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**SUBSTITUTE SENATE BILL 5460**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Tom, Zarelli, Prentice, Hewitt, and Kline)

READ FIRST TIME 01/27/09.

1       AN ACT Relating to reducing the administrative cost of state  
2 government during the 2007-2009 and 2009-2011 fiscal biennia; amending  
3 RCW 41.06.070, 41.06.133, 41.06.500, 43.03.030, and 43.03.040; creating  
4 new sections; and declaring an emergency.

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

6       **Sec. 1.** RCW 41.06.070 and 2002 c 354 s 209 are each amended to  
7 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) The public printer or to any employees of or positions in the  
36 state printing plant;

37 (n) Officers and employees of the Washington state fruit  
38 commission;

1 (o) Officers and employees of the Washington ((state)) apple  
2 ((advertising)) commission;

3 (p) Officers and employees of the Washington state dairy products  
4 commission;

5 (q) Officers and employees of the Washington tree fruit research  
6 commission;

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

8 (s) Officers and employees of any commission formed under chapter  
9 15.66 RCW;

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

12 (u) Officers and employees of the nonprofit corporation formed  
13 under chapter 67.40 RCW;

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

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

24 (x) All employees of the marine employees' commission;

25 (y) Staff employed by the department of community, trade, and  
26 economic development to administer energy policy functions and manage  
27 energy site evaluation council activities under RCW 43.21F.045(2)(m);

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

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

34 (a) Members of the governing board of each institution of higher  
35 education and related boards, all presidents, vice presidents, and  
36 their confidential secretaries, administrative, and personal  
37 assistants; deans, directors, and chairs; academic personnel; and  
38 executive heads of major administrative or academic divisions employed

1 by institutions of higher education; principal assistants to executive  
2 heads of major administrative or academic divisions; other managerial  
3 or professional employees in an institution or related board having  
4 substantial responsibility for directing or controlling program  
5 operations and accountable for allocation of resources and program  
6 results, or for the formulation of institutional policy, or for  
7 carrying out personnel administration or labor relations functions,  
8 legislative relations, public information, development, senior computer  
9 systems and network programming, or internal audits and investigations;  
10 and any employee of a community college district whose place of work is  
11 one which is physically located outside the state of Washington and who  
12 is employed pursuant to RCW 28B.50.092 and assigned to an educational  
13 program operating outside of the state of Washington;

14 (b) The governing board of each institution, and related boards,  
15 may also exempt from this chapter classifications involving research  
16 activities, counseling of students, extension or continuing education  
17 activities, graphic arts or publications activities requiring  
18 prescribed academic preparation or special training as determined by  
19 the board: PROVIDED, That no nonacademic employee engaged in office,  
20 clerical, maintenance, or food and trade services may be exempted by  
21 the board under this provision;

22 (c) Printing craft employees in the department of printing at the  
23 University of Washington.

24 (3) In addition to the exemptions specifically provided by this  
25 chapter, the director of personnel may provide for further exemptions  
26 pursuant to the following procedures. The governor or other  
27 appropriate elected official may submit requests for exemption to the  
28 director of personnel stating the reasons for requesting such  
29 exemptions. The director of personnel shall hold a public hearing,  
30 after proper notice, on requests submitted pursuant to this subsection.  
31 If the director determines that the position for which exemption is  
32 requested is one involving substantial responsibility for the  
33 formulation of basic agency or executive policy or one involving  
34 directing and controlling program operations of an agency or a major  
35 administrative division thereof, the director of personnel shall grant  
36 the request and such determination shall be final as to any decision  
37 made before July 1, 1993. The total number of additional exemptions  
38 permitted under this subsection shall not exceed one percent of the

1 number of employees in the classified service not including employees  
2 of institutions of higher education and related boards for those  
3 agencies not directly under the authority of any elected public  
4 official other than the governor, and shall not exceed a total of  
5 twenty-five for all agencies under the authority of elected public  
6 officials other than the governor.

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

17 For the twelve months following the effective date of this section,  
18 a salary or wage increase shall not be granted to any position exempt  
19 from classification under this chapter.

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

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

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

34 **Sec. 2.** RCW 41.06.133 and 2002 c 354 s 204 are each amended to  
35 read as follows:

36 The director shall adopt rules, consistent with the purposes and

1 provisions of this chapter and with the best standards of personnel  
2 administration, regarding the basis and procedures to be followed for:

3 (1) The reduction, dismissal, suspension, or demotion of an  
4 employee;

5 (2) Training and career development;

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

10 (4) Transfers;

11 (5) Promotional preferences;

12 (6) Sick leaves and vacations;

13 (7) Hours of work;

14 (8) Layoffs when necessary and subsequent reemployment, except for  
15 the financial basis for layoffs;

16 (9) The number of names to be certified for vacancies;

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

27 (11) Increment increases within the series of steps for each pay  
28 grade based on length of service for all employees whose standards of  
29 performance are such as to permit them to retain job status in the  
30 classified service. For the twelve months following the effective date  
31 of this section, a salary or wage increase shall not be granted to any  
32 exempt position under this chapter;

33 (12) Optional lump sum relocation compensation approved by the  
34 agency director, whenever it is reasonably necessary that a person make  
35 a domiciliary move in accepting a transfer or other employment with the  
36 state. An agency must provide lump sum compensation within existing  
37 resources. If the person receiving the relocation payment terminates  
38 or causes termination with the state, for reasons other than layoff,

1 disability separation, or other good cause as determined by an agency  
2 director, within one year of the date of the employment, the state is  
3 entitled to reimbursement of the lump sum compensation from the person;

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

25 Rules adopted under this section by the director shall provide for  
26 local administration and management by the institutions of higher  
27 education and related boards, subject to periodic audit and review by  
28 the director.

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

34 **Sec. 3.** RCW 41.06.500 and 2002 c 354 s 243 are each amended to  
35 read as follows:

36 (1) Except as provided in RCW 41.06.070, notwithstanding any other  
37 provisions of this chapter, the director is authorized to adopt, after

1 consultation with state agencies and employee organizations, rules for  
2 managers as defined in RCW 41.06.022. These rules shall not apply to  
3 managers employed by institutions of higher education or related boards  
4 or whose positions are exempt. The rules shall govern recruitment,  
5 appointment, classification and allocation of positions, examination,  
6 training and career development, hours of work, probation,  
7 certification, compensation, transfer, affirmative action, promotion,  
8 layoff, reemployment, performance appraisals, discipline, and any and  
9 all other personnel practices for managers. These rules shall be  
10 separate from rules adopted for other employees, and to the extent that  
11 the rules adopted under this section apply only to managers shall take  
12 precedence over rules adopted for other employees, and are not subject  
13 to review by the board.

14 (2) In establishing rules for managers, the director shall adhere  
15 to the following goals:

16 (a) Development of a simplified classification system that  
17 facilitates movement of managers between agencies and promotes upward  
18 mobility;

19 (b) Creation of a compensation system that provides flexibility in  
20 setting and changing salaries, and shall require review and approval by  
21 the director in the case of any salary changes greater than five  
22 percent proposed for any group of employees;

23 (c) Establishment of a performance appraisal system that emphasizes  
24 individual accountability for program results and efficient management  
25 of resources; effective planning, organization, and communication  
26 skills; valuing and managing workplace diversity; development of  
27 leadership and interpersonal abilities; and employee development;

28 (d) Strengthening management training and career development  
29 programs that build critical management knowledge, skills, and  
30 abilities; focusing on managing and valuing workplace diversity;  
31 empowering employees by enabling them to share in workplace decision  
32 making and to be innovative, willing to take risks, and able to accept  
33 and deal with change; promoting a workplace where the overall focus is  
34 on the recipient of the government services and how these services can  
35 be improved; and enhancing mobility and career advancement  
36 opportunities;

37 (e) Permitting flexible recruitment and hiring procedures that  
38 enable agencies to compete effectively with other employers, both



1 public and private, for managers with appropriate skills and training;  
2 allowing consideration of all qualified candidates for positions as  
3 managers; and achieving affirmative action goals and diversity in the  
4 workplace;

5 (f) Providing that managers may only be reduced, dismissed,  
6 suspended, or demoted for cause; and

7 (g) Facilitating decentralized and regional administration.

8 (3) For the twelve months following the effective date of this  
9 section, a salary or wage increase shall not be granted to any position  
10 under this section.

11 **Sec. 4.** RCW 43.03.030 and 1965 c 8 s 43.03.030 are each amended to  
12 read as follows:

13 (1) Wherever the compensation of any appointive state officer or  
14 employee is fixed by statute, it may be hereafter increased or  
15 decreased in the manner provided by law for the fixing of compensation  
16 of other appointive state officers or employees; but this subsection  
17 shall not apply to the heads of state departments.

18 (2) Wherever the compensation of any state officer appointed by the  
19 governor, or of any employee in any office or department under the  
20 control of any such officer, is fixed by statute, such compensation may  
21 hereafter, from time to time, be changed by the governor, and he shall  
22 have power to fix such compensation at any amount not to exceed the  
23 amount fixed by statute.

24 (3) For the twelve months following the effective date of this  
25 section, a salary or wage increase shall not be granted to any position  
26 under this section.

27 **Sec. 5.** RCW 43.03.040 and 1993 sp.s. c 24 s 914 are each amended  
28 to read as follows:

29 The directors of the several departments and members of the several  
30 boards and commissions, whose salaries are fixed by the governor and  
31 the chief executive officers of the agencies named in RCW 43.03.028(2)  
32 as now or hereafter amended shall each severally receive such salaries,  
33 payable in monthly installments, as shall be fixed by the governor or  
34 the appropriate salary fixing authority, in an amount not to exceed the  
35 recommendations of the committee on agency officials' salaries.

36 ~~((Beginning July 1, 1993, through June 30, 1995, the salary paid to~~

1 ~~such directors and members of boards and commissions shall not exceed~~  
2 ~~the amount paid as of April 1, 1993.)~~) For the twelve months following  
3 the effective date of this section, a salary or wage increase shall not  
4 be granted to any position under this section.

5 NEW SECTION. **Sec. 6.** STATE EMPLOYMENT. (1) From the effective  
6 date of this section until July 1, 2009, and consistent with the  
7 governor's directive dated August 4, 2008, state agencies of the  
8 legislative, executive, and judicial branches shall not establish new  
9 staff positions or fill vacant existing staff positions except as  
10 specifically authorized by this section.

11 (2) The following activities of state agencies are exempt from  
12 subsection (1) of this section:

13 (a) Direct custody, supervision, and patient care in corrections,  
14 juvenile rehabilitation, institutional care of veterans, the mentally  
15 ill, developmentally disabled, state hospitals, the special commitment  
16 center, and the schools for the blind and the deaf;

17 (b) Direct protective services to children and other vulnerable  
18 populations in the department of social and health services;

19 (c) Washington state patrol investigative services and field  
20 enforcement;

21 (d) Hazardous materials response and emergency cleanup;

22 (e) Emergency public health and patient safety response and the  
23 public health laboratory;

24 (f) Military operations and emergency management within the  
25 military department;

26 (g) Firefighting;

27 (h) Enforcement officers in the department of fish and wildlife,  
28 the liquor control board, and the department of natural resources;

29 (i) Park rangers at the parks and recreation commission;

30 (j) Seasonal employment by natural resources agencies to the extent  
31 that employment levels do not exceed the prior fiscal year;

32 (k) Seasonal employment in the department of transportation  
33 maintenance programs to the extent that employment levels do not exceed  
34 the prior fiscal year;

35 (l) Employees hired on a seasonal basis by the department of  
36 agriculture for inspection and certification of agricultural products  
37 and for insect detection;

1 (m) Activities directly related to tax and fee collection,  
2 auditing, and recovery;

3 (n) Operations of the state lottery and liquor control board  
4 business enterprises; and

5 (o) The unemployment insurance program of the employment security  
6 department.

7 (3) The exemptions specified in subsection (2) of this section do  
8 not require the establishment of new staff positions or the filling of  
9 vacant existing staff positions in the activities specified.

10 (4) Exceptions to this section may be granted under section 10 of  
11 this act.

12 NEW SECTION. **Sec. 7.** PERSONAL SERVICES CONTRACTS. From the  
13 effective date of this section until July 1, 2009, and consistent with  
14 the governor's directive dated August 4, 2008, state agencies of the  
15 legislative, executive, and judicial branches shall not enter into any  
16 contracts or other agreements for the acquisition of personal services  
17 not related to an emergency. This section does not apply to personal  
18 services contracts or other agreements for the acquisition of personal  
19 services where the costs are funded exclusively from private or federal  
20 grants. Exceptions to this section may be granted under section 10 of  
21 this act. This section does not apply to the unemployment insurance  
22 program of the employment security department.

23 NEW SECTION. **Sec. 8.** EQUIPMENT PURCHASES. From the effective  
24 date of this section until July 1, 2009, and consistent with the  
25 governor's directive dated August 4, 2008, state agencies of the  
26 legislative, executive, and judicial branches shall not enter into any  
27 contracts or other agreements for the acquisition of any item of  
28 equipment the cost of which exceeds one thousand dollars. Exceptions  
29 to this section may be granted under section 10 of this act. This  
30 section does not apply to the unemployment insurance program of the  
31 employment security department.

32 NEW SECTION. **Sec. 9.** STATE EMPLOYEE TRAVEL AND TRAINING.  
33 Consistent with the governor's directive dated August 4, 2008, state  
34 agencies of the legislative, executive, and judicial branches shall not  
35 make expenditures for the cost or reimbursement of out-of-state travel

1 or out-of-state training by state employees where the travel or  
2 training is not related to an emergency or direct service delivery and  
3 the travel or training occurs after the effective date of this section  
4 and before July 1, 2009. This section does not apply to travel  
5 expenditures when the costs are funded exclusively from private or  
6 federal grants. Exceptions to this section may be granted under  
7 section 10 of this act. This section does not apply to the  
8 unemployment insurance program of the employment security department.

9 NEW SECTION. **Sec. 10.** EXCEPTIONS. Exceptions to sections 6  
10 through 9 of this act may be granted for the critically necessary work  
11 of an agency and may take effect no sooner than two business days  
12 following notification of the legislative fiscal committees. For  
13 agencies of the executive branch, the exceptions shall be subject to  
14 approval by the director of financial management. For agencies of the  
15 judicial branch, the exceptions shall be subject to approval of the  
16 chief justice of the supreme court. For the house of representatives  
17 and the senate, the exceptions shall be subject to approval of the  
18 chief clerk of the house of representatives and the secretary of the  
19 senate, respectively, under the direction of the senate committee on  
20 facilities and operations and the executive rules committee of the  
21 house of representatives. For other legislative agencies, the  
22 exceptions shall be subject to approval of both the chief clerk of the  
23 house of representatives and the secretary of the senate under the  
24 direction of the senate committee on facilities and operations and the  
25 executive rules committee of the house of representatives. Exceptions  
26 under this section may be granted for individual expenditures, or for  
27 categories of expenditures that do not commit state funds.

28 NEW SECTION. **Sec. 11.** AGENCY ALLOTMENT REDUCTIONS. The office of  
29 financial management shall reduce allotments for all agencies for  
30 salaries, wages, fringe benefits, personal service contracts,  
31 equipment, travel, and training by \$105,450,000 from 2007-09 biennial  
32 general fund and related funds appropriations to reflect the  
33 elimination of expenditures required by sections 1 through 9 of this  
34 act as identified in LEAP document BT-2009, a computerized tabulation  
35 developed by the legislative evaluation and accountability program  
36 committee on January 22, 2009. The office of financial management

1 shall make comparable allotment reductions for all other state funds  
2 and accounts to reflect the elimination of expenditures required by  
3 sections 1 through 9 of this act. The allotment reductions under this  
4 section shall be placed in unallotted status and remain unexpended.

5 NEW SECTION. **Sec. 12.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 13.** Captions used in this act are not any part  
10 of the law.

11 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 immediately.

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