
HOUSE BILL 2396

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Hudgins, Hinkle, Hunt, Sells, Zeiger, Appleton, Armstrong, Sequist, Miloscia, Green, Blake, Ryu, Stanford, Hasegawa, Reykdal, Kenney, Kirby, Upthegrove, Jenkins, Fitzgibbon, Lias, Billig, McCoy, Dunshee, Van De Wege, Ormsby, Moeller, Probst, Goodman, Sullivan, Lytton, Haigh, Dickerson, Cody, Moscoso, Tharinger, Ladenburg, Hope, Orcutt, Maxwell, and Kelley

Read first time 01/13/12. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to clarifying the number of employees within
2 certain classifications within the consolidated technology services
3 agency; and reenacting and amending RCW 41.06.070.

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

5 **Sec. 1.** RCW 41.06.070 and 2011 1st sp.s. c 43 s 1010, 2011 1st
6 sp.s. c 39 s 4, and 2011 1st sp.s. c 16 s 22 are each reenacted and
7 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) Officers and employees of the Washington state fruit
36 commission;
- 37 (n) Officers and employees of the Washington apple commission;

1 (o) Officers and employees of the Washington state dairy products
2 commission;

3 (p) Officers and employees of the Washington tree fruit research
4 commission;

5 (q) Officers and employees of the Washington state beef commission;

6 (r) Officers and employees of the Washington grain commission;

7 (s) Officers and employees of any commission formed under chapter
8 15.66 RCW;

9 (t) Officers and employees of agricultural commissions formed under
10 chapter 15.65 RCW;

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

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

21 (w) Staff employed by the department of commerce to administer
22 energy policy functions;

23 (x) The manager of the energy facility site evaluation council;

24 (y) A maximum of ten staff employed by the department of commerce
25 to administer innovation and policy functions, including the three
26 principal policy assistants exempted under (v) of this subsection;

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

30 (aa) Officers and employees of the consolidated technology services
31 agency created in RCW 43.105.006 that perform the following functions
32 or duties: Systems integration; data center engineering and
33 management; network systems engineering and management; information
34 technology contracting; information technology customer relations
35 management; and network and systems security. However, no more than
36 twenty-five percent of the employees within the consolidated technology
37 services agency may be exempt from this chapter.

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

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

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

30 (c) Printing craft employees in the department of printing at the
31 University of Washington.

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

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

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

24 From July 1, 2011, through June 29, 2013, salaries for all
25 positions exempt from classification under this chapter are subject to
26 RCW 41.04.820.

27 From February 18, 2009, through June 30, 2013, a salary or wage
28 increase shall not be granted to any position exempt from
29 classification under this chapter, except that a salary or wage
30 increase may be granted to employees pursuant to collective bargaining
31 agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW,
32 and except that increases may be granted for positions for which the
33 employer has demonstrated difficulty retaining qualified employees if
34 the following conditions are met:

- 35 (a) The salary increase can be paid within existing resources;
36 (b) The salary increase will not adversely impact the provision of
37 client services; and

1 (c) For any state agency of the executive branch, not including
2 institutions of higher education, the salary increase is approved by
3 the director of the office of financial management.

4 Any agency granting a salary increase from February 15, 2010,
5 through June 30, 2011, to a position exempt from classification under
6 this chapter shall submit a report to the fiscal committees of the
7 legislature no later than July 31, 2011, detailing the positions for
8 which salary increases were granted, the size of the increases, and the
9 reasons for giving the increases.

10 Any agency granting a salary increase from July 1, 2011, through
11 June 30, 2013, to a position exempt from classification under this
12 chapter shall submit a report to the fiscal committees of the
13 legislature by July 31, 2012, and July 31, 2013, detailing the
14 positions for which salary increases were granted during the preceding
15 fiscal year, the size of the increases, and the reasons for giving the
16 increases.

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

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

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

31 From February 15, 2010, until June 30, 2013, no monetary
32 performance-based awards or incentives may be granted by the director
33 or employers to employees covered by rules adopted under this section.
34 This subsection does not prohibit the payment of awards provided for in
35 chapter 41.60 RCW.

36 From July 1, 2011, until June 30, 2013, no performance-based awards
37 or incentives may be granted by the director or employers to employees

1 pursuant to a performance management confirmation granted by the
2 department of personnel under WAC 357-37-055.

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