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ENGROSSED SUBSTITUTE HOUSE BILL 2049

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State of Washington

61st Legislature

2009 Regular Session

**By** House State Government & Tribal Affairs (originally sponsored by Representatives Sequist, Appleton, Hunt, Armstrong, Chandler, Chase, and Miloscia)

READ FIRST TIME 02/23/09.

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

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

4 NEW SECTION. **Sec. 1.** The legislature finds that information  
5 technologies have substantially altered the roles and responsibilities  
6 of employees in many state agencies since the creation of the  
7 Washington management service. With the understanding that the current  
8 economic crisis dictates finding every possible efficiency, the  
9 legislature intends to review the state's senior management and exempt  
10 services and understands that possible refinements in the service are  
11 needed. A review, in consultation with the various stakeholders and in  
12 light of current best practices, is warranted.

13 **Sec. 2.** RCW 41.06.133 and 2002 c 354 s 204 are each amended to  
14 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:

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

3       ~~((2))~~ (b) Training and career development;

4       ~~((3))~~ (c) Probationary periods of six to twelve months and  
5 rejections of probationary employees, depending on the job requirements  
6 of the class, except that entry level state park rangers shall serve a  
7 probationary period of twelve months;

8       ~~((4))~~ (d) Transfers;

9       ~~((5))~~ (e) Promotional preferences;

10       ~~((6))~~ (f) Sick leaves and vacations;

11       ~~((7))~~ (g) Hours of work;

12       ~~((8))~~ (h) Layoffs when necessary and subsequent reemployment,  
13 except for the financial basis for layoffs;

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

15       ~~((10))~~ (j) Adoption and revision of a state salary schedule to  
16 reflect the prevailing rates in Washington state private industries and  
17 other governmental units. The rates in the salary schedules or plans  
18 shall be increased if necessary to attain comparable worth under an  
19 implementation plan under RCW 41.06.155 and, for institutions of higher  
20 education and related boards, shall be competitive for positions of a  
21 similar nature in the state or the locality in which an institution of  
22 higher education or related board is located. Such adoption and  
23 revision is subject to approval by the director of financial management  
24 in accordance with chapter 43.88 RCW;

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

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

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

22       (2) Rules adopted under this section by the director shall provide  
23 for local administration and management by the institutions of higher  
24 education and related boards, subject to periodic audit and review by  
25 the director.

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

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

33       (i) The number of classified, Washington management service, and  
34 exempt employees in the agency and the change compared to the previous  
35 report;

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

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

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

4       **Sec. 3.** RCW 41.06.170 and 2002 c 354 s 213 are each amended to  
5 read as follows:

6       (1) The director, in the adoption of rules governing suspensions  
7 for cause, shall not authorize an appointing authority to suspend an  
8 employee for more than fifteen calendar days as a single penalty or  
9 more than thirty calendar days in any one calendar year as an  
10 accumulation of several penalties. The director shall require that the  
11 appointing authority give written notice to the employee not later than  
12 one day after the suspension takes effect, stating the reasons for and  
13 the duration thereof.

14       (2) Any employee who is reduced, dismissed, suspended, or demoted,  
15 after completing his or her probationary period of service as provided  
16 by the rules of the director, or any employee who is adversely affected  
17 by a violation of the state civil service law, chapter 41.06 RCW, or  
18 rules adopted under it, shall have the right to appeal, either  
19 individually or through his or her authorized representative, not later  
20 than thirty days after the effective date of such action to the  
21 personnel appeals board through June 30, 2005, and to the Washington  
22 personnel resources board after June 30, 2005. The employee shall be  
23 furnished with specified charges in writing when a reduction,  
24 dismissal, suspension, or demotion action is taken. Such appeal shall  
25 be in writing. Decisions of the Washington personnel resources board  
26 on appeals filed after June 30, 2005, shall be final and not subject to  
27 further appeal.

28       (3) Any employee whose position has been exempted after July 1,  
29 1993, shall have the right to appeal, either individually or through  
30 his or her authorized representative, not later than thirty days after  
31 the effective date of such action to the personnel appeals board  
32 through June 30, 2005, and to the Washington personnel resources board  
33 after June 30, 2005. If the position being exempted is vacant, the  
34 exclusive bargaining unit representative may act in lieu of an employee  
35 for the purposes of appeal.

36       (4) An employee incumbent in a position at the time of its  
37 allocation or reallocation, or the agency utilizing the position, may

1 appeal the allocation or reallocation to the personnel appeals board  
2 through December 31, 2005, and to the Washington personnel resources  
3 board after December 31, 2005. Notice of such appeal must be filed in  
4 writing within thirty days of the action from which appeal is taken.

5 (5) Subsections (1) and (2) of this section do not apply to any  
6 employee who is subject to the provisions of a collective bargaining  
7 agreement negotiated under RCW 41.80.001 and 41.80.010 through  
8 41.80.130.

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