
SENATE BILL 6387

State of Washington

61st Legislature

2010 Regular Session

By Senator Kohl-Welles; by request of Public Employment Relations Commission

Read first time 01/13/10. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to employees of the public employment relations
2 commission in the classification of labor relations adjudicator-
3 mediator; amending RCW 41.58.015; and reenacting and amending RCW
4 41.06.070.

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

6 **Sec. 1.** RCW 41.58.015 and 1984 c 287 s 71 are each amended to read
7 as follows:

8 (1) Each member of the commission shall be compensated in
9 accordance with RCW 43.03.250. Members of the commission shall also be
10 reimbursed for travel expenses incurred in the discharge of their
11 official duties on the same basis as is provided in RCW 43.03.050 and
12 43.03.060.

13 (2) The commission shall appoint an executive director whose annual
14 salary shall be determined under the provisions of RCW 43.03.028. The
15 executive director shall perform such duties and have such powers as
16 the commission shall prescribe in order to implement and enforce the
17 provisions of this chapter. In addition to the performance of
18 administrative duties, the commission may delegate to the executive
19 director authority with respect to, but not limited to, representation

1 proceedings, unfair labor practice proceedings, mediation of labor
2 disputes, arbitration of disputes concerning the interpretation or
3 application of a collective bargaining agreement, and, in certain
4 cases, fact-finding or arbitration of disputes concerning the terms of
5 a collective bargaining agreement. Such delegation shall not eliminate
6 a party's right of appeal to the commission. The executive director,
7 with such assistance as may be provided by the attorney general and
8 such additional legal assistance consistent with chapter 43.10 RCW,
9 shall have authority on behalf of the commission, when necessary to
10 carry out or enforce any action or decision of the commission, to
11 petition any court of competent jurisdiction for an order requiring
12 compliance with the action or decision.

13 (3) The commission shall employ such employees as it may from time
14 to time find necessary for the proper performance of its duties,
15 consistent with the provisions of this chapter. Employees hired by the
16 commission in the labor relations adjudicator-mediator classification
17 are not subject to chapter 41.06 RCW; however they are subject to
18 discipline and termination, for just cause, by the executive director.
19 Upon written request of the employee so disciplined or terminated, the
20 executive director shall state the reasons for such action in writing.
21 The employee affected has the right of review by an arbitrator jointly
22 selected by the employee and the executive director. Expenses of the
23 arbitration process shall be borne equally by the employee and the
24 agency. The request for arbitration must be filed by the employee
25 affected within thirty days of receipt of the written reasons issued by
26 the executive director.

27 (4) The payment of all of the expenses of the commission, including
28 travel expenses incurred by the members or employees of the commission
29 under its orders, shall be subject to the provisions of RCW 43.03.050
30 and 43.03.060.

31 **Sec. 2.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each
32 reenacted and amended to read as follows:

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

34 (a) The members of the legislature or to any employee of, or
35 position in, the legislative branch of the state government including
36 members, officers, and employees of the legislative council, joint

1 legislative audit and review committee, statute law committee, and any
2 interim committee of the legislature;

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

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

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

10 (e) Elective officers of the state;

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

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

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

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

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

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

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

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

37 (j) Assistant attorneys general;

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

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

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

8 (n) Officers and employees of the Washington state fruit
9 commission;

10 (o) Officers and employees of the Washington apple commission;

11 (p) Officers and employees of the Washington state dairy products
12 commission;

13 (q) Officers and employees of the Washington tree fruit research
14 commission;

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

16 (s) Officers and employees of the Washington grain commission;

17 (t) Officers and employees of any commission formed under chapter
18 15.66 RCW;

19 (u) Officers and employees of agricultural commissions formed under
20 chapter 15.65 RCW;

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

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

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

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

34 (z) Staff employed by the department of (~~community, trade, and~~
35 ~~economic development~~) commerce to administer energy policy functions
36 and manage energy site evaluation council activities under RCW
37 43.21F.045(2)(m);

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

4 (bb) Employees of the public employment relations commission in the
5 classification of labor relations adjudicator-mediator.

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

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

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

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

37 (3) In addition to the exemptions specifically provided by this
38 chapter, the director of personnel may provide for further exemptions

1 pursuant to the following procedures. The governor or other
2 appropriate elected official may submit requests for exemption to the
3 director of personnel stating the reasons for requesting such
4 exemptions. The director of personnel shall hold a public hearing,
5 after proper notice, on requests submitted pursuant to this subsection.
6 If the director determines that the position for which exemption is
7 requested is one involving substantial responsibility for the
8 formulation of basic agency or executive policy or one involving
9 directing and controlling program operations of an agency or a major
10 administrative division thereof, the director of personnel shall grant
11 the request and such determination shall be final as to any decision
12 made before July 1, 1993. The total number of additional exemptions
13 permitted under this subsection shall not exceed one percent of the
14 number of employees in the classified service not including employees
15 of institutions of higher education and related boards for those
16 agencies not directly under the authority of any elected public
17 official other than the governor, and shall not exceed a total of
18 twenty-five for all agencies under the authority of elected public
19 officials other than the governor.

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

30 For the twelve months following February 18, 2009, a salary or wage
31 increase shall not be granted to any position exempt from
32 classification under this chapter.

33 Any person holding a classified position subject to the provisions
34 of this chapter shall, when and if such position is subsequently
35 exempted from the application of this chapter, be afforded the
36 following rights: If such person previously held permanent status in
37 another classified position, such person shall have a right of

1 reversion to the highest class of position previously held, or to a
2 position of similar nature and salary.

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

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

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