
HOUSE BILL 2041

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Fitzgibbon and Sells

Read first time 03/31/11. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to extending collective bargaining rights to
2 employees of the legislative branch of the state government; and
3 reenacting and amending RCW 41.06.070.

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

5 **Sec. 1.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010
6 c 1 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

1 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

28 (j) Assistant attorneys general;

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

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

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

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

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

1 (p) Officers and employees of the Washington state dairy products
2 commission;

3 (q) Officers and employees of the Washington tree fruit research
4 commission;

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

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

7 (t) Officers and employees of any commission formed under chapter
8 15.66 RCW;

9 (u) Officers and employees of agricultural commissions formed under
10 chapter 15.65 RCW;

11 ~~((v)) ((Officers and employees of the nonprofit corporation formed
12 under chapter 67.40 RCW;~~

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

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

23 ~~((y))~~ (x) All employees of the marine employees' commission;

24 ~~((z))~~ (y) Staff employed by the department of commerce to
25 administer energy policy functions;

26 ~~((aa))~~ (z) The manager of the energy facility site evaluation
27 council;

28 ~~((bb))~~ (aa) A maximum of ten staff employed by the department of
29 commerce to administer innovation and policy functions, including the
30 three principal policy assistants exempted under ~~((x))~~ (w) of this
31 subsection;

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

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

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

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

27 (c) Printing craft employees in the department of printing at the
28 University of Washington.

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

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

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

22 (c) From February 18, 2009, through June 30, 2011, a salary or wage
23 increase shall not be granted to any position exempt from
24 classification under this chapter, except that a salary or wage
25 increase may be granted to employees pursuant to collective bargaining
26 agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW,
27 ~~((or negotiated by the nonprofit corporation formed under chapter 67.40~~
28 ~~RCW,))~~ and except that increases may be granted for positions for which
29 the employer has demonstrated difficulty retaining qualified employees
30 if the following conditions are met:

31 ~~((a))~~ (i) The salary increase can be paid within existing
32 resources; and

33 ~~((b))~~ (ii) The salary increase will not adversely impact the
34 provision of client services.

35 (d) Any agency granting a salary increase from February 15, 2010,
36 through June 30, 2011, to a position exempt from classification under
37 this chapter shall submit a report to the fiscal committees of the

1 legislature no later than July 31, 2011, detailing the positions for
2 which salary increases were granted, the size of the increases, and the
3 reasons for giving the increases.

4 (e) Any person holding a classified position subject to the
5 provisions of this chapter shall, when and if such position is
6 subsequently exempted from the application of this chapter, be afforded
7 the following rights: If such person previously held permanent status
8 in another classified position, such person shall have a right of
9 reversion to the highest class of position previously held, or to a
10 position of similar nature and salary.

11 (f) Any classified employee having civil service status in a
12 classified position who accepts an appointment in an exempt position
13 shall have the right of reversion to the highest class of position
14 previously held, or to a position of similar nature and salary.

15 (g) A person occupying an exempt position who is terminated from
16 the position for gross misconduct or malfeasance does not have the
17 right of reversion to a classified position as provided for in this
18 section.

19 (h) From February 15, 2010, until June 30, 2011, no monetary
20 performance-based awards or incentives may be granted by the director
21 or employers to employees covered by rules adopted under this section.
22 This subsection does not prohibit the payment of awards provided for in
23 chapter 41.60 RCW.

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