

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6382

61st Legislature
2010 Regular Session

Passed by the Senate February 9, 2010
YEAS 33 NAYS 15

President of the Senate

Passed by the House January 28, 2010
YEAS 94 NAYS 3

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6382** 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 6382

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Prentice and Tom; by request of Governor Gregoire)

READ FIRST TIME 01/22/10.

1 AN ACT Relating to reducing the cost of state government operations
2 by restricting compensation; amending RCW 41.06.500, 43.03.030,
3 43.03.040, and 41.60.150; reenacting and amending RCW 41.06.070 and
4 41.06.133; creating new sections; and declaring an emergency.

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

6 **Sec. 1.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each
7 reenacted and amended to read as follows:

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

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

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

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

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

2 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

29 (j) Assistant attorneys general;

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

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

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

37 (n) Officers and employees of the Washington state fruit
38 commission;

1 (o) Officers and employees of the Washington apple commission;
2 (p) Officers and employees of the Washington state dairy products
3 commission;
4 (q) Officers and employees of the Washington tree fruit research
5 commission;
6 (r) Officers and employees of the Washington state beef commission;
7 (s) Officers and employees of the Washington grain commission;
8 (t) Officers and employees of any commission formed under chapter
9 15.66 RCW;
10 (u) Officers and employees of agricultural commissions formed under
11 chapter 15.65 RCW;
12 (v) Officers and employees of the nonprofit corporation formed
13 under chapter 67.40 RCW;
14 (w) Executive assistants for personnel administration and labor
15 relations in all state agencies employing such executive assistants
16 including but not limited to all departments, offices, commissions,
17 committees, boards, or other bodies subject to the provisions of this
18 chapter and this subsection shall prevail over any provision of law
19 inconsistent herewith unless specific exception is made in such law;
20 (x) In each agency with fifty or more employees: Deputy agency
21 heads, assistant directors or division directors, and not more than
22 three principal policy assistants who report directly to the agency
23 head or deputy agency heads;
24 (y) All employees of the marine employees' commission;
25 (z) Staff employed by the department of (~~community, trade, and~~
26 ~~economic development~~) commerce to administer energy policy functions
27 and manage energy site evaluation council activities under RCW
28 43.21F.045(2)(m);
29 (aa) Staff employed by Washington State University to administer
30 energy education, applied research, and technology transfer programs
31 under RCW 43.21F.045 as provided in RCW 28B.30.900(5).
32 (2) The following classifications, positions, and employees of
33 institutions of higher education and related boards are hereby exempted
34 from coverage of this chapter:
35 (a) Members of the governing board of each institution of higher
36 education and related boards, all presidents, vice presidents, and
37 their confidential secretaries, administrative, and personal
38 assistants; deans, directors, and chairs; academic personnel; and

1 executive heads of major administrative or academic divisions employed
2 by institutions of higher education; principal assistants to executive
3 heads of major administrative or academic divisions; other managerial
4 or professional employees in an institution or related board having
5 substantial responsibility for directing or controlling program
6 operations and accountable for allocation of resources and program
7 results, or for the formulation of institutional policy, or for
8 carrying out personnel administration or labor relations functions,
9 legislative relations, public information, development, senior computer
10 systems and network programming, or internal audits and investigations;
11 and any employee of a community college district whose place of work is
12 one which is physically located outside the state of Washington and who
13 is employed pursuant to RCW 28B.50.092 and assigned to an educational
14 program operating outside of the state of Washington;

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

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

25 (3) In addition to the exemptions specifically provided by this
26 chapter, the director of personnel may provide for further exemptions
27 pursuant to the following procedures. The governor or other
28 appropriate elected official may submit requests for exemption to the
29 director of personnel stating the reasons for requesting such
30 exemptions. The director of personnel shall hold a public hearing,
31 after proper notice, on requests submitted pursuant to this subsection.
32 If the director determines that the position for which exemption is
33 requested is one involving substantial responsibility for the
34 formulation of basic agency or executive policy or one involving
35 directing and controlling program operations of an agency or a major
36 administrative division thereof, the director of personnel shall grant
37 the request and such determination shall be final as to any decision
38 made before July 1, 1993. The total number of additional exemptions

1 permitted under this subsection shall not exceed one percent of the
2 number of employees in the classified service not including employees
3 of institutions of higher education and related boards for those
4 agencies not directly under the authority of any elected public
5 official other than the governor, and shall not exceed a total of
6 twenty-five for all agencies under the authority of elected public
7 officials other than the governor.

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

18 ~~((For the twelve months following))~~ From February 18, 2009, through
19 June 30, 2011, a salary or wage increase shall not be granted to any
20 position exempt from classification under this chapter, except that a
21 salary or wage increase may be granted to employees pursuant to
22 collective bargaining agreements negotiated under chapters 28B.52,
23 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation
24 formed under chapter 67.40 RCW, and except that increases may be
25 granted for positions for which the employer has demonstrated
26 difficulty retaining qualified employees if the following conditions
27 are met:

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

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

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

37 Any person holding a classified position subject to the provisions
38 of this chapter shall, when and if such position is subsequently

1 exempted from the application of this chapter, be afforded the
2 following rights: If such person previously held permanent status in
3 another classified position, such person shall have a right of
4 reversion to the highest class of position previously held, or to a
5 position of similar nature and salary.

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

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

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

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

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

20 (b) Training and career development;

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

25 (d) Transfers;

26 (e) Promotional preferences;

27 (f) Sick leaves and vacations;

28 (g) Hours of work;

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

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

32 (j) Adoption and revision of a state salary schedule to reflect the
33 prevailing rates in Washington state private industries and other
34 governmental units. The rates in the salary schedules or plans shall
35 be increased if necessary to attain comparable worth under an
36 implementation plan under RCW 41.06.155 and, for institutions of higher
37 education and related boards, shall be competitive for positions of a

1 similar nature in the state or the locality in which an institution of
2 higher education or related board is located. Such adoption and
3 revision is subject to approval by the director of financial management
4 in accordance with chapter 43.88 RCW;

5 (k) Increment increases within the series of steps for each pay
6 grade based on length of service for all employees whose standards of
7 performance are such as to permit them to retain job status in the
8 classified service. (~~For the twelve months following~~) From February
9 18, 2009, through June 30, 2011, a salary or wage increase shall not be
10 granted to any exempt position under this chapter, except that a salary
11 or wage increase may be granted to employees pursuant to collective
12 bargaining agreements negotiated under chapters 28B.52, 41.56, 47.64,
13 or 41.76 RCW, or negotiated by the nonprofit corporation formed under
14 chapter 67.40 RCW, and except that increases may be granted for
15 positions for which the employer has demonstrated difficulty retaining
16 qualified employees if the following conditions are met:

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

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

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

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

35 (m) Providing for veteran's preference as required by existing
36 statutes, with recognition of preference in regard to layoffs and
37 subsequent reemployment for veterans and their surviving spouses by
38 giving such eligible veterans and their surviving spouses additional

1 credit in computing their seniority by adding to their unbroken state
2 service, as defined by the director, the veteran's service in the
3 military not to exceed five years. For the purposes of this section,
4 "veteran" means any person who has one or more years of active military
5 service in any branch of the armed forces of the United States or who
6 has less than one year's service and is discharged with a disability
7 incurred in the line of duty or is discharged at the convenience of the
8 government and who, upon termination of such service, has received an
9 honorable discharge, a discharge for physical reasons with an honorable
10 record, or a release from active military service with evidence of
11 service other than that for which an undesirable, bad conduct, or
12 dishonorable discharge shall be given. However, the surviving spouse
13 of a veteran is entitled to the benefits of this section regardless of
14 the veteran's length of active military service. For the purposes of
15 this section, "veteran" does not include any person who has voluntarily
16 retired with twenty or more years of active military service and whose
17 military retirement pay is in excess of five hundred dollars per month.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (d) Strengthening management training and career development
33 programs that build critical management knowledge, skills, and
34 abilities; focusing on managing and valuing workplace diversity;
35 empowering employees by enabling them to share in workplace decision
36 making and to be innovative, willing to take risks, and able to accept
37 and deal with change; promoting a workplace where the overall focus is

1 on the recipient of the government services and how these services can
2 be improved; and enhancing mobility and career advancement
3 opportunities;

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

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

12 (g) Facilitating decentralized and regional administration.

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

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

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

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

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

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

35 (2) Wherever the compensation of any state officer appointed by the
36 governor, or of any employee in any office or department under the
37 control of any such officer, is fixed by statute, such compensation may

1 hereafter, from time to time, be changed by the governor, and he or she
2 shall have power to fix such compensation at any amount not to exceed
3 the amount fixed by statute.

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

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

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

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

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

21 The directors of the several departments and members of the several
22 boards and commissions, whose salaries are fixed by the governor and
23 the chief executive officers of the agencies named in RCW 43.03.028(2)
24 as now or hereafter amended shall each severally receive such salaries,
25 payable in monthly installments, as shall be fixed by the governor or
26 the appropriate salary fixing authority, in an amount not to exceed the
27 recommendations of the committee on agency officials' salaries. (~~For~~
28 ~~the twelve months following~~) From February 18, 2009, through June 30,
29 2011, a salary or wage increase shall not be granted to any position
30 under this section, except that increases may be granted for positions
31 for which the employer has demonstrated difficulty retaining qualified
32 employees if the following conditions are met:

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

34 (2) The salary increase will not adversely impact the provision
35 client services.

36 Any agency granting a salary increase from the effective date of
37 this section through June 30, 2011, to a position under this section

1 shall submit a report to the fiscal committees of the legislature no
2 later than July 31, 2011, detailing the positions for which salary
3 increases were granted, the size of the increases, and the reasons for
4 giving the increases.

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

7 Other than suggestion awards and incentive pay unit awards,
8 agencies shall have the authority to recognize employees, either
9 individually or as a class, for accomplishments including outstanding
10 achievements, safety performance, longevity, outstanding public
11 service, or service as employee suggestion evaluators and implementors.
12 Recognition awards may not exceed two hundred dollars in value per
13 award. Such awards may include, but not be limited to, cash or such
14 items as pen and desk sets, plaques, pins, framed certificates, clocks,
15 and calculators. Award costs shall be paid by the agency giving the
16 award. From the effective date of this section through June 30, 2011,
17 recognition awards may not be given in the form of cash or cash
18 equivalents such as gift certificates or gift cards.

19 NEW SECTION. **Sec. 7.** This act does not apply to a salary or wage
20 increase that may be granted to employees whose salary or wage is paid
21 predominately through agriculture commodity assessments under Title 15
22 RCW.

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

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

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

1 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

--- END ---