

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1361

68th Legislature
2023 Regular Session

Passed by the House February 16, 2023
Yeas 98 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 8, 2023
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1361** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1361

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Appropriations (originally sponsored by Representatives Abbarno, Rule, Reeves, and Gregerson; by request of Office of Financial Management)

READ FIRST TIME 02/06/23.

1 AN ACT Relating to updating statutes related to state employment
2 by removing obsolete language, eliminating unnecessary reports,
3 conforming a reporting period to fiscal year, and modernizing
4 employee pay procedures; amending RCW 42.16.010, 41.06.070, and
5 43.41.275; and reenacting and amending RCW 41.06.133.

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

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

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

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

15 (b) Training and career development;

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

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

1 (ii) The probationary period of campus police officer appointees
2 who are required to attend the Washington state criminal justice
3 training commission basic law enforcement academy shall extend from
4 the date of appointment until twelve months from the date of
5 successful completion of the basic law enforcement academy, or twelve
6 months from the date of appointment if academy training is not
7 required. The director shall adopt rules to ensure that employees
8 promoting to campus police officer who are required to attend the
9 Washington state criminal justice training commission basic law
10 enforcement academy shall have the trial service period extend from
11 the date of appointment until twelve months from the date of
12 successful completion of the basic law enforcement academy, or twelve
13 months from the date of appointment if academy training is not
14 required;

15 (d) Transfers;

16 (e) Promotional preferences;

17 (f) Sick leaves and vacations;

18 (g) Hours of work;

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

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

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

33 (k) Increment increases within the series of steps for each pay
34 grade based on length of service for all employees whose standards of
35 performance are such as to permit them to retain job status in the
36 classified service(~~(. From February 18, 2009, through June 30, 2013,~~
37 ~~a salary or wage increase shall not be granted to any exempt position~~
38 ~~under this chapter, except that a salary or wage increase may be~~
39 ~~granted to employees pursuant to collective bargaining agreements~~
40 ~~negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, and~~

1 ~~except that increases may be granted for positions for which the~~
2 ~~employer has demonstrated difficulty retaining qualified employees if~~
3 ~~the following conditions are met:~~

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

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

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

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

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

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

32 (m) Providing for veteran's preference as required by existing
33 statutes, with recognition of preference in regard to layoffs and
34 subsequent reemployment for veterans and their surviving spouses by
35 giving such eligible veterans and their surviving spouses additional
36 credit in computing their seniority by adding to their unbroken state
37 service, as defined by the director, the veteran's service in the
38 military not to exceed five years. For the purposes of this section,
39 "veteran" means any person who has one or more years of active
40 military service in any branch of the armed forces of the United

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

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

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

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

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

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

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

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

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

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

5 **Sec. 2.** RCW 42.16.010 and 2014 c 162 s 2 are each amended to
6 read as follows:

7 (1) Except as provided otherwise in subsections (2) and (3) of
8 this section, all state officers and employees shall be paid for
9 services rendered from the first day of the month through the
10 fifteenth day of the month and for services rendered from the
11 sixteenth day of the month through the last calendar day of the
12 month. Paydates for these two pay periods shall be established by the
13 director of financial management through the administrative hearing
14 process and the official paydates shall be established six months
15 prior to the beginning of each subsequent calendar year. Under no
16 circumstance shall the paydate be established more than ten days
17 after the pay period in which the wages are earned except when the
18 designated paydate falls on Sunday, in which case the paydate shall
19 not be later than the following Monday.

20 ~~((Payment))~~ (2) Except as provided by subsection (3) of this
21 section, payment shall be deemed to have been made by the established
22 paydates if: (a) The salary warrant is available at the geographic
23 work location at which the warrant is normally available to the
24 employee; or (b) the salary has been electronically transferred into
25 the employee's account at the employee's designated financial
26 institution; or (c) the salary warrants are mailed at least two days
27 before the established paydate for those employees engaged in work in
28 remote or varying locations from the geographic location at which the
29 payroll is prepared, provided that the employee has requested payment
30 by mail.

31 The office of financial management shall develop the necessary
32 policies and operating procedures to assure that all remuneration for
33 services rendered including basic salary, shift differential, standby
34 pay, overtime, penalty pay, salary due based on contractual
35 agreements, and special pay provisions, as provided for by law,
36 agency policy or rule, or contract, shall be available to the
37 employee on the designated paydate. Overtime, penalty pay, and
38 special pay provisions may be paid by the next following paydate if
39 the postponement of payment is attributable to: The employee's not

1 making a timely or accurate report of the facts which are the basis
2 for the payment, or the employer's lack of reasonable opportunity to
3 verify the claim.

4 Compensable benefits payable because of separation from state
5 service shall be paid with the earnings for the final period worked
6 unless the employee separating has not provided the agency with the
7 proper notification of intent to terminate.

8 One-half of the employee's basic monthly salary shall be paid in
9 each pay period. Employees paid on an hourly basis or employees who
10 work less than a full pay period shall be paid for actual salary
11 earned.

12 ~~((2) Subsection (1))~~ (3) (a) Subsection (2) of this section does
13 not apply to state officers and employees whose appointment to state
14 service begins July 1, 2023, or thereafter. For state officers and
15 employees whose appointment to state service begins July 1, 2023, or
16 thereafter, payment for salaries must be made by electronic funds
17 transfer. Payment will be deemed to have been made by the established
18 paydate if the electronic funds transfer has been executed.

19 (b) For purposes of this subsection (3), electronic funds
20 transfer means the electronic transfer of funds into an account at
21 the officer's or employee's designated financial institution or the
22 funds are loaded onto a payroll card.

23 (4) Subsections (1), (2), and (3) of this section shall not apply
24 in instances where it would conflict with contractual rights or, with
25 the approval of the office of financial management, to short-term,
26 intermittent, noncareer state employees, to student employees of
27 institutions of higher education, and to national or state guard
28 members participating in state active duty(~~(, and to liquor control~~
29 agency managers who are paid a percentage of monthly liquor sales)).
30 The University of Washington is not subject to the requirements of
31 subsection (3) of this section until July 1, 2025.

32 ~~((3))~~ (5) When a national or state guard member is called to
33 participate in state active duty, the paydate shall be no more than
34 seven days following completion of duty or the end of the pay period,
35 whichever is first. When the seventh day falls on Sunday, the paydate
36 shall not be later than the following Monday. This subsection shall
37 apply only to the pay a national or state guard member receives from
38 the military department for state active duty.

39 ~~((4))~~ (6) Notwithstanding subsections (1) and (2) of this
40 section, a bargained contract at an institution of higher education

1 may include a provision for paying part-time academic employees on a
2 pay schedule that coincides with all the paydays used for full-time
3 academic employees.

4 ~~((5))~~ (7)(a) Notwithstanding subsections (1), (2), and ~~((4))~~
5 (6) of this section, an institution of higher education as defined in
6 RCW 28B.10.016 may pay its employees for services rendered biweekly,
7 in pay periods consisting of two consecutive seven calendar-day
8 weeks. The paydate for each pay period shall be seven calendar days
9 after the end of the pay period. Under no circumstance may the
10 paydate be established more than seven days after the pay period in
11 which the wages are earned except that when the designated paydate
12 falls on a holiday, the paydate shall not be later than the following
13 Monday.

14 (b) Employees on a biweekly payroll cycle under this subsection
15 ~~((5))~~ (7) who are paid a salary may receive a prorated amount of
16 their annualized salary each pay period. The prorated amount must be
17 proportional to the number of pay periods worked in the calendar
18 year. Employees on a biweekly payroll cycle under this subsection
19 ~~((5))~~ (7) who are paid hourly, or who work less than a full pay
20 period may be paid the actual salary amount earned during the pay
21 period.

22 (c) Each institution that adopts a biweekly pay schedule under
23 this subsection ~~((5))~~ (7) must establish, publish, and notify the
24 director of the office of financial management of the official
25 paydates six months before the beginning of each subsequent calendar
26 year.

27 ~~((6))~~ (8) Notwithstanding subsections (1), (2), and ~~((4))~~ (6)
28 of this section, academic employees at institutions of higher
29 education as defined in RCW 28B.10.016 whose employment appointments
30 are less than twelve months may have their salaries prorated in such
31 a way that coincides with the paydays used for full-time employees.

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

- 34 (1) The provisions of this chapter do not apply to:
- 35 (a) The members of the legislature or to any employee of, or
36 position in, the legislative branch of the state government including
37 members, officers, and employees of the legislative council, joint
38 legislative audit and review committee, statute law committee, and
39 any interim committee of the legislature;

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

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

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

8 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

35 (j) Assistant attorneys general;

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

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

- 1 (m) Officers and employees of the Washington state fruit
2 commission;
- 3 (n) Officers and employees of the Washington apple commission;
- 4 (o) Officers and employees of the Washington state dairy products
5 commission;
- 6 (p) Officers and employees of the Washington tree fruit research
7 commission;
- 8 (q) Officers and employees of the Washington state beef
9 commission;
- 10 (r) Officers and employees of the Washington grain commission;
- 11 (s) Officers and employees of any commission formed under chapter
12 15.66 RCW;
- 13 (t) Officers and employees of agricultural commissions formed
14 under chapter 15.65 RCW;
- 15 (u) Executive assistants for personnel administration and labor
16 relations in all state agencies employing such executive assistants
17 including but not limited to all departments, offices, commissions,
18 committees, boards, or other bodies subject to the provisions of this
19 chapter and this subsection shall prevail over any provision of law
20 inconsistent herewith unless specific exception is made in such law;
- 21 (v) In each agency with fifty or more employees: Deputy agency
22 heads, assistant directors or division directors, and not more than
23 three principal policy assistants who report directly to the agency
24 head or deputy agency heads;
- 25 (w) Staff employed by the department of commerce to administer
26 energy policy functions;
- 27 (x) The manager of the energy facility site evaluation council;
- 28 (y) A maximum of ten staff employed by the department of commerce
29 to administer innovation and policy functions, including the three
30 principal policy assistants exempted under (v) of this subsection;
- 31 (z) Staff employed by Washington State University to administer
32 energy education, applied research, and technology transfer programs
33 under RCW 43.21F.045 as provided in RCW 28B.30.900(5);
- 34 (aa) Officers and employees of the consolidated technology
35 services agency created in RCW 43.105.006 that perform the following
36 functions or duties: Systems integration; data center engineering and
37 management; network systems engineering and management; information
38 technology contracting; information technology customer relations
39 management; and network and systems security;

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

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

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

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

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

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

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

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

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

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

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

1 (6) (a) Notwithstanding the provisions of subsection (5) of this
2 section, a person cannot exercise the right of reversion to a
3 classified position if the employee has been given written notice
4 that they are the subject of an active workplace investigation in
5 which the allegations being investigated, if founded, could result in
6 a finding of gross misconduct or malfeasance. The right of reversion
7 is suspended during the pendency of the investigation. For the
8 purposes of this subsection, written notice includes notice sent by
9 email to the employee's work email address.

10 (b) The office of financial management must adopt rules
11 implementing this section.

12 **Sec. 4.** RCW 43.41.275 and 2015 c 204 s 3 are each amended to
13 read as follows:

14 (1) By January 31st of each year, state agencies employing one
15 hundred or more people must submit the report described in subsection
16 (2) of this section to the human resources director, with copies to
17 the director of the department of social and health services'
18 division of vocational rehabilitation and the governor's disability
19 employment task force.

20 (2) The report must include the following information:

21 (a) The number of employees from the previous (~~calendar~~) fiscal
22 year;

23 (b) The number of employees classified as individuals with
24 disabilities;

25 (c) The number of employees that separated from the state agency
26 the previous year;

27 (d) The number of employees that were hired by the state agency
28 the previous year;

29 (e) The number of employees hired from the division of vocational
30 rehabilitation services and from the department of the services for
31 the blind the previous year;

32 (f) The number of planned hires for the current year; and

33 (g) Opportunities for internships for the department of social
34 and health services' division of vocational rehabilitation and
35 developmental disabilities administration, and the department of the
36 services for the blind client placement, leading to an entry-level
37 position placement upon successful completion for the current year.

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