

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5460

61st Legislature
2009 Regular Session

Passed by the Senate February 18, 2009
YEAS 48 NAYS 0

President of the Senate

Passed by the House February 13, 2009
YEAS 88 NAYS 7

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5460** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5460

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Ways & Means (originally sponsored by Senators Tom, Zarelli, Prentice, Hewitt, and Kline)

READ FIRST TIME 01/27/09.

1 AN ACT Relating to reducing the administrative cost of state
2 government during the 2007-2009 and 2009-2011 fiscal biennia; amending
3 RCW 41.06.070, 41.06.133, 41.06.500, 43.03.030, and 43.03.040; creating
4 new sections; and declaring an emergency.

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

6 **Sec. 1.** RCW 41.06.070 and 2002 c 354 s 209 are each amended to
7 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 ((state)) apple
2 ((advertising)) commission;

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

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

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

8 (s) Officers and employees of any commission formed under chapter
9 15.66 RCW;

10 (t) Officers and employees of agricultural commissions formed under
11 chapter 15.65 RCW;

12 (u) Officers and employees of the nonprofit corporation formed
13 under chapter 67.40 RCW;

14 (v) 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 (w) 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 (x) All employees of the marine employees' commission;

25 (y) Staff employed by the department of community, trade, and
26 economic development to administer energy policy functions and manage
27 energy site evaluation council activities under RCW 43.21F.045(2)(m);

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

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

34 (a) Members of the governing board of each institution of higher
35 education and related boards, all presidents, vice presidents, and
36 their confidential secretaries, administrative, and personal
37 assistants; deans, directors, and chairs; academic personnel; and
38 executive heads of major administrative or academic divisions employed

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

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

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

24 (3) In addition to the exemptions specifically provided by this
25 chapter, the director of personnel may provide for further exemptions
26 pursuant to the following procedures. The governor or other
27 appropriate elected official may submit requests for exemption to the
28 director of personnel stating the reasons for requesting such
29 exemptions. The director of personnel shall hold a public hearing,
30 after proper notice, on requests submitted pursuant to this subsection.
31 If the director determines that the position for which exemption is
32 requested is one involving substantial responsibility for the
33 formulation of basic agency or executive policy or one involving
34 directing and controlling program operations of an agency or a major
35 administrative division thereof, the director of personnel shall grant
36 the request and such determination shall be final as to any decision
37 made before July 1, 1993. The total number of additional exemptions
38 permitted under this subsection shall not exceed one percent of the

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

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

17 For the twelve months following the effective date of this section,
18 a salary or wage increase shall not be granted to any position exempt
19 from classification under this chapter.

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

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

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

34 **Sec. 2.** RCW 41.06.133 and 2002 c 354 s 204 are each amended to
35 read as follows:

36 The director shall adopt rules, consistent with the purposes and

1 provisions of this chapter and with the best standards of personnel
2 administration, regarding the basis and procedures to be followed for:

3 (1) The reduction, dismissal, suspension, or demotion of an
4 employee;

5 (2) Training and career development;

6 (3) Probationary periods of six to twelve months and rejections of
7 probationary employees, depending on the job requirements of the class,
8 except that entry level state park rangers shall serve a probationary
9 period of twelve months;

10 (4) Transfers;

11 (5) Promotional preferences;

12 (6) Sick leaves and vacations;

13 (7) Hours of work;

14 (8) Layoffs when necessary and subsequent reemployment, except for
15 the financial basis for layoffs;

16 (9) The number of names to be certified for vacancies;

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

27 (11) Increment increases within the series of steps for each pay
28 grade based on length of service for all employees whose standards of
29 performance are such as to permit them to retain job status in the
30 classified service. For the twelve months following the effective date
31 of this section, a salary or wage increase shall not be granted to any
32 exempt position under this chapter;

33 (12) Optional lump sum relocation compensation approved by the
34 agency director, whenever it is reasonably necessary that a person make
35 a domiciliary move in accepting a transfer or other employment with the
36 state. An agency must provide lump sum compensation within existing
37 resources. If the person receiving the relocation payment terminates
38 or causes termination with the state, for reasons other than layoff,

1 disability separation, or other good cause as determined by an agency
2 director, within one year of the date of the employment, the state is
3 entitled to reimbursement of the lump sum compensation from the person;

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

25 Rules adopted under this section by the director shall provide for
26 local administration and management by the institutions of higher
27 education and related boards, subject to periodic audit and review by
28 the director.

29 Rules adopted by the director under this section may be superseded
30 by the provisions of a collective bargaining agreement negotiated under
31 RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of
32 such rules shall only affect employees in the respective collective
33 bargaining units.

34 **Sec. 3.** RCW 41.06.500 and 2002 c 354 s 243 are each amended to
35 read as 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 the effective date of this
9 section, a salary or wage increase shall not be granted to any position
10 under this section.

11 **Sec. 4.** RCW 43.03.030 and 1965 c 8 s 43.03.030 are each amended to
12 read as follows:

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

18 (2) Wherever the compensation of any state officer appointed by the
19 governor, or of any employee in any office or department under the
20 control of any such officer, is fixed by statute, such compensation may
21 hereafter, from time to time, be changed by the governor, and he shall
22 have power to fix such compensation at any amount not to exceed the
23 amount fixed by statute.

24 (3) For the twelve months following the effective date of this
25 section, a salary or wage increase shall not be granted to any position
26 under this section.

27 **Sec. 5.** RCW 43.03.040 and 1993 sp.s. c 24 s 914 are each amended
28 to read as follows:

29 The directors of the several departments and members of the several
30 boards and commissions, whose salaries are fixed by the governor and
31 the chief executive officers of the agencies named in RCW 43.03.028(2)
32 as now or hereafter amended shall each severally receive such salaries,
33 payable in monthly installments, as shall be fixed by the governor or
34 the appropriate salary fixing authority, in an amount not to exceed the
35 recommendations of the committee on agency officials' salaries.

36 ~~((Beginning July 1, 1993, through June 30, 1995, the salary paid to~~

1 ~~such directors and members of boards and commissions shall not exceed~~
2 ~~the amount paid as of April 1, 1993.)~~) For the twelve months following
3 the effective date of this section, a salary or wage increase shall not
4 be granted to any position under this section.

5 NEW SECTION. **Sec. 6.** STATE EMPLOYMENT. (1) From the effective
6 date of this section until July 1, 2009, and consistent with the
7 governor's directive dated August 4, 2008, state agencies of the
8 legislative, executive, and judicial branches shall not establish new
9 staff positions or fill vacant existing staff positions except as
10 specifically authorized by this section.

11 (2) The following activities of state agencies are exempt from
12 subsection (1) of this section:

13 (a) Direct custody, supervision, and patient care in corrections,
14 juvenile rehabilitation, institutional care of veterans, the mentally
15 ill, developmentally disabled, state hospitals, the special commitment
16 center, and the schools for the blind and the deaf;

17 (b) Direct protective services to children and other vulnerable
18 populations in the department of social and health services;

19 (c) Washington state patrol investigative services and field
20 enforcement;

21 (d) Hazardous materials response and emergency cleanup;

22 (e) Emergency public health and patient safety response and the
23 public health laboratory;

24 (f) Military operations and emergency management within the
25 military department;

26 (g) Firefighting;

27 (h) Enforcement officers in the department of fish and wildlife,
28 the liquor control board, the gambling commission, and the department
29 of natural resources;

30 (i) Park rangers at the parks and recreation commission;

31 (j) Seasonal employment by natural resources agencies to the extent
32 that employment levels do not exceed the prior fiscal year;

33 (k) Seasonal employment in the department of transportation
34 maintenance programs to the extent that employment levels do not exceed
35 the prior fiscal year;

36 (l) Employees hired on a seasonal basis by the department of

1 agriculture for inspection and certification of agricultural products
2 and for insect detection;

3 (m) Activities directly related to tax and fee collection, revenue
4 generation, auditing, and recovery;

5 (n) In institutions of higher education, any positions directly
6 related to academic programs, as well as positions not funded from
7 state funds or tuition;

8 (o) Operations of the state lottery and liquor control board
9 business enterprises;

10 (p) The unemployment insurance program of the employment security
11 department; and

12 (q) Activities that are necessary to receive or maintain federal
13 funds by the state.

14 (3) The exemptions specified in subsection (2) of this section do
15 not require the establishment of new staff positions or the filling of
16 vacant existing staff positions in the activities specified.

17 (4) Exceptions to this section may be granted under section 10 of
18 this act.

19 NEW SECTION. **Sec. 7.** PERSONAL SERVICES CONTRACTS. From the
20 effective date of this section until July 1, 2009, and consistent with
21 the governor's directive dated August 4, 2008, state agencies of the
22 legislative, executive, and judicial branches shall not enter into any
23 contracts or other agreements for the acquisition of personal services
24 not related to an emergency or other catastrophic event that requires
25 government action to protect life or public safety. This section does
26 not apply to personal services contracts or other agreements for the
27 acquisition of personal services where the costs are funded exclusively
28 from private or federal grants, where the costs are for tax and fee
29 collection, where the costs are for revenue generation and auditing
30 activities, where the costs are necessary to receive or maintain
31 federal funds by the state, or, in institutions of higher education,
32 where the costs are not funded from state funds or tuition. Exceptions
33 to this section may be granted under section 10 of this act. This
34 section does not apply to the unemployment insurance program of the
35 employment security department.

1 NEW SECTION. **Sec. 8.** EQUIPMENT PURCHASES. From the effective
2 date of this section until July 1, 2009, and consistent with the
3 governor's directive dated August 4, 2008, state agencies of the
4 legislative, executive, and judicial branches shall not enter into any
5 contracts or other agreements for the acquisition of any item of
6 equipment the cost of which exceeds five thousand dollars and is not
7 related to an emergency or other catastrophic event that requires
8 government action to protect life or public safety. Exceptions to this
9 section may be granted under section 10 of this act. This section does
10 not apply to the unemployment insurance program of the employment
11 security department, to costs that are for tax and fee collection, for
12 revenue generation and audit activities, or for receiving or
13 maintaining federal funds by the state, or, in institutions of higher
14 education, to costs not funded from state funds or tuition.

15 NEW SECTION. **Sec. 9.** STATE EMPLOYEE TRAVEL AND TRAINING.
16 Consistent with the governor's directive dated August 4, 2008, state
17 agencies of the legislative, executive, and judicial branches shall not
18 make expenditures for the cost or reimbursement of out-of-state travel
19 or out-of-state training by state employees where the travel or
20 training is not related to (1) an emergency or other catastrophic event
21 that requires government action to protect life or public safety, or
22 (2) direct service delivery, and the travel or training occurs after
23 the effective date of this section and before July 1, 2009. This
24 section does not apply to travel expenditures when the costs are funded
25 exclusively from private or federal grants. Exceptions to this section
26 may be granted under section 10 of this act. This section does not
27 apply to the unemployment insurance program of the employment security
28 department, to costs that are for tax and fee collection, for revenue
29 generation and audit activities, or for receiving or maintaining
30 federal funds by the state, or, in institutions of higher education, to
31 costs not funded from state funds or tuition.

32 NEW SECTION. **Sec. 10.** EXCEPTIONS. (1) Exceptions to sections 6
33 through 9 of this act may be granted for the critically necessary work
34 of an agency as provided in this section.

35 (2) For agencies of the executive branch, the exceptions shall be
36 subject to approval by the director of financial management. For

1 agencies of the judicial branch, the exceptions shall be subject to
2 approval of the chief justice of the supreme court. For the house of
3 representatives and the senate, the exceptions shall be subject to
4 approval of the chief clerk of the house of representatives and the
5 secretary of the senate, respectively, under the direction of the
6 senate committee on facilities and operations and the executive rules
7 committee of the house of representatives. For other legislative
8 agencies, the exceptions shall be subject to approval of both the chief
9 clerk of the house of representatives and the secretary of the senate
10 under the direction of the senate committee on facilities and
11 operations and the executive rules committee of the house of
12 representatives.

13 (3) Exceptions approved under subsection (2) of this section shall
14 take effect no sooner than five business days following notification of
15 the chair and ranking minority member of the ways and means committees
16 in the house of representatives and the senate. The person approving
17 exceptions under subsection (2) of this section shall send the
18 exceptions to the legislature for consideration every thirty days from
19 the effective date of this section, or earlier should volume or
20 circumstances so necessitate.

21 NEW SECTION. **Sec. 11.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 12.** Captions used in this act are not any part
26 of the law.

27 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

--- END ---