
SUBSTITUTE SENATE BILL 6382

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Prentice and Tom; by request of Governor Gregoire)

READ FIRST TIME 01/22/10.

1 AN ACT Relating to reducing the cost of state government operations
2 by restricting compensation; amending RCW 41.06.500, 43.03.030,
3 43.03.040, and 41.60.150; reenacting and amending RCW 41.06.070 and
4 41.06.133; and declaring an emergency.

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

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

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

9 (a) The members of the legislature or to any employee of, or
10 position in, the legislative branch of the state government including
11 members, officers, and employees of the legislative council, joint
12 legislative audit and review committee, statute law committee, and any
13 interim committee of the legislature;

14 (b) The justices of the supreme court, judges of the court of
15 appeals, judges of the superior courts or of the inferior courts, or to
16 any employee of, or position in the judicial branch of state
17 government;

18 (c) Officers, academic personnel, and employees of technical
19 colleges;

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

2 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

29 (j) Assistant attorneys general;

30 (k) Commissioned and enlisted personnel in the military service of
31 the state;

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

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

37 (n) Officers and employees of the Washington state fruit
38 commission;

1 (o) Officers and employees of the Washington apple commission;
2 (p) Officers and employees of the Washington state dairy products
3 commission;
4 (q) Officers and employees of the Washington tree fruit research
5 commission;
6 (r) Officers and employees of the Washington state beef commission;
7 (s) Officers and employees of the Washington grain commission;
8 (t) Officers and employees of any commission formed under chapter
9 15.66 RCW;
10 (u) Officers and employees of agricultural commissions formed under
11 chapter 15.65 RCW;
12 (v) Officers and employees of the nonprofit corporation formed
13 under chapter 67.40 RCW;
14 (w) Executive assistants for personnel administration and labor
15 relations in all state agencies employing such executive assistants
16 including but not limited to all departments, offices, commissions,
17 committees, boards, or other bodies subject to the provisions of this
18 chapter and this subsection shall prevail over any provision of law
19 inconsistent herewith unless specific exception is made in such law;
20 (x) In each agency with fifty or more employees: Deputy agency
21 heads, assistant directors or division directors, and not more than
22 three principal policy assistants who report directly to the agency
23 head or deputy agency heads;
24 (y) All employees of the marine employees' commission;
25 (z) Staff employed by the department of (~~community, trade, and~~
26 ~~economic development~~) commerce to administer energy policy functions
27 and manage energy site evaluation council activities under RCW
28 43.21F.045(2)(m);
29 (aa) Staff employed by Washington State University to administer
30 energy education, applied research, and technology transfer programs
31 under RCW 43.21F.045 as provided in RCW 28B.30.900(5).
32 (2) The following classifications, positions, and employees of
33 institutions of higher education and related boards are hereby exempted
34 from coverage of this chapter:
35 (a) Members of the governing board of each institution of higher
36 education and related boards, all presidents, vice presidents, and
37 their confidential secretaries, administrative, and personal
38 assistants; deans, directors, and chairs; academic personnel; and

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

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

23 (c) Printing craft employees in the department of printing at the
24 University of Washington.

25 (3) In addition to the exemptions specifically provided by this
26 chapter, the director of personnel may provide for further exemptions
27 pursuant to the following procedures. The governor or other
28 appropriate elected official may submit requests for exemption to the
29 director of personnel stating the reasons for requesting such
30 exemptions. The director of personnel shall hold a public hearing,
31 after proper notice, on requests submitted pursuant to this subsection.
32 If the director determines that the position for which exemption is
33 requested is one involving substantial responsibility for the
34 formulation of basic agency or executive policy or one involving
35 directing and controlling program operations of an agency or a major
36 administrative division thereof, the director of personnel shall grant
37 the request and such determination shall be final as to any decision
38 made before July 1, 1993. The total number of additional exemptions

1 permitted under this subsection shall not exceed one percent of the
2 number of employees in the classified service not including employees
3 of institutions of higher education and related boards for those
4 agencies not directly under the authority of any elected public
5 official other than the governor, and shall not exceed a total of
6 twenty-five for all agencies under the authority of elected public
7 officials other than the governor.

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

18 ~~((For the twelve months following))~~ From February 18, 2009, through
19 June 30, 2011, a salary or wage increase shall not be granted to any
20 position exempt from classification under this chapter, except that
21 increases may be granted for positions for which the employer has
22 demonstrated difficulty retaining qualified employees if the following
23 conditions are met:

24 (a) The salary increase can be paid within existing resources; and

25 (b) The salary increase will not adversely impact the provision of
26 client services.

27 Any agency granting a salary increase from the effective date of
28 this section through June 30, 2011, to a position exempt from
29 classification under this chapter shall submit a report to the fiscal
30 committees of the legislature no later than July 31, 2011, detailing
31 the positions for which salary increases were granted, the size of the
32 increases, and the reasons for giving the increases.

33 Any person holding a classified position subject to the provisions
34 of this chapter shall, when and if such position is subsequently
35 exempted from the application of this chapter, be afforded the
36 following rights: If such person previously held permanent status in
37 another classified position, such person shall have a right of

1 reversion to the highest class of position previously held, or to a
2 position of similar nature and salary.

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

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

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

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

15 (a) The reduction, dismissal, suspension, or demotion of an
16 employee;

17 (b) Training and career development;

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

22 (d) Transfers;

23 (e) Promotional preferences;

24 (f) Sick leaves and vacations;

25 (g) Hours of work;

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

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

29 (j) Adoption and revision of a state salary schedule to reflect the
30 prevailing rates in Washington state private industries and other
31 governmental units. The rates in the salary schedules or plans shall
32 be increased if necessary to attain comparable worth under an
33 implementation plan under RCW 41.06.155 and, for institutions of higher
34 education and related boards, shall be competitive for positions of a
35 similar nature in the state or the locality in which an institution of
36 higher education or related board is located. Such adoption and

1 revision is subject to approval by the director of financial management
2 in accordance with chapter 43.88 RCW;

3 (k) Increment increases within the series of steps for each pay
4 grade based on length of service for all employees whose standards of
5 performance are such as to permit them to retain job status in the
6 classified service. (~~For the twelve months following~~) From February
7 18, 2009, through June 30, 2011, a salary or wage increase shall not be
8 granted to any exempt position under this chapter, except that
9 increases may be granted for positions for which the employer has
10 demonstrated difficulty retaining qualified employees if the following
11 conditions are met:

12 (i) The salary increase can be paid within existing resources; and

13 (ii) The salary increase will not adversely impact the provision of
14 client services;

15 Any agency granting a salary increase from the effective date of
16 this section through June 30, 2011, to a position exempt under this
17 chapter shall submit a report to the fiscal committees of the
18 legislature no later than July 31, 2011, detailing the positions for
19 which salary increases were granted, the size of the increases, and the
20 reasons for giving the increases.

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

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

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

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

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

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

24 (i) The number of classified, Washington management service, and
25 exempt employees in the agency and the change compared to the previous
26 report;

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

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

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

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

36 (1) Except as provided in RCW 41.06.070, notwithstanding any other
37 provisions of this chapter, the director is authorized to adopt, after

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

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

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

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

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

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

37 (e) Permitting flexible recruitment and hiring procedures that
38 enable agencies to compete effectively with other employers, both

1 public and private, for managers with appropriate skills and training;
2 allowing consideration of all qualified candidates for positions as
3 managers; and achieving affirmative action goals and diversity in the
4 workplace;

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

7 (g) Facilitating decentralized and regional administration.

8 (3) (~~For the twelve months following~~) From February 18, 2009,
9 through June 30, 2011, a salary or wage increase shall not be granted
10 to any position under this section, except that increases may be
11 granted for positions for which the employer has demonstrated
12 difficulty retaining qualified employees if the following conditions
13 are met:

14 (a) The salary increase can be paid within existing resources; and

15 (b) The salary increase will not adversely impact the provision of
16 client services.

17 Any agency granting a salary increase from the effective date of
18 this section through June 30, 2011, to a position under this section
19 shall submit a report to the fiscal committees of the legislature no
20 later than July 31, 2011, detailing the positions for which salary
21 increases were granted, the size of the increases, and the reasons for
22 giving the increases.

23 **Sec. 4.** RCW 43.03.030 and 2009 c 549 s 5007 are each amended to
24 read as follows:

25 (1) Wherever the compensation of any appointive state officer or
26 employee is fixed by statute, it may be hereafter increased or
27 decreased in the manner provided by law for the fixing of compensation
28 of other appointive state officers or employees; but this subsection
29 shall not apply to the heads of state departments.

30 (2) Wherever the compensation of any state officer appointed by the
31 governor, or of any employee in any office or department under the
32 control of any such officer, is fixed by statute, such compensation may
33 hereafter, from time to time, be changed by the governor, and he or she
34 shall have power to fix such compensation at any amount not to exceed
35 the amount fixed by statute.

36 (3) (~~For the twelve months following~~) From February 18, 2009,
37 through June 30, 2011, a salary or wage increase shall not be granted

1 to any position under this section, except that increases may be
2 granted for positions for which the employer has demonstrated
3 difficulty retaining qualified employees if the following conditions
4 are met:

5 (a) The salary increase can be paid within existing resources; and

6 (b) The salary increase will not adversely impact the provision of
7 client services.

8 Any agency granting a salary increase from the effective date of
9 this section through June 30, 2011, to a position exempt under this
10 section shall submit a report to the fiscal committees of the
11 legislature no later than July 31, 2011, detailing the positions for
12 which salary increases were granted, the size of the increases, and the
13 reasons for giving the increases.

14 **Sec. 5.** RCW 43.03.040 and 2009 c 5 s 5 are each amended to read as
15 follows:

16 The directors of the several departments and members of the several
17 boards and commissions, whose salaries are fixed by the governor and
18 the chief executive officers of the agencies named in RCW 43.03.028(2)
19 as now or hereafter amended shall each severally receive such salaries,
20 payable in monthly installments, as shall be fixed by the governor or
21 the appropriate salary fixing authority, in an amount not to exceed the
22 recommendations of the committee on agency officials' salaries. (~~For~~
23 ~~the twelve months following~~) From February 18, 2009, through June 30,
24 2011, a salary or wage increase shall not be granted to any position
25 under this section, except that increases may be granted for positions
26 for which the employer has demonstrated difficulty retaining qualified
27 employees if the following conditions are met:

28 (1) The salary increase can be paid within existing resources; and

29 (2) The salary increase will not adversely impact the provision
30 client services.

31 Any agency granting a salary increase from the effective date of
32 this section through June 30, 2011, to a position under this section
33 shall submit a report to the fiscal committees of the legislature no
34 later than July 31, 2011, detailing the positions for which salary
35 increases were granted, the size of the increases, and the reasons for
36 giving the increases.

1 **Sec. 6.** RCW 41.60.150 and 2000 c 139 s 2 are each amended to read
2 as follows:

3 Other than suggestion awards and incentive pay unit awards,
4 agencies shall have the authority to recognize employees, either
5 individually or as a class, for accomplishments including outstanding
6 achievements, safety performance, longevity, outstanding public
7 service, or service as employee suggestion evaluators and implementors.
8 Recognition awards may not exceed two hundred dollars in value per
9 award. Such awards may include, but not be limited to, cash or such
10 items as pen and desk sets, plaques, pins, framed certificates, clocks,
11 and calculators. Award costs shall be paid by the agency giving the
12 award. From the effective date of this section through June 30, 2011,
13 recognition awards may not be given in the form of cash or cash
14 equivalents such as gift certificates or gift cards.

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

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