
SUBSTITUTE SENATE BILL 5939

State of Washington

61st Legislature

2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Hobbs, Schoesler, Benton, Fairley, McDermott, Keiser, Sheldon, and Shin)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to personnel practices regarding exempt employment;
2 amending RCW 41.06.022, 41.06.133, and 41.06.170; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that there is a need
6 to revisit the scope and purpose of the Washington management service
7 which was established in 1993 and has grown away from and beyond its
8 original concept. The legislature further finds that Washington
9 management service needs to be brought back in line with its original
10 intent.

11 **Sec. 2.** RCW 41.06.022 and 2002 c 354 s 207 are each amended to
12 read as follows:

13 (1) For purposes of this chapter, "manager" means any employee who:
14 ((+1)) (a) Formulates statewide policy or directs the work of an
15 agency or agency subdivision;
16 ((+2)) (b) Is responsible to administer one or more statewide
17 policies or programs of an agency or agency subdivision;

1 ~~((+3))~~ (c) Manages, administers, and controls a local branch
2 office of an agency or agency subdivision, including the physical,
3 financial, or personnel resources;

4 ~~((+4))~~ (d) Has substantial responsibility in personnel
5 administration, legislative relations, public information, or the
6 preparation and administration of budgets; or

7 ~~((+5))~~ (e) Functionally is above the first level of supervision
8 and exercises authority that is not merely routine or clerical in
9 nature and requires the consistent use of independent judgment.

10 (2) No employee who is a member of the Washington management
11 service may be included in a collective bargaining unit established
12 under RCW 41.80.001 and 41.80.010 through 41.80.130.

13 (3) Beginning on the effective date of this section, the number of
14 employees who are considered exempt or in Washington management
15 services must be reduced to a level that is twenty-five percent of the
16 amount of exempt and Washington management services employees in
17 existence on the effective date of this section. The director may make
18 any employment decision necessary to meet the requirements of this
19 section.

20 **Sec. 3.** RCW 41.06.133 and 2002 c 354 s 204 are each amended to
21 read as follows:

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

25 ~~((+1))~~ (a) The reduction, dismissal, suspension, or demotion of an
26 employee;

27 ~~((+2))~~ (b) Training and career development;

28 ~~((+3))~~ (c) Probationary periods of six to twelve months and
29 rejections of probationary employees, depending on the job requirements
30 of the class, except that entry level state park rangers shall serve a
31 probationary period of twelve months;

32 ~~((+4))~~ (d) Transfers;

33 ~~((+5))~~ (e) Promotional preferences;

34 ~~((+6))~~ (f) Sick leaves and vacations;

35 ~~((+7))~~ (g) Hours of work;

36 ~~((+8))~~ (h) Layoffs when necessary and subsequent reemployment,
37 except for the financial basis for layoffs;

1 ~~((+9+))~~ (i) The number of names to be certified for vacancies;

2 ~~((+10+))~~ (j) Adoption and revision of a state salary schedule to
3 reflect the prevailing rates in Washington state private industries and
4 other governmental units. The rates in the salary schedules or plans
5 shall be increased if necessary to attain comparable worth under an
6 implementation plan under RCW 41.06.155 and, for institutions of higher
7 education and related boards, shall be competitive for positions of a
8 similar nature in the state or the locality in which an institution of
9 higher education or related board is located. Such adoption and
10 revision is subject to approval by the director of financial management
11 in accordance with chapter 43.88 RCW;

12 ~~((+11+))~~ (k) Increment increases within the series of steps for
13 each pay grade based on length of service for all employees whose
14 standards of performance are such as to permit them to retain job
15 status in the classified service;

16 ~~((+12+))~~ (l) Optional lump sum relocation compensation approved by
17 the agency director, whenever it is reasonably necessary that a person
18 make a domiciliary move in accepting a transfer or other employment
19 with the state. An agency must provide lump sum compensation within
20 existing resources. If the person receiving the relocation payment
21 terminates or causes termination with the state, for reasons other than
22 layoff, disability separation, or other good cause as determined by an
23 agency director, within one year of the date of the employment, the
24 state is entitled to reimbursement of the lump sum compensation from
25 the person;

26 ~~((+13+))~~ (m) Providing for veteran's preference as required by
27 existing statutes, with recognition of preference in regard to layoffs
28 and subsequent reemployment for veterans and their surviving spouses by
29 giving such eligible veterans and their surviving spouses additional
30 credit in computing their seniority by adding to their unbroken state
31 service, as defined by the director, the veteran's service in the
32 military not to exceed five years. For the purposes of this section,
33 "veteran" means any person who has one or more years of active military
34 service in any branch of the armed forces of the United States or who
35 has less than one year's service and is discharged with a disability
36 incurred in the line of duty or is discharged at the convenience of the
37 government and who, upon termination of such service, has received an
38 honorable discharge, a discharge for physical reasons with an honorable

1 record, or a release from active military service with evidence of
2 service other than that for which an undesirable, bad conduct, or
3 dishonorable discharge shall be given. However, the surviving spouse
4 of a veteran is entitled to the benefits of this section regardless of
5 the veteran's length of active military service. For the purposes of
6 this section, "veteran" does not include any person who has voluntarily
7 retired with twenty or more years of active military service and whose
8 military retirement pay is in excess of five hundred dollars per month.

9 (2) Rules adopted under this section by the director shall provide
10 for local administration and management by the institutions of higher
11 education and related boards, subject to periodic audit and review by
12 the director.

13 (3) Rules adopted by the director under this section may be
14 superseded by the provisions of a collective bargaining agreement
15 negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The
16 supersession of such rules shall only affect employees in the
17 respective collective bargaining units.

18 (4)(a) The director shall require that each state agency report
19 semiannually the following data:

20 (i) The number of classified and nonclassified employees in the
21 agency and the change compared to the previous report;

22 (ii) The number of bonuses and performance-based incentives awarded
23 to agency staff; and

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

25 (b) A report that compiles the data in (a) of this subsection for
26 all agencies will be provided semiannually to the governor and posted
27 for the public on the department of personnel's agency web site.

28 **Sec. 4.** RCW 41.06.170 and 2002 c 354 s 213 are each amended to
29 read as follows:

30 (1) The director, in the adoption of rules governing suspensions
31 for cause, shall not authorize an appointing authority to suspend an
32 employee for more than fifteen calendar days as a single penalty or
33 more than thirty calendar days in any one calendar year as an
34 accumulation of several penalties. The director shall require that the
35 appointing authority give written notice to the employee not later than
36 one day after the suspension takes effect, stating the reasons for and
37 the duration thereof.

1 (2) Any employee who is reduced, dismissed, suspended, or demoted,
2 after completing his or her probationary period of service as provided
3 by the rules of the director, or any employee who is adversely affected
4 by a violation of the state civil service law, chapter 41.06 RCW, or
5 rules adopted under it, shall have the right to appeal, either
6 individually or through his or her authorized representative, not later
7 than thirty days after the effective date of such action to the
8 personnel appeals board through June 30, 2005, and to the Washington
9 personnel resources board after June 30, 2005. The employee shall be
10 furnished with specified charges in writing when a reduction,
11 dismissal, suspension, or demotion action is taken. Such appeal shall
12 be in writing. Decisions of the Washington personnel resources board
13 on appeals filed after June 30, 2005, shall be final and not subject to
14 further appeal.

15 (3) Any employee whose position has been exempted after July 1,
16 1993, shall have the right to appeal, either individually or through
17 his or her authorized representative, not later than thirty days after
18 the effective date of such action to the personnel appeals board
19 through June 30, 2005, and to the Washington personnel resources board
20 after June 30, 2005. If the position being exempted is vacant, the
21 exclusive bargaining unit representative may act in lieu of an employee
22 for the purposes of appeal.

23 (4) An employee incumbent in a position at the time of its
24 allocation or reallocation, or the agency utilizing the position, may
25 appeal the allocation or reallocation to the personnel appeals board
26 through December 31, 2005, and to the Washington personnel resources
27 board after December 31, 2005. Notice of such appeal must be filed in
28 writing within thirty days of the action from which appeal is taken.

29 (5) Subsections (1) and (2) of this section do not apply to any
30 employee who is subject to the provisions of a collective bargaining
31 agreement negotiated under RCW 41.80.001 and 41.80.010 through
32 41.80.130.

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