
SENATE BILL 5939

State of Washington

61st Legislature

2009 Regular Session

By Senators Hobbs, Schoesler, Benton, Fairley, McDermott, Keiser, Sheldon, and Shin

Read first time 02/09/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to personnel practices regarding exempt employment;
2 amending RCW 41.06.133 and 41.06.170; and repealing RCW 41.06.022.

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

4 **Sec. 1.** RCW 41.06.133 and 2002 c 354 s 204 are each amended to
5 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 ~~((1))~~ (a) The reduction, dismissal, suspension, or demotion of an
10 employee;

11 ~~((2))~~ (b) Training and career development;

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

16 ~~((4))~~ (d) Transfers;

17 ~~((5))~~ (e) Promotional preferences;

18 ~~((6))~~ (f) Sick leaves and vacations;

19 ~~((7))~~ (g) Hours of work;

1 ~~((+8+))~~ (h) Layoffs when necessary and subsequent reemployment,
2 except for the financial basis for layoffs;

3 ~~((+9+))~~ (i) The number of names to be certified for vacancies;

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

14 ~~((+11+))~~ (k) Increment increases within the series of steps for
15 each pay grade based on length of service for all employees whose
16 standards of performance are such as to permit them to retain job
17 status in the classified service;

18 ~~((+12+))~~ (l) Optional lump sum relocation compensation approved by
19 the agency director, whenever it is reasonably necessary that a person
20 make a domiciliary move in accepting a transfer or other employment
21 with the state. An agency must provide lump sum compensation within
22 existing resources. If the person receiving the relocation payment
23 terminates or causes termination with the state, for reasons other than
24 layoff, disability separation, or other good cause as determined by an
25 agency director, within one year of the date of the employment, the
26 state is entitled to reimbursement of the lump sum compensation from
27 the person;

28 ~~((+13+))~~ (m) Providing for veteran's preference as required by
29 existing statutes, with recognition of preference in regard to layoffs
30 and subsequent reemployment for veterans and their surviving spouses by
31 giving such eligible veterans and their surviving spouses additional
32 credit in computing their seniority by adding to their unbroken state
33 service, as defined by the director, the veteran's service in the
34 military not to exceed five years. For the purposes of this section,
35 "veteran" means any person who has one or more years of active military
36 service in any branch of the armed forces of the United States or who
37 has less than one year's service and is discharged with a disability
38 incurred in the line of duty or is discharged at the convenience of the

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

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

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

20 (4)(a) The director shall require that each state agency report
21 semiannually the following data:

22 (i) The number of classified and nonclassified employees in the
23 agency and the change compared to the previous report;

24 (ii) The number of bonuses and performance-based incentives awarded
25 to agency staff; and

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

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

30 **Sec. 2.** RCW 41.06.170 and 2002 c 354 s 213 are each amended to
31 read as follows:

32 (1) The director, in the adoption of rules governing suspensions
33 for cause, shall not authorize an appointing authority to suspend an
34 employee for more than fifteen calendar days as a single penalty or
35 more than thirty calendar days in any one calendar year as an
36 accumulation of several penalties. The director shall require that the

1 appointing authority give written notice to the employee not later than
2 one day after the suspension takes effect, stating the reasons for and
3 the duration thereof.

4 (2) Any employee who is reduced, dismissed, suspended, or demoted,
5 after completing his or her probationary period of service as provided
6 by the rules of the director, or any employee who is adversely affected
7 by a violation of the state civil service law, chapter 41.06 RCW, or
8 rules adopted under it, shall have the right to appeal, either
9 individually or through his or her authorized representative, not later
10 than thirty days after the effective date of such action to the
11 personnel appeals board through June 30, 2005, and to the Washington
12 personnel resources board after June 30, 2005. The employee shall be
13 furnished with specified charges in writing when a reduction,
14 dismissal, suspension, or demotion action is taken. Such appeal shall
15 be in writing. Decisions of the Washington personnel resources board
16 on appeals filed after June 30, 2005, shall be final and not subject to
17 further appeal.

18 (3) Any employee whose position has been exempted after July 1,
19 1993, shall have the right to appeal, either individually or through
20 his or her authorized representative, not later than thirty days after
21 the effective date of such action to the personnel appeals board
22 through June 30, 2005, and to the Washington personnel resources board
23 after June 30, 2005. If the position being exempted is vacant, the
24 exclusive bargaining unit representative may act in lieu of an employee
25 for the purposes of appeal.

26 (4) An employee incumbent in a position at the time of its
27 allocation or reallocation, or the agency utilizing the position, may
28 appeal the allocation or reallocation to the personnel appeals board
29 through December 31, 2005, and to the Washington personnel resources
30 board after December 31, 2005. Notice of such appeal must be filed in
31 writing within thirty days of the action from which appeal is taken.

32 (5) Subsections (1) and (2) of this section do not apply to any
33 employee who is subject to the provisions of a collective bargaining
34 agreement negotiated under RCW 41.80.001 and 41.80.010 through
35 41.80.130.

1 NEW SECTION. **Sec. 3.** RCW 41.06.022 ("Manager"--Definition) and
2 2002 c 354 s 207 & 1993 c 281 s 8 are each repealed.

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