

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6767

54th Legislature
1996 Regular Session

Passed by the Senate February 29, 1996
YEAS 43 NAYS 0

President of the Senate

Passed by the House March 7, 1996
YEAS 98 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6767** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6767

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Rinehart and West)

Read first time 02/26/96.

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 review
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 by the board to the prioritized list. Upon enactment of the
22 appropriations act, the board may approve reclassifications, class
23 studies, and salary adjustments only to the extent that the total cost
24 does not exceed the level of funding established in the appropriations
25 acts and the board's actions are consistent with the priorities
26 established in the list. The legislature may also specify or otherwise
27 limit in the appropriations act the implementation dates for actions
28 approved by the board under this section.

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

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

37 The board shall adopt rules, consistent with the purposes and
38 provisions of this chapter, as now or hereafter amended, and with the

1 best standards of personnel administration, regarding the basis and
2 procedures to be followed for:

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

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

11 (3) Examinations for all positions in the competitive and
12 noncompetitive service;

13 (4) Appointments;

14 (5) Training and career development;

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

19 (7) Transfers;

20 (8) Sick leaves and vacations;

21 (9) Hours of work;

22 (10) Layoffs when necessary and subsequent reemployment, both
23 according to seniority;

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

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

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

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

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

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

35 (a) The board shall not adopt job classification revisions or class
36 studies unless implementation of the proposed revision or study will
37 result in net cost savings, increased efficiencies, or improved
38 management of personnel or services, and the proposed revision or study

1 has been approved by the director of financial management in accordance
2 with chapter 43.88 RCW.

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

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

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

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

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

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

28 ~~(c))~~ (ii) The board shall approve only those salary increases
29 resulting from adjustments to the classification plan if they are due
30 to documented recruitment and retention difficulties, salary
31 compression or inversion, increased duties and responsibilities, or
32 inequities. For these purposes, inequities are defined as similar work
33 assigned to different job classes with a salary disparity greater than
34 7.5 percent.

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

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

4 (16) Allocation and reallocation of positions within the
5 classification plan;

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

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

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

1 military service and whose military retirement pay is in excess of five
2 hundred dollars per month;

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

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

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

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

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

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

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

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

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

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

37 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

26 (j) Assistant attorneys general;

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

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

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

34 (n) Officers and employees of the Washington state fruit
35 commission;

36 (o) Officers and employees of the Washington state apple
37 advertising commission;

38 (p) Officers and employees of the Washington state dairy products
39 commission;

1 (q) Officers and employees of the Washington tree fruit research
2 commission;

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

4 (s) Officers and employees of any commission formed under chapter
5 15.66 RCW;

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

8 (u) Officers and employees of agricultural commissions formed under
9 chapter 15.65 RCW;

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

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

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

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

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

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

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

1 formulation of institutional policy, or for carrying out personnel
2 administration or labor relations functions, legislative relations,
3 public information, development, senior computer systems and network
4 programming, or internal audits and investigations; and any employee of
5 a community college district whose place of work is one which is
6 physically located outside the state of Washington and who is employed
7 pursuant to RCW 28B.50.092 and assigned to an educational program
8 operating outside of the state of Washington;

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

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

21 (d) Printing craft employees in the department of printing at the
22 University of Washington.

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

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

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

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

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

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

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

36 (1) Except as provided in RCW 41.06.070, notwithstanding any other
37 provisions of this chapter, the director is authorized to adopt, after
38 consultation with state agencies and employee organizations, rules for

1 managers as defined in RCW 41.06.022. These rules shall not apply to
2 managers employed by institutions of higher education or related boards
3 or whose positions are exempt. The rules shall govern recruitment,
4 appointment, classification and allocation of positions, examination,
5 training and career development, hours of work, probation,
6 certification, compensation, transfer, affirmative action, promotion,
7 layoff, reemployment, performance appraisals, discipline, and any and
8 all other personnel practices for managers. These rules shall be
9 separate from rules adopted by the board for other employees, and to
10 the extent that the rules adopted apply only to managers shall take
11 precedence over rules adopted by the board, and are not subject to
12 review by the board.

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

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

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

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

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

37 (e) Permitting flexible recruitment and hiring procedures that
38 enable agencies to compete effectively with other employers, both
39 public and private, for managers with appropriate skills and training;

1 allowing consideration of all qualified candidates for positions as
2 managers; and achieving affirmative action goals and diversity in the
3 workplace;

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

6 (g) Facilitating decentralized and regional administration.

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