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SENATE BILL 6767

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State of Washington

54th Legislature

1996 Regular Session

By Senators Rinehart and West

Read first time 02/05/96. Referred to Committee on Ways & Means.

1 AN ACT Relating to establishing procedures for compensation  
2 modifications for state employees under chapter 41.06 RCW; amending RCW  
3 41.06.150, 41.06.070, and 41.06.500; and adding a new section to  
4 chapter 41.06 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.06 RCW  
7 to read as follows:

8 (1) The board shall adopt only those job classification revisions,  
9 class studies, and salary adjustments under RCW 41.06.150(15) that:

10 (a) Are due to documented recruitment and retention difficulties,  
11 salary compression or inversion, increased duties and responsibilities,  
12 or inequities. For these purposes, inequities are defined as similar  
13 work assigned to different job classes with a salary disparity greater  
14 than 7.5 percent; and

15 (b) Are such that the office of financial management has reviewed  
16 the agency's fiscal impact statement and has concurred that the agency  
17 can absorb the biennialized cost of the reclassification, class study,  
18 or salary adjustment within the agency's current authorized level of  
19 funding for the current fiscal biennium and subsequent fiscal biennia.

1 (2) In addition to reclassifications, class studies, and salary  
2 adjustments under subsection (1)(b) of this section, the board may  
3 approve other reclassifications, class studies, and salary adjustments  
4 that meet the requirements of subsection (1)(a) of this section and  
5 have been approved under the procedures established under this  
6 subsection.

7 Before the department of personnel's biennial budget request is due  
8 to the office of financial management, the board shall prioritize  
9 requests for reclassifications, class studies, and salary adjustments  
10 for the next fiscal biennium. The board shall prioritize according to  
11 such criteria as are developed by the board consistent with RCW  
12 41.06.150(15)(a).

13 The board shall submit the prioritized list to the governor's  
14 office and the fiscal committees of the house of representatives and  
15 senate at the same time the department of personnel's biennial budget  
16 request is submitted. The office of financial management shall certify  
17 the biennial cost of each proposed salary adjustment on the board's  
18 prioritized list.

19 In the biennial appropriations acts, the legislature may establish  
20 a level of funding, from the state general fund and other accounts, to  
21 be applied to the prioritized list submitted by the board. Upon  
22 enactment of the appropriations act, the board may approve  
23 reclassifications, class studies, and salary adjustments only to the  
24 extent that the total cost does not exceed the level of funding  
25 established in the appropriations acts.

26 (3) This section does not apply to the higher education hospital  
27 special pay plan or to any adjustments to the classification plan under  
28 RCW 41.06.150(15) that are due to emergent conditions. Emergent  
29 conditions are defined as emergency conditions requiring the  
30 establishment of positions necessary for the preservation of the public  
31 health, safety, or general welfare.

32 **Sec. 2.** RCW 41.06.150 and 1995 2nd sp.s. c 18 s 911 are each  
33 amended to read as follows:

34 The board shall adopt rules, consistent with the purposes and  
35 provisions of this chapter, as now or hereafter amended, and with the  
36 best standards of personnel administration, regarding the basis and  
37 procedures to be followed for:

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

3 (2) Certification of names for vacancies, including departmental  
4 promotions, with the number of names equal to six more names than there  
5 are vacancies to be filled, such names representing applicants rated  
6 highest on eligibility lists: PROVIDED, That when other applicants  
7 have scores equal to the lowest score among the names certified, their  
8 names shall also be certified;

9 (3) Examinations for all positions in the competitive and  
10 noncompetitive service;

11 (4) Appointments;

12 (5) Training and career development;

13 (6) Probationary periods of six to twelve months and rejections of  
14 probationary employees, depending on the job requirements of the class,  
15 except that entry level state park rangers shall serve a probationary  
16 period of twelve months;

17 (7) Transfers;

18 (8) Sick leaves and vacations;

19 (9) Hours of work;

20 (10) Layoffs when necessary and subsequent reemployment, both  
21 according to seniority;

22 (11) Determination of appropriate bargaining units within any  
23 agency: PROVIDED, That in making such determination the board shall  
24 consider the duties, skills, and working conditions of the employees,  
25 the history of collective bargaining by the employees and their  
26 bargaining representatives, the extent of organization among the  
27 employees, and the desires of the employees;

28 (12) Certification and decertification of exclusive bargaining  
29 representatives: PROVIDED, That after certification of an exclusive  
30 bargaining representative and upon the representative's request, the  
31 director shall hold an election among employees in a bargaining unit to  
32 determine by a majority whether to require as a condition of employment  
33 membership in the certified exclusive bargaining representative on or  
34 after the thirtieth day following the beginning of employment or the  
35 date of such election, whichever is the later, and the failure of an  
36 employee to comply with such a condition of employment constitutes  
37 cause for dismissal: PROVIDED FURTHER, That no more often than once in  
38 each twelve-month period after expiration of twelve months following  
39 the date of the original election in a bargaining unit and upon

1 petition of thirty percent of the members of a bargaining unit the  
2 director shall hold an election to determine whether a majority wish to  
3 rescind such condition of employment: PROVIDED FURTHER, That for  
4 purposes of this clause, membership in the certified exclusive  
5 bargaining representative is satisfied by the payment of monthly or  
6 other periodic dues and does not require payment of initiation,  
7 reinstatement, or any other fees or fines and includes full and  
8 complete membership rights: AND PROVIDED FURTHER, That in order to  
9 safeguard the right of nonassociation of public employees, based on  
10 bona fide religious tenets or teachings of a church or religious body  
11 of which such public employee is a member, such public employee shall  
12 pay to the union, for purposes within the program of the union as  
13 designated by such employee that would be in harmony with his or her  
14 individual conscience, an amount of money equivalent to regular union  
15 dues minus any included monthly premiums for union-sponsored insurance  
16 programs, and such employee shall not be a member of the union but is  
17 entitled to all the representation rights of a union member;

18 (13) Agreements between agencies and certified exclusive bargaining  
19 representatives providing for grievance procedures and collective  
20 negotiations on all personnel matters over which the appointing  
21 authority of the appropriate bargaining unit of such agency may  
22 lawfully exercise discretion;

23 (14) Written agreements may contain provisions for payroll  
24 deductions of employee organization dues upon authorization by the  
25 employee member and for the cancellation of such payroll deduction by  
26 the filing of a proper prior notice by the employee with the appointing  
27 authority and the employee organization: PROVIDED, That nothing  
28 contained herein permits or grants to any employee the right to strike  
29 or refuse to perform his or her official duties;

30 (15) Adoption and revision of a comprehensive classification plan  
31 for all positions in the classified service, based on investigation and  
32 analysis of the duties and responsibilities of each such position.

33 (a) The board shall not adopt job classification revisions or class  
34 studies unless implementation of the proposed revision or study will  
35 result in net cost savings, increased efficiencies, or improved  
36 management of personnel or services, and the proposed revision or study  
37 has been approved by the director of financial management in accordance  
38 with chapter 43.88 RCW.

1 (b) Beginning July 1, 1995, through June 30, 1997, in addition to  
2 the requirements of (a) of this subsection:

3 ~~((a))~~ (i) The board may approve the implementation of salary  
4 increases resulting from adjustments to the classification plan during  
5 the 1995-97 fiscal biennium only if:

6 ~~((i))~~ (A) The implementation will not result in additional net  
7 costs and the proposed implementation has been approved by the director  
8 of financial management in accordance with chapter 43.88 RCW;

9 ~~((ii))~~ (B) The implementation will take effect on July 1, 1996,  
10 and the total net cost of all such actions approved by the board for  
11 implementation during the 1995-97 fiscal biennium does not exceed the  
12 amounts specified by the legislature specifically for this purpose; or

13 ~~((iii))~~ (C) The implementation is a result of emergent  
14 conditions. Emergent conditions are defined as ~~((newly mandated~~  
15 ~~programs for which moneys are not appropriated,))~~ emergency situations  
16 requiring the establishment of positions necessary for the preservation  
17 of the public health, safety, or general welfare, ~~((and related~~  
18 ~~issues))~~ which do not exceed \$250,000 of the moneys identified in  
19 section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

20 ~~((b) The board may approve the implementation of salary increases~~  
21 ~~resulting from adjustments to the classification plan for~~  
22 ~~implementation in the 1997-99 fiscal biennium only if the~~  
23 ~~implementation will not result in additional net costs or the~~  
24 ~~implementation has been approved by the legislature in the omnibus~~  
25 ~~appropriations act or other legislation.~~

26 ~~(e))~~ (ii) The board shall approve only those salary increases  
27 resulting from adjustments to the classification plan if they are due  
28 to documented recruitment and retention difficulties, salary  
29 compression or inversion, increased duties and responsibilities, or  
30 inequities. For these purposes, inequities are defined as similar work  
31 assigned to different job classes with a salary disparity greater than  
32 7.5 percent.

33 ~~((d))~~ (iii) Adjustments made to the higher education hospital  
34 special pay plan are exempt from ~~((a) through (e))~~ (b)(i) through  
35 (ii) of this subsection;

36 (c) Reclassifications, class studies, and salary adjustments to be  
37 implemented during the 1997-99 and subsequent fiscal biennia are  
38 governed by (a) of this subsection and section 1 of this act.

1 (16) Allocation and reallocation of positions within the  
2 classification plan;

3 (17) Adoption and revision of a state salary schedule to reflect  
4 the prevailing rates in Washington state private industries and other  
5 governmental units but the rates in the salary schedules or plans shall  
6 be increased if necessary to attain comparable worth under an  
7 implementation plan under RCW 41.06.155 and that, for institutions of  
8 higher education and related boards, shall be competitive for positions  
9 of a similar nature in the state or the locality in which an  
10 institution of higher education or related board is located, such  
11 adoption and revision subject to approval by the director of financial  
12 management in accordance with the provisions of chapter 43.88 RCW;

13 (18) Increment increases within the series of steps for each pay  
14 grade based on length of service for all employees whose standards of  
15 performance are such as to permit them to retain job status in the  
16 classified service;

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

1 (20) Permitting agency heads to delegate the authority to appoint,  
2 reduce, dismiss, suspend, or demote employees within their agencies if  
3 such agency heads do not have specific statutory authority to so  
4 delegate: PROVIDED, That the board may not authorize such delegation  
5 to any position lower than the head of a major subdivision of the  
6 agency;

7 (21) Assuring persons who are or have been employed in classified  
8 positions before July 1, 1993, will be eligible for employment,  
9 reemployment, transfer, and promotion in respect to classified  
10 positions covered by this chapter;

11 (22) Affirmative action in appointment, promotion, transfer,  
12 recruitment, training, and career development; development and  
13 implementation of affirmative action goals and timetables; and  
14 monitoring of progress against those goals and timetables.

15 The board shall consult with the human rights commission in the  
16 development of rules pertaining to affirmative action. The department  
17 of personnel shall transmit a report annually to the human rights  
18 commission which states the progress each state agency has made in  
19 meeting affirmative action goals and timetables.

20 **Sec. 3.** RCW 41.06.070 and 1995 c 163 s 1 are each amended to read  
21 as follows:

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

23 (a) The members of the legislature or to any employee of, or  
24 position in, the legislative branch of the state government including  
25 members, officers, and employees of the legislative council,  
26 legislative budget committee, statute law committee, and any interim  
27 committee of the legislature;

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

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

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

35 (e) Elective officers of the state;

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

37 (g) In the departments of employment security and social and health  
38 services, the director and the director's confidential secretary; in

1 all other departments, the executive head of which is an individual  
2 appointed by the governor, the director, his or her confidential  
3 secretary, and his or her statutory assistant directors;

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

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

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

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

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

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

24 (j) Assistant attorneys general;

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

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

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

32 (n) Officers and employees of the Washington state fruit  
33 commission;

34 (o) Officers and employees of the Washington state apple  
35 advertising commission;

36 (p) Officers and employees of the Washington state dairy products  
37 commission;

38 (q) Officers and employees of the Washington tree fruit research  
39 commission;

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

2 (s) Officers and employees of any commission formed under chapter  
3 15.66 RCW;

4 (t) Officers and employees of the state wheat commission formed  
5 under chapter 15.63 RCW;

6 (u) Officers and employees of agricultural commissions formed under  
7 chapter 15.65 RCW;

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

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

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

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

21 (z) Up to a total of five senior staff positions of the western  
22 library network under chapter 27.26 RCW responsible for formulating  
23 policy or for directing program management of a major administrative  
24 unit. This subsection (1)(z) shall expire on June 30, 1997.

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

28 (a) Members of the governing board of each institution of higher  
29 education and related boards, all presidents, vice-presidents and their  
30 confidential secretaries, administrative and personal assistants;  
31 deans, directors, and chairs; academic personnel; and executive heads  
32 of major administrative or academic divisions employed by institutions  
33 of higher education; principal assistants to executive heads of major  
34 administrative or academic divisions; other managerial or professional  
35 employees in an institution or related board having substantial  
36 responsibility for directing or controlling program operations and  
37 accountable for allocation of resources and program results, or for the  
38 formulation of institutional policy, or for carrying out personnel  
39 administration or labor relations functions, legislative relations,

1 public information, development, senior computer systems and network  
2 programming, or internal audits and investigations; and any employee of  
3 a community college district whose place of work is one which is  
4 physically located outside the state of Washington and who is employed  
5 pursuant to RCW 28B.50.092 and assigned to an educational program  
6 operating outside of the state of Washington;

7 (b) Student, part-time, or temporary employees, and part-time  
8 professional consultants, as defined by the Washington personnel  
9 resources board, employed by institutions of higher education and  
10 related boards;

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

19 (d) Printing craft employees in the department of printing at the  
20 University of Washington.

21 (3) In addition to the exemptions specifically provided by this  
22 chapter, the Washington personnel resources board may provide for  
23 further exemptions pursuant to the following procedures. The governor  
24 or other appropriate elected official may submit requests for exemption  
25 to the Washington personnel resources board stating the reasons for  
26 requesting such exemptions. The Washington personnel resources board  
27 shall hold a public hearing, after proper notice, on requests submitted  
28 pursuant to this subsection. If the board determines that the position  
29 for which exemption is requested is one involving substantial  
30 responsibility for the formulation of basic agency or executive policy  
31 or one involving directing and controlling program operations of an  
32 agency or a major administrative division thereof, the Washington  
33 personnel resources board shall grant the request and such  
34 determination shall be final as to any decision made before July 1,  
35 1993. The total number of additional exemptions permitted under this  
36 subsection shall not exceed one percent of the number of employees in  
37 the classified service not including employees of institutions of  
38 higher education and related boards for those agencies not directly  
39 under the authority of any elected public official other than the

1 governor, and shall not exceed a total of twenty-five for all agencies  
2 under the authority of elected public officials other than the  
3 governor. The Washington personnel resources board shall report to  
4 each regular session of the legislature during an odd-numbered year all  
5 exemptions granted under subsections (1) (w) and (x) and (2) of this  
6 section, together with the reasons for such exemptions.

7 The salary and fringe benefits of all positions presently or  
8 hereafter exempted except for the chief executive officer of each  
9 agency, full-time members of boards and commissions, administrative  
10 assistants and confidential secretaries in the immediate office of an  
11 elected state official, and the personnel listed in subsections (1) (j)  
12 through (v), (y), (z), and (2) of this section, shall be determined by  
13 the Washington personnel resources board. However, beginning with  
14 changes proposed for the 1997-99 fiscal biennium, changes to the  
15 classification plan affecting exempt salaries must meet the same  
16 provisions for classified salary increases resulting from adjustments  
17 to the classification plan as outlined in section 1 of this act.

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

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

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

32 **Sec. 4.** RCW 41.06.500 and 1993 c 281 s 9 are each amended to read  
33 as follows:

34 (1) Except as provided in RCW 41.06.070, notwithstanding any other  
35 provisions of this chapter, the director is authorized to adopt, after  
36 consultation with state agencies and employee organizations, rules for  
37 managers as defined in RCW 41.06.022. These rules shall not apply to  
38 managers employed by institutions of higher education or related boards

1 or whose positions are exempt. The rules shall govern recruitment,  
2 appointment, classification and allocation of positions, examination,  
3 training and career development, hours of work, probation,  
4 certification, compensation, transfer, affirmative action, promotion,  
5 layoff, reemployment, performance appraisals, discipline, and any and  
6 all other personnel practices for managers. These rules shall be  
7 separate from rules adopted by the board for other employees, and to  
8 the extent that the rules adopted apply only to managers shall take  
9 precedence over rules adopted by the board, and are not subject to  
10 review by the board.

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

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

16 (b) Creation of a compensation system consistent with the policy  
17 set forth in RCW 41.06.150(17). The system shall provide flexibility  
18 in setting and changing salaries, and shall require review and approval  
19 by the director in the case of any salary changes greater than five  
20 percent proposed for any group of employees;

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

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

35 (e) Permitting flexible recruitment and hiring procedures that  
36 enable agencies to compete effectively with other employers, both  
37 public and private, for managers with appropriate skills and training;  
38 allowing consideration of all qualified candidates for positions as

1 managers; and achieving affirmative action goals and diversity in the  
2 workplace;

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

5 (g) Facilitating decentralized and regional administration.

--- END ---