6 this section, "veteran" does not include any person who has voluntarily
7 retired with twenty or more years of active military service and whose
8 military retirement pay is in excess of five hundred dollars per month.

9 (2) Rules adopted under this section by the director shall provide
10 for local administration and management by the institutions of higher
11 education and related boards, subject to periodic audit and review by
12 the director.

13 (3) Rules adopted by the director under this section may be
14 superseded by the provisions of a collective bargaining agreement
15 negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The
16 supersession of such rules shall only affect employees in the
17 respective collective bargaining units.

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

20 (i) The number of classified, Washington management service, and
21 exempt employees in the agency and the change compared to the previous
22 report;

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

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

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

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

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

37 (1) Except as provided in RCW 41.06.070, notwithstanding any other

1 provisions of this chapter, the director is authorized to adopt, after
2 consultation with state agencies and employee organizations, rules for
3 managers as defined in RCW 41.06.022. These rules shall not apply to
4 managers employed by institutions of higher education or related boards
5 or whose positions are exempt. The rules shall govern recruitment,
6 appointment, classification and allocation of positions, examination,
7 training and career development, hours of work, probation,
8 certification, compensation, transfer, affirmative action, promotion,
9 layoff, reemployment, performance appraisals, discipline, and any and
10 all other personnel practices for managers. These rules shall be
11 separate from rules adopted for other employees, and to the extent that
12 the rules adopted under this section apply only to managers shall take
13 precedence over rules adopted for other employees, and are not subject
14 to review by the board.

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

17 (a) Development of a simplified classification system that
18 facilitates movement of managers between agencies and promotes upward
19 mobility;

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

24 (c) Establishment of a performance appraisal system that emphasizes
25 individual accountability for program results and efficient management
26 of resources; effective planning, organization, and communication
27 skills; valuing and managing workplace diversity; development of
28 leadership and interpersonal abilities; and employee development;

29 (d) Strengthening management training and career development
30 programs that build critical management knowledge, skills, and
31 abilities; focusing on managing and valuing workplace diversity;
32 empowering employees by enabling them to share in workplace decision
33 making and to be innovative, willing to take risks, and able to accept
34 and deal with change; promoting a workplace where the overall focus is
35 on the recipient of the government services and how these services can
36 be improved; and enhancing mobility and career advancement
37 opportunities;

1 (e) Permitting flexible recruitment and hiring procedures that
2 enable agencies to compete effectively with other employers, both
3 public and private, for managers with appropriate skills and training;
4 allowing consideration of all qualified candidates for positions as
5 managers; and achieving affirmative action goals and diversity in the
6 workplace;

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

9 (g) Facilitating decentralized and regional administration.

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

12 (4) From the effective date of this section until June 30, 2011, no
13 monetary performance-based awards or growth and development progression
14 adjustments may be granted by the director or employers to the
15 Washington management service employees covered by the rules adopted
16 under this section. This subsection does not prohibit the payment of
17 awards provided for in chapter 41.60 RCW.

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

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

22 (1) Establish in resolutions relating to any issuance of bonds, or
23 in any financing documents relating to such issuance, such standards
24 and requirements applicable to the purchase of mortgages and mortgage
25 loans or the making of loans to mortgage lenders as the commission
26 deems necessary or desirable, including but not limited to: (a) The
27 time within which mortgage lenders must make commitments and
28 disbursements for mortgages or mortgage loans; (b) the location and
29 other characteristics of single-family housing or multifamily housing
30 to be financed by mortgages and mortgage loans; (c) the terms and
31 conditions of mortgages and mortgage loans to be acquired; (d) the
32 amounts and types of insurance coverage required on mortgages, mortgage
33 loans, and bonds; (e) the representations and warranties of mortgage
34 lenders confirming compliance with such standards and requirements; (f)
35 restrictions as to interest rate and other terms of mortgages or
36 mortgage loans or the return realized therefrom by mortgage lenders;
37 (g) the type and amount of collateral security to be provided to assure

1 repayment of any loans from the commission and to assure repayment of
2 bonds; and (h) any other matters related to the purchase of mortgages
3 or mortgage loans or the making of loans to lending institutions as
4 shall be deemed relevant by the commission;

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

6 (3) Make and execute contracts and all other instruments necessary
7 or convenient for the exercise of its purposes or powers, including but
8 not limited to contracts or agreements for the origination, servicing,
9 and administration of mortgages or mortgage loans, and the borrowing of
10 money;

11 (4) Procure such insurance, including but not limited to insurance:

12 (a) Against any loss in connection with its property and other assets,
13 including but not limited to mortgages or mortgage loans, in such
14 amounts and from such insurers as the commission deems desirable, and
15 (b) to indemnify members of the commission for acts done in the course
16 of their duties;

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

20 (6) Fix, revise, and collect fees and charges in connection with
21 the investigation and financing of housing or in connection with
22 assignments, contracts, purchases of mortgages or mortgage loans, or
23 any other actions permitted under this chapter or by the commission;
24 and receive grants and contributions;

25 (7) Make such expenditures as are appropriate for paying the
26 administrative costs of the commission and for carrying out the
27 provisions of this chapter. These expenditures may be made only from
28 funds consisting of the commission's receipts from fees and charges,
29 grants and contributions, the proceeds of bonds issued by the
30 commission, and other revenues; these expenditures shall not be made
31 from funds of the state of Washington;

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

35 (9) Conduct such investigations and feasibility studies as it deems
36 appropriate;

37 (10) Proceed with foreclosure actions or accept deeds in lieu of
38 foreclosure together with the assignments of leases and rentals

1 incidental thereto. Any properties acquired by the commission through
2 such actions shall be sold as soon as practicable through persons
3 licensed under chapter 18.85 RCW or at public auction, or by transfer
4 to a public agency. In preparation for the disposition of the
5 properties, the commission may own, lease, clear, construct,
6 reconstruct, rehabilitate, repair, maintain, manage, operate, assign,
7 or encumber the properties;

8 (11) Take assignments of leases and rentals;

9 (12) Subject to any provisions of the commission's contracts with
10 the holders of obligations of the commission, consent to any
11 modification with respect to rate of interest, time, and payment of any
12 installment of principal or interest or any other term of any contract,
13 mortgage, mortgage loan, mortgage loan commitment, contract, or
14 agreement of any kind;

15 (13) Subject to provisions of the commission's contracts with the
16 holders of bonds, permit the reduction of rental or carrying charges to
17 persons unable to pay the regular rent or schedule of charges if, by
18 reason of other income of the commission or by reason of payment by any
19 department, agency, or instrumentality of the United States or of this
20 state, the reduction can be made without jeopardizing the economic
21 stability of the housing being financed;

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

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

31 (16) Receive contributions or grants from any source unless
32 otherwise prohibited;

33 (17) Impose covenants running with the land in order to satisfy and
34 enforce the requirements of applicable state and federal law and
35 commission policy with respect to housing or other facilities financed
36 by the commission or assisted by federal, state, or local programs
37 administered by the commission, by executing and recording regulatory
38 agreements or other covenants between the commission and the person or

1 entity to be bound. These regulatory agreements and covenants shall
2 run with the land and be enforceable by the commission or its
3 successors or assigns against the person or entity making the
4 regulatory agreement or covenants or its successors or assigns, even
5 though there may be no privity of estate or privity of contract between
6 the commission or its successors or assigns and the person or entity
7 against whom enforcement is sought. The term of any such covenant
8 shall be set forth in the recorded agreement containing the covenant.
9 This subsection shall apply to regulatory agreements and covenants
10 previously entered into by the commission as well as regulatory
11 agreements and covenants entered into by the commission on or after
12 July 27, 1997;

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

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

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

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

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

29 NEW SECTION. Sec. 7. This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 immediately.

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