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SENATE BILL 6079

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Schoesler, Fraser, Kohl-Welles, Carrell, Murray, and Shin

Read first time 01/11/12. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to exempting officers and employees of the  
2 Washington state institute for public policy from state civil service  
3 law; reenacting and amending RCW 41.06.070; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.06.070 and 2011 1st sp.s. c 43 s 1010, 2011 1st  
6 sp.s. c 39 s 4, and 2011 1st sp.s. c 16 s 22 are each reenacted and  
7 amended to 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) Officers and employees of the Washington state fruit  
36 commission;
- 37 (n) Officers and employees of the Washington apple commission;

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

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

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

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

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

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

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

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

21 (w) Staff employed by the department of commerce to administer  
22 energy policy functions;

23 (x) The manager of the energy facility site evaluation council;

24 (y) A maximum of ten staff employed by the department of commerce  
25 to administer innovation and policy functions, including the three  
26 principal policy assistants exempted under (v) of this subsection;

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

30 (aa) Officers and employees of the Washington state institute for  
31 public policy;

32 (bb) Officers and employees of the consolidated technology services  
33 agency created in RCW 43.105.006 that perform the following functions  
34 or duties: Systems integration; data center engineering and  
35 management; network systems engineering and management; information  
36 technology contracting; information technology customer relations  
37 management; and network and systems security.

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

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

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

30 (c) Printing craft employees in the department of printing at the  
31 University of Washington.

32 (3) In addition to the exemptions specifically provided by this  
33 chapter, the director may provide for further exemptions pursuant to  
34 the following procedures. The governor or other appropriate elected  
35 official may submit requests for exemption to the office of financial  
36 management stating the reasons for requesting such exemptions. The  
37 director shall hold a public hearing, after proper notice, on requests  
38 submitted pursuant to this subsection. If the director determines that

1 the position for which exemption is requested is one involving  
2 substantial responsibility for the formulation of basic agency or  
3 executive policy or one involving directing and controlling program  
4 operations of an agency or a major administrative division thereof, or  
5 is a senior expert in enterprise information technology infrastructure,  
6 engineering, or systems, the director shall grant the request. The  
7 total number of additional exemptions permitted under this subsection  
8 shall not exceed one percent of the number of employees in the  
9 classified service not including employees of institutions of higher  
10 education and related boards for those agencies not directly under the  
11 authority of any elected public official other than the governor, and  
12 shall not exceed a total of twenty-five for all agencies under the  
13 authority of elected public officials other than the governor.

14 The salary and fringe benefits of all positions presently or  
15 hereafter exempted except for the chief executive officer of each  
16 agency, full-time members of boards and commissions, administrative  
17 assistants and confidential secretaries in the immediate office of an  
18 elected state official, and the personnel listed in subsections (1)(j)  
19 through (t) and (2) of this section, shall be determined by the  
20 director. Changes to the classification plan affecting exempt salaries  
21 must meet the same provisions for classified salary increases resulting  
22 from adjustments to the classification plan as outlined in RCW  
23 41.06.152.

24 From July 1, 2011, through June 29, 2013, salaries for all  
25 positions exempt from classification under this chapter are subject to  
26 RCW 41.04.820.

27 From February 18, 2009, through June 30, 2013, a salary or wage  
28 increase shall not be granted to any position exempt from  
29 classification under this chapter, except that a salary or wage  
30 increase may be granted to employees pursuant to collective bargaining  
31 agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW,  
32 and except that increases may be granted for positions for which the  
33 employer has demonstrated difficulty retaining qualified employees if  
34 the following conditions are met:

- 35 (a) The salary increase can be paid within existing resources;  
36 (b) The salary increase will not adversely impact the provision of  
37 client services; and

1 (c) For any state agency of the executive branch, not including  
2 institutions of higher education, the salary increase is approved by  
3 the director of the office of financial management.

4 Any agency granting a salary increase from February 15, 2010,  
5 through June 30, 2011, to a position exempt from classification under  
6 this chapter shall submit a report to the fiscal committees of the  
7 legislature no later than July 31, 2011, detailing the positions for  
8 which salary increases were granted, the size of the increases, and the  
9 reasons for giving the increases.

10 Any agency granting a salary increase from July 1, 2011, through  
11 June 30, 2013, to a position exempt from classification under this  
12 chapter shall submit a report to the fiscal committees of the  
13 legislature by July 31, 2012, and July 31, 2013, detailing the  
14 positions for which salary increases were granted during the preceding  
15 fiscal year, the size of the increases, and the reasons for giving the  
16 increases.

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

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

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

31 From February 15, 2010, until June 30, 2013, no monetary  
32 performance-based awards or incentives may be granted by the director  
33 or employers to employees covered by rules adopted under this section.  
34 This subsection does not prohibit the payment of awards provided for in  
35 chapter 41.60 RCW.

36 From July 1, 2011, until June 30, 2013, no performance-based awards  
37 or incentives may be granted by the director or employers to employees

1 pursuant to a performance management confirmation granted by the  
2 department of personnel under WAC 357-37-055.

3 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 immediately.

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