

# SENATE BILL REPORT

## SB 5160

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As of February 11, 2013

**Title:** An act relating to administrative reassignment.

**Brief Description:** Creating a process for administrative reassignment of public employees.

**Sponsors:** Senators Holmquist Newbry, Becker, Braun, Carrell, Sheldon, Schoesler, Honeyford and Roach.

**Brief History:**

**Committee Activity:** Commerce & Labor: 1/28/13.

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Staff:** Edith Rice (786-7444)

**Background:** In response to a directive issued by Governor Gregoire in 2011, state agencies instituted written protocols for placing someone on administrative home assignment pending the outcome of an investigation. The protocols incorporated the following principles outlined by the Governor:

- Only an appointing authority may place an employee on home assignment. The appointing authority may place the employee on home assignment for up to 15 calendar days;
- When an appointing authority places an employee on home assignment, they must notify the agency head, in writing, of the action and the reasons for the action. The appointing authority must also notify the agency human resources director and the state human resources director;
- The agency head or designee may approve home assignment beyond 15 calendar days in 30 day increments. Before approving each extension, the agency head or designee must receive an update of what transpired over the last 30 days and why additional time is necessary. If the extension is necessary due to an ongoing investigation, the agency head or designee must communicate with the investigator and document progress of the investigation and estimated time of completion. The agency head or designee must notify the human resources director of any approvals or extensions. A copy must be submitted to the state human resources director; and
- Once the need for home assignment ends, agencies should document whether the employee returned to work and the date of any action.

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**Summary of Bill:** If a manager determines that an administrative reassignment is necessary to ensure a full, thorough, and impartial investigation of a workplace complaint, an employee may be placed on administrative reassignment. An administrative reassignment may last up to 15 calendar days. The 15-day reassignment may be extended in 30-day increments if it is determined that additional time is needed to complete the investigation. When the administrative reassignment ends, the agency governing officer or designee must document the results of the investigation, whether the employee returned to work, and the date of any disciplinary action administered pursuant to the investigation.

When an employee is placed on administrative reassignment, the manager must notify the agency governing officer or officers and the agency human resources director in writing and state the reasons for the reassignment. If the governing officer is responsible to the Governor, the manager must also notify the state human resources director. Before an administrative reassignment can be extended, the officer responsible for approving the extension must receive an update on the investigation, the reason additional time is needed to complete the investigation, and an estimated time of completion. The governing officer or designee must notify the agency human resources director of any extensions. If the governing officer of the agency is responsible to the Governor, the Governor must approve the extension. The governing officer or designee must also notify the state human resources director of any extension. If the governing officer of the agency is responsible to a statewide elected official, that official must approve the extension. In all other cases, the governing officer or officers of the agency must approve the extension.

Administrative reassignment means assigning an employee to work at home pending an investigation of a workplace disruption. An employee on administrative reassignment continues to earn the usual pay and accrue benefits throughout the duration of the administrative reassignment.

Governing officer means the person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency who is responsible to either no other public officer or the Governor.

Workplace disruption means any disturbance, complaint, disagreement, or other personnel matter involving one or more employees that, at the discretion of the employee's manager, warrants the reassignment of the employee from the workplace to the employee's home pending an investigation of the disruption.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The intent of the bill is to put into statute Governor Gregoire's directive relating to home assignment. This has to do with the issue that was in the news last year that state employees were being paid while at home under

investigation. This is an attempt to make sure people are not forgotten about at home, and there are checks and balances in our system.

OTHER: The Federation of State Employees members are not put on home assignment very often and this bill would speed things along as one of its functions. People put on home leave do not have an easy show. It is not a fun duty to have to stay attached to your phone. But the administrative investigation is just one part of the process that slows things down. Another question on how the bill would work is if you have to get approval for the investigation to go on and you do not get approval, what happens then? The Governor's directives put a process in place to look at home assignments and put together protocols and standards for when home assignments are used and to report back to the Office of Financial Management (OFM) Human Resources Director on a monthly basis. It has been a successful process. We want home assignment review to be at the highest level and to have feedback and monitoring. This directive allows there to be overall policy direction and enable the office to use best practices. We would prefer this practice not be placed in statute so the office can use best practices. This bill is limited to workplace disruptions and what we actually look at it is fitness for duty. We do use home assignment sparingly but we believe it is an appropriate tool. We believe there is already a process in place to use, absent this legislation.

**Persons Testifying:** PRO: Senator Holmquist-Newbry, prime sponsor.

OTHER: Matt Zuvich, WA Federation of State Employees; Julie Murray, OFM.