

HOUSE BILL REPORT

HB 1364

As Reported by House Committee On:
State Government & Tribal Relations

Title: An act relating to government efficiency by eliminating, revising, or decodifying obsolete or inactive statutory provisions that concern the office of financial management.

Brief Description: Eliminating, revising, or decodifying obsolete or inactive statutory provisions that concern the office of financial management.

Sponsors: Representatives Smith, Gregerson and Reeves; by request of Office of Financial Management.

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/5/19, 2/13/19 [DP].

Brief Summary of Bill

- Amends certain provisions relating to the Office of Financial Management (OFM) regarding the reporting of payment of attorney fees, rulemaking around the borrowing of money by the Department of Financial Institutions, and concurring with cash management delegation made by the State Treasurer.
- Decodifies a provision relating to increases in salary to achieve comparable worth.
- Transfers the authority to approve exemptions to the restrictions on subsistence, lodging, or travel expenses for certain agencies and entities from the OFM to other persons overseeing those agencies or entities.
- Repeals various provisions relating to the OFM.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Desiree Omli (786-7105).

Background:

Attorney Fees–Judicial Review of Agency Action.

Judicial reviews of agency actions are authorized pertaining to licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits. A court must award a qualified party that prevails in a judicial review of an agency action fees and other expenses, including reasonable attorneys' fees, unless the court finds that the agency action was substantially justified or that circumstances make an award unjust. A qualified party is considered to have prevailed if the qualified party obtained relief on a significant issue that achieves some benefit that the qualified party sought.

The Office of Financial Management (OFM) was required to report annually to the Legislature on the amount of attorney fees and other related expenses awarded during the preceding fiscal year. In 1999 the requirement to submit the report to the Legislature was removed, and instead the OFM was only required to create the report. In 2009 the requirement for the OFM to create the report was removed in its entirety. Agencies paying fees and other expenses as a result of a judicial review are still required to report all payments to the OFM within five days of paying the fees or other expenses.

Military Death or Disability Compensation.

If any member of the organized militia is injured, incapacitated, or otherwise disabled while in active state service or inactive duty, they shall receive from the state just and reasonable relief. All claims are reviewed by a board of three officers (board). The Adjutant General reviews the findings and submits it to the Governor for final approval. The reviewing officer or the Governor may return the proceedings for revision or for taking further testimony. The action of the board, once approved by the Governor, is final.

Subsistence, Lodging, and Travel Expenses.

The Director of the OFM shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business. Certain travel expenses are also authorized, such as reimbursement for mileage. Exceptions to restrictions on such expenses may be granted for the critically necessary work of an agency. The OFM approves any exemptions for agencies of the executive branch.

Cash Management of Public Funds.

The State Treasurer (Treasurer) must take actions necessary to ensure the effective cash management of public funds. The Treasurer may delegate cash management responsibilities to affected agencies, with the concurrence of the OFM.

Borrowing Money.

The Director of the Department of Financial Institutions (DFI) and any DFI employees are prohibited from borrowing money from any entity under the DFI's direct jurisdiction, with certain exceptions. The Director of the OFM must adopt rules, policies, and procedures pertaining to this provision.

Salary Changes.

Salary changes necessary to achieve comparable worth was required to be implemented during the 1983-85 biennium under a schedule developed by the OFM. "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions. Increases in salaries and compensation solely for the purpose of achieving comparable worth are made at least annually. Comparable worth for the jobs of all employees was required to be fully achieved not later than June 30, 1993.

Other.

Negotiation of Institutional Performance Plans. The authority of the state universities, the regional universities, and The Evergreen State College to modify tuition rates must be considered within the context of performance-based measures and goals for each institution. Every two years, on September 1, each institution must negotiate an institutional performance plan within the OFM that includes expected outcomes that must be achieved by each institution in the next biennium.

Contracts for Architectural and Engineering Services. Contracts entered into by agencies for architectural and engineering services, and any modifications, must be reported to the OFM quarterly. Currently, the Department of Enterprise Services establishes state policies, standards, and procedures regarding the procurement of goods and services by all state agencies.

List of Boards and Commissions. The OFM was required to compile a list of all permanent and temporary, statutory and nonstatutory, boards, commissions, councils, committees, and other groups of similar nomenclature that are established by the executive, legislative, or judicial branches of state government and whose members are eligible to receive travel expenses for their meetings. The requirement that the OFM create this list was removed in 2016. The Governor is still required to review all entities included on this list. New boards or commissions not established or required in statute that must be included in this list may not be established without the approval of the OFM. The statute provides for specific criteria that the OFM must consider when determining whether to approve the establishment of such entities.

Unintended Pregnancy Task Force. In 1997 the OFM was required to establish the Interagency Task Force on Unintended Pregnancy.

Fiscal Impact on Local Governments. The OFM, in consultation with the Department of Commerce, must annually prepare a report on the fiscal impacts to local governments arising from select laws enacted in the preceding five-year period.

Summary of Bill:

Attorney Fees—Judicial Review of Agency Action.

Agencies are no longer required to report the payment of fees and other expenses paid pursuant to a judicial review action to the OFM.

Military Death or Disability Compensation.

The Governor is no longer required to review decisions by the board. The responsibilities associated with reviewing the board's decisions are transferred to the Adjutant General.

Subsistence, Lodging, and Travel Expenses.

Exceptions to restrictions on subsistence, lodging, or travel expenses are no longer subject to the OFM's approval. Rather, the agency head or authorized designee is responsible for approving exceptions for boards, commissions, councils, committees, or similar groups in agencies of the executive branch. Separately elected officials, the president of any institution of higher education, or executive director, as appropriate, must approve exceptions for boards, commissions, councils, committees, or similar groups in the executive branch under the purview of a separately elected official, president of an institution of higher education, chair, or executive director.

Cash Management of Public Funds.

The OFM is not required to concur with the Treasurer's delegation of cash management responsibilities to affected agencies.

Borrowing Money.

The requirement for the OFM to adopt rules, policies, and procedures to interpret the restrictions relating to borrowing money by the DFI employees or director is removed.

Salary Changes.

The provision related to salary changes is decodified.

Repeals.

The following statutes related to OFM duties are repealed:

- the requirement for each state university, regional university, and The Evergreen State College to create an institutional performance plan and negotiate the plan with the OFM;
- the requirement for a state agency to report quarterly to the OFM regarding architectural and engineering service contracts and modifications;
- provisions requiring the OFM's consideration and approval prior to the establishment of a new board or commission not required in statute;
- the requirement for the Governor to review boards and commissions listed by the OFM;
- the requirement for the OFM to establish an interagency task force on unintended pregnancy; and
- the requirement for the OFM to report, in consultation with the Department of Commerce, on fiscal impacts to local government arising from selected laws enacted in the preceding five-year period.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Over the years, laws have been repealed and this bill would clean up remaining references to repealed statutes. For example, the requirement that the OFM report attorney fees to the Legislature was repealed in 2009. The remaining requirement that agencies report this information to the OFM was never removed. This bill would help agencies delete what does not matter so that they can focus on what does matter. This is not a big policy bill; rather, it takes care of housekeeping matters to streamline approval processes, clean up obsolete statutes, and clean broken statutes that have been amended or repealed over the years.

(Opposed) None.

Persons Testifying: Representative Smith, prime sponsor; and Nathan Sherrard, Office of Financial Management.

Persons Signed In To Testify But Not Testifying: None.