

SSB 6382 - H COMM AMD
By Committee on Ways & Means

ADOPTED AND ENGROSSED 01/28/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are
4 each reenacted and amended to read as follows:

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

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

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

15 (c) Officers, academic personnel, and employees of technical
16 colleges;

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

18 (e) Elective officers of the state;

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

20 (g) In the departments of employment security and social and health
21 services, the director and the director's confidential secretary; in
22 all other departments, the executive head of which is an individual
23 appointed by the governor, the director, his or her confidential
24 secretary, and his or her statutory assistant directors;

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

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

29 (ii) If the members of the board, commission, or committee serve on
30 a part-time basis and there is a statutory executive officer: The

1 secretary of the board, commission, or committee; the chief executive
2 officer of the board, commission, or committee; and the confidential
3 secretary of the chief executive officer of the board, commission, or
4 committee;

5 (iii) If the members of the board, commission, or committee serve
6 on a full-time basis: The chief executive officer or administrative
7 officer as designated by the board, commission, or committee; and a
8 confidential secretary to the chair of the board, commission, or
9 committee;

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

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

15 (j) Assistant attorneys general;

16 (k) Commissioned and enlisted personnel in the military service of
17 the state;

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

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

23 (n) Officers and employees of the Washington state fruit
24 commission;

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

26 (p) Officers and employees of the Washington state dairy products
27 commission;

28 (q) Officers and employees of the Washington tree fruit research
29 commission;

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

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

32 (t) Officers and employees of any commission formed under chapter
33 15.66 RCW;

34 (u) Officers and employees of agricultural commissions formed under
35 chapter 15.65 RCW;

36 (v) Officers and employees of the nonprofit corporation formed
37 under chapter 67.40 RCW;

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

7 (x) In each agency with fifty or more employees: Deputy agency
8 heads, assistant directors or division directors, and not more than
9 three principal policy assistants who report directly to the agency
10 head or deputy agency heads;

11 (y) All employees of the marine employees' commission;

12 (z) Staff employed by the department of (~~community, trade, and~~
13 ~~economic development~~) commerce to administer energy policy functions
14 and manage energy site evaluation council activities under RCW
15 43.21F.045(2)(m);

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

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

22 (a) Members of the governing board of each institution of higher
23 education and related boards, all presidents, vice presidents, and
24 their confidential secretaries, administrative, and personal
25 assistants; deans, directors, and chairs; academic personnel; and
26 executive heads of major administrative or academic divisions employed
27 by institutions of higher education; principal assistants to executive
28 heads of major administrative or academic divisions; other managerial
29 or professional employees in an institution or related board having
30 substantial responsibility for directing or controlling program
31 operations and accountable for allocation of resources and program
32 results, or for the formulation of institutional policy, or for
33 carrying out personnel administration or labor relations functions,
34 legislative relations, public information, development, senior computer
35 systems and network programming, or internal audits and investigations;
36 and any employee of a community college district whose place of work is
37 one which is physically located outside the state of Washington and who

1 is employed pursuant to RCW 28B.50.092 and assigned to an educational
2 program operating outside of the state of Washington;

3 (b) The governing board of each institution, and related boards,
4 may also exempt from this chapter classifications involving research
5 activities, counseling of students, extension or continuing education
6 activities, graphic arts or publications activities requiring
7 prescribed academic preparation or special training as determined by
8 the board: PROVIDED, That no nonacademic employee engaged in office,
9 clerical, maintenance, or food and trade services may be exempted by
10 the board under this provision;

11 (c) Printing craft employees in the department of printing at the
12 University of Washington.

13 (3) In addition to the exemptions specifically provided by this
14 chapter, the director of personnel may provide for further exemptions
15 pursuant to the following procedures. The governor or other
16 appropriate elected official may submit requests for exemption to the
17 director of personnel stating the reasons for requesting such
18 exemptions. The director of personnel shall hold a public hearing,
19 after proper notice, on requests submitted pursuant to this subsection.
20 If the director determines that the position for which exemption is
21 requested is one involving substantial responsibility for the
22 formulation of basic agency or executive policy or one involving
23 directing and controlling program operations of an agency or a major
24 administrative division thereof, the director of personnel shall grant
25 the request and such determination shall be final as to any decision
26 made before July 1, 1993. The total number of additional exemptions
27 permitted under this subsection shall not exceed one percent of the
28 number of employees in the classified service not including employees
29 of institutions of higher education and related boards for those
30 agencies not directly under the authority of any elected public
31 official other than the governor, and shall not exceed a total of
32 twenty-five for all agencies under the authority of elected public
33 officials other than the governor.

34 The salary and fringe benefits of all positions presently or
35 hereafter exempted except for the chief executive officer of each
36 agency, full-time members of boards and commissions, administrative
37 assistants and confidential secretaries in the immediate office of an
38 elected state official, and the personnel listed in subsections (1)(j)

1 through (v) and (y) and (2) of this section, shall be determined by the
2 director of personnel. Changes to the classification plan affecting
3 exempt salaries must meet the same provisions for classified salary
4 increases resulting from adjustments to the classification plan as
5 outlined in RCW 41.06.152.

6 ~~((For the twelve months following))~~ From February 18, 2009, through
7 June 30, 2011, a salary or wage increase shall not be granted to any
8 position exempt from classification under this chapter, except that a
9 salary or wage increase may be granted to employees pursuant to
10 collective bargaining agreements negotiated under chapters 28B.52,
11 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation
12 formed under chapter 67.40 RCW, and except that increases may be
13 granted for positions for which the employer has demonstrated
14 difficulty retaining qualified employees if the following conditions
15 are met:

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

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

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

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

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

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

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

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

6 (a) The reduction, dismissal, suspension, or demotion of an
7 employee;

8 (b) Training and career development;

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

13 (d) Transfers;

14 (e) Promotional preferences;

15 (f) Sick leaves and vacations;

16 (g) Hours of work;

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

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

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

30 (k) Increment increases within the series of steps for each pay
31 grade based on length of service for all employees whose standards of
32 performance are such as to permit them to retain job status in the
33 classified service. (~~For the twelve months following~~) From February
34 18, 2009, through June 30, 2011, a salary or wage increase shall not be
35 granted to any exempt position under this chapter, except that a salary
36 or wage increase may be granted to employees pursuant to collective
37 bargaining agreements negotiated under chapters 28B.52, 41.56, 47.64,
38 or 41.76 RCW, or negotiated by the nonprofit corporation formed under

1 chapter 67.40 RCW, and except that increases may be granted for
2 positions for which the employer has demonstrated difficulty retaining
3 qualified employees if the following conditions are met:

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

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

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

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

22 (m) Providing for veteran's preference as required by existing
23 statutes, with recognition of preference in regard to layoffs and
24 subsequent reemployment for veterans and their surviving spouses by
25 giving such eligible veterans and their surviving spouses additional
26 credit in computing their seniority by adding to their unbroken state
27 service, as defined by the director, the veteran's service in the
28 military not to exceed five years. For the purposes of this section,
29 "veteran" means any person who has one or more years of active military
30 service in any branch of the armed forces of the United States or who
31 has less than one year's service and is discharged with a disability
32 incurred in the line of duty or is discharged at the convenience of the
33 government and who, upon termination of such service, has received an
34 honorable discharge, a discharge for physical reasons with an honorable
35 record, or a release from active military service with evidence of
36 service other than that for which an undesirable, bad conduct, or
37 dishonorable discharge shall be given. However, the surviving spouse
38 of a veteran is entitled to the benefits of this section regardless of

1 the veteran's length of active military service. For the purposes of
2 this section, "veteran" does not include any person who has voluntarily
3 retired with twenty or more years of active military service and whose
4 military retirement pay is in excess of five hundred dollars per month.

5 (2) Rules adopted under this section by the director shall provide
6 for local administration and management by the institutions of higher
7 education and related boards, subject to periodic audit and review by
8 the director.

9 (3) Rules adopted by the director under this section may be
10 superseded by the provisions of a collective bargaining agreement
11 negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The
12 supersession of such rules shall only affect employees in the
13 respective collective bargaining units.

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

16 (i) The number of classified, Washington management service, and
17 exempt employees in the agency and the change compared to the previous
18 report;

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

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

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

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

28 (1) Except as provided in RCW 41.06.070, notwithstanding any other
29 provisions of this chapter, the director is authorized to adopt, after
30 consultation with state agencies and employee organizations, rules for
31 managers as defined in RCW 41.06.022. These rules shall not apply to
32 managers employed by institutions of higher education or related boards
33 or whose positions are exempt. The rules shall govern recruitment,
34 appointment, classification and allocation of positions, examination,
35 training and career development, hours of work, probation,
36 certification, compensation, transfer, affirmative action, promotion,
37 layoff, reemployment, performance appraisals, discipline, and any and

1 all other personnel practices for managers. These rules shall be
2 separate from rules adopted for other employees, and to the extent that
3 the rules adopted under this section apply only to managers shall take
4 precedence over rules adopted for other employees, and are not subject
5 to review by the board.

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

8 (a) Development of a simplified classification system that
9 facilitates movement of managers between agencies and promotes upward
10 mobility;

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

15 (c) Establishment of a performance appraisal system that emphasizes
16 individual accountability for program results and efficient management
17 of resources; effective planning, organization, and communication
18 skills; valuing and managing workplace diversity; development of
19 leadership and interpersonal abilities; and employee development;

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

29 (e) Permitting flexible recruitment and hiring procedures that
30 enable agencies to compete effectively with other employers, both
31 public and private, for managers with appropriate skills and training;
32 allowing consideration of all qualified candidates for positions as
33 managers; and achieving affirmative action goals and diversity in the
34 workplace;

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

37 (g) Facilitating decentralized and regional administration.

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

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

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

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

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

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

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

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

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

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

1 Any agency granting a salary increase from the effective date of
2 this section through June 30, 2011, to a position exempt under this
3 section shall submit a report to the fiscal committees of the
4 legislature no later than July 31, 2011, detailing the positions for
5 which salary increases were granted, the size of the increases, and the
6 reasons for giving the increases.

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

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

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

22 (2) The salary increase will not adversely impact the provision
23 client services.

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

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

32 Other than suggestion awards and incentive pay unit awards,
33 agencies shall have the authority to recognize employees, either
34 individually or as a class, for accomplishments including outstanding
35 achievements, safety performance, longevity, outstanding public
36 service, or service as employee suggestion evaluators and implementors.

1 Recognition awards may not exceed two hundred dollars in value per
2 award. Such awards may include, but not be limited to, cash or such
3 items as pen and desk sets, plaques, pins, framed certificates, clocks,
4 and calculators. Award costs shall be paid by the agency giving the
5 award. From the effective date of this section through June 30, 2011,
6 recognition awards may not be given in the form of cash or cash
7 equivalents such as gift certificates or gift cards.

8 NEW SECTION. Sec. 7. This act does not apply to a salary or wage
9 increase that may be granted to employees whose salary or wage is paid
10 predominately through agriculture commodity assessments under Title 15
11 RCW.

12 NEW SECTION. Sec. 8. (1) Notwithstanding sections 1 through 5 of
13 this act, institutions of higher education may grant a wage or salary
14 increase for additional academic responsibilities during the summer
15 quarter if the following conditions are met:

- 16 (a) The salary increase can be paid within existing resources; and
17 (b) The salary increase will not adversely impact the provision of
18 client services.

19 (2) Any institution granting a wage or salary increase under this
20 section from the effective date of this section through June 30, 2011,
21 shall submit a report to the fiscal committees of the legislature no
22 later than July 31, 2011, detailing the positions for which salary
23 increases were granted, the size of the increases, and the reasons for
24 giving the increases.

25 NEW SECTION. Sec. 9. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 immediately."

29 Correct the title.

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