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**HOUSE BILL 1027**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Walsh and Young

AN ACT Relating to reducing the administrative cost of state government during the 2021-2023 fiscal biennium; amending RCW 41.06.070, 41.06.500, and 43.03.030; reenacting and amending RCW 41.06.133; creating new sections; and declaring an emergency.

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

**Sec.**  RCW 41.06.070 and 2019 c 146 s 3 are each amended to read as follows:

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

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

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

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

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

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

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

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

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

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

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

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

(j) Assistant attorneys general;

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

(l) Inmate, student, and temporary employees, and part-time professional consultants, as defined by the director;

(m) Officers and employees of the Washington state fruit commission;

(n) Officers and employees of the Washington apple commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

(bb) The executive director of the Washington statewide reentry council.

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

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

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

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

(3) In addition to the exemptions specifically provided by this chapter, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the office of financial management stating the reasons for requesting such exemptions. The director shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director shall grant the request. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

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

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

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

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

(6) For the twenty-four months following the effective date of this section, a salary or wage increase shall not be granted to any position exempt from classification under this chapter.

**Sec.**  RCW 41.06.133 and 2011 1st sp.s. c 43 s 407 and 2011 1st sp.s. c 39 s 5 are each reenacted and amended to read as follows:

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

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

(b) Training and career development;

(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except as follows:

(i) Entry-level state park rangers shall serve a probationary period of twelve months; and

(ii) The probationary period of campus police officer appointees who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required. The director shall adopt rules to ensure that employees promoting to campus police officer who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall have the trial service period extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

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

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

(j) Subject to RCW 41.04.820, adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service. ((~~From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any exempt position under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:~~

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

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

~~(iii) For any state agency of the executive branch, not including institutions of higher education, the salary increase is approved by the director of the office of financial management;~~

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

~~Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases~~)) For the twenty-four months following the effective date of this section, no increment increases will be granted pursuant to this section;

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

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

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

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

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

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

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

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

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

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

From July 1, 2011, until June 30, 2013, no performance-based awards or incentives may be granted by the director or employers to employees pursuant to a performance management confirmation granted by the department of personnel under WAC 357-37-055.

**Sec.**  RCW 41.06.500 and 2011 1st sp.s. c 39 s 6 are each amended to read as follows:

(1) Except as provided in RCW 41.06.070 and subject to RCW 41.04.820, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted for other employees, and to the extent that the rules adopted under this section apply only to managers shall take precedence over rules adopted for other employees, and are not subject to review by the board.

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

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

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

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

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

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

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

(g) Facilitating decentralized and regional administration.

(3) ((~~From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:~~

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

~~(b) The salary increase will not adversely impact the provision of client services; and~~

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

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

~~Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position under this section shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases.~~

~~(4) From February 15, 2010, until June 30, 2013, no monetary performance-based awards or growth and development progression adjustments may be granted by the director or employers to the Washington management service employees covered by the rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.~~

~~From July 1, 2011, until June 30, 2013, no performance-based awards or incentives may be granted by the director or employers to employees pursuant to a performance management confirmation granted by the department of personnel under WAC 357-37-055.~~

~~From July 1, 2011, through June 29, 2013, salaries for all positions under this section are subject to RCW 41.04.820.~~)) For the twenty-four months following the effective date of this section, a salary or wage increase shall not be granted to any position under this section.

**Sec.**  RCW 43.03.030 and 2011 1st sp.s. c 39 s 7 are each amended to read as follows:

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

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

(3) ((~~From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:~~

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

~~(b) The salary increase will not adversely impact the provision of client services; and~~

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

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

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

~~From July 1, 2011, through June 29, 2013, salaries for all positions under this section are subject to RCW 41.04.820.~~)) For the twenty-four months following the effective date of this section, a salary or wage increase shall not be granted to any position under this section.

NEW SECTION. **Sec.**  STATE EMPLOYMENT. (1) For the twenty-four months following the effective date of this section, state agencies of the legislative, executive, and judicial branches shall not establish new staff positions or fill vacant existing staff positions except as specifically authorized by this section.

(2) The following activities of state agencies are exempt from subsection (1) of this section:

(a) Direct custody, supervision, and patient care in corrections, juvenile rehabilitation, institutional care of veterans, the mentally ill, developmentally disabled, state hospitals, the special commitment center, and the schools for the blind and the deaf;

(b) Direct protective services to children and other vulnerable populations in the department of social and health services;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response and emergency cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor and cannabis board, the gambling commission, and the department of natural resources;

(i) Park rangers at the parks and recreation commission;

(j) Seasonal employment by natural resources agencies to the extent that employment levels do not exceed the prior fiscal year;

(k) Seasonal employment in the department of transportation maintenance programs to the extent that employment levels do not exceed the prior fiscal year;

(l) Employees hired on a seasonal basis by the department of agriculture for inspection and certification of agricultural products and for insect detection;

(m) Activities directly related to tax and fee collection, revenue generation, auditing, and recovery;

(n) In institutions of higher education, any positions directly related to academic programs, as well as positions not funded from state funds or tuition;

(o) Operations of the state lottery and liquor and cannabis board business enterprises;

(p) The unemployment insurance program of the employment security department; and

(q) Activities that are necessary to receive or maintain federal funds by the state.

(3) The exemptions specified in subsection (2) of this section do not require the establishment of new staff positions or the filling of vacant existing staff positions in the activities specified.

(4) Exceptions to this section may be granted under section 9 of this act.

NEW SECTION. **Sec.**  PERSONAL SERVICES CONTRACTS. For the twenty-four months following the effective date of this section, state agencies of the legislative, executive, and judicial branches shall not enter into any contracts or other agreements for the acquisition of personal services not related to an emergency or other catastrophic event that requires government action to protect life or public safety. This section does not apply to personal services contracts or other agreements for the acquisition of personal services where the costs are funded exclusively from private or federal grants, where the costs are for tax and fee collection, where the costs are for revenue generation and auditing activities, where the costs are necessary to receive or maintain federal funds by the state, or, in institutions of higher education, where the costs are not funded from state funds or tuition. Exceptions to this section may be granted under section 9 of this act. This section does not apply to the unemployment insurance program of the employment security department.

NEW SECTION. **Sec.**  EQUIPMENT PURCHASES. For the twenty-four months following the effective date of this section, state agencies of the legislative, executive, and judicial branches shall not enter into any contracts or other agreements for the acquisition of any item of equipment the cost of which exceeds five thousand dollars and is not related to an emergency or other catastrophic event that requires government action to protect life or public safety. Exceptions to this section may be granted under section 9 of this act. This section does not apply to the unemployment insurance program of the employment security department, to costs that are for tax and fee collection, for revenue generation and audit activities, for receiving or maintaining federal funds by the state, or, in institutions of higher education, to costs not funded from state funds or tuition.

NEW SECTION. **Sec.**  STATE EMPLOYEE TRAVEL AND TRAINING. For the twenty-four months following the effective date of this section, state agencies of the legislative, executive, and judicial branches shall not make expenditures for the cost or reimbursement of out-of-state travel or out-of-state training by state employees where the travel or training is not related to (1) an emergency or other catastrophic event that requires government action to protect life or public safety, or (2) direct service delivery, and the travel or training occurs after the effective date of this section and before July 1, 2021. This section does not apply to travel expenditures when the costs are funded exclusively from private or federal grants. Exceptions to this section may be granted under section 9 of this act. This section does not apply to the unemployment insurance program of the employment security department, to costs that are for tax and fee collection, for revenue generation and audit activities, for receiving or maintaining federal funds by the state, or, in institutions of higher education, to costs not funded from state funds or tuition.

NEW SECTION. **Sec.**  EXCEPTIONS. (1) Exceptions to sections 5 through 8 of this act may be granted for the critically necessary work of an agency as provided in this section.

(2) For agencies of the executive branch, the exceptions shall be subject to approval by the director of financial management. For agencies of the judicial branch, the exceptions shall be subject to approval of the chief justice of the supreme court. For the house of representatives and the senate, the exceptions shall be subject to approval of the chief clerk of the house of representatives and the secretary of the senate, respectively, under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives. For other legislative agencies, the exceptions shall be subject to approval of both the chief clerk of the house of representatives and the secretary of the senate under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives.

(3) Exceptions approved under subsection (2) of this section shall take effect no sooner than five business days following notification of the chair and ranking minority member of the ways and means committees in the house of representatives and the senate. The person approving exceptions under subsection (2) of this section shall send the exceptions to the legislature for consideration every thirty days from the effective date of this section, or earlier should volume or circumstances so necessitate.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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

**--- END ---**