
SECOND SUBSTITUTE SENATE BILL 6109

State of Washington

61st Legislature

2010 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen, Rockefeller, Kilmer, Sheldon, King, and Swecker)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to the Washington state ferries system; amending
2 RCW 47.60.355, 47.60.365, 47.60.375, 47.60.385, 47.64.011, 47.64.150,
3 and 41.58.060; reenacting and amending RCW 47.64.090 and 41.06.070;
4 adding new sections to chapter 47.60 RCW; creating new sections;
5 repealing RCW 47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050,
6 47.61.060, 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110,
7 47.60.210, 47.60.240, 47.60.395, 47.60.649, 47.60.652, 47.60.654,
8 47.60.658, 47.60.770, 47.60.772, 47.60.774, 47.60.776, 47.60.778,
9 47.60.780, and 47.64.280; providing an effective date; and providing an
10 expiration date.

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

12 NEW SECTION. **Sec. 1.** It is the intent of the legislature that
13 final recommendations from the joint transportation committee ferry
14 study, submitted to the legislature during the 2009 regular legislative
15 session, be enacted by the legislature and implemented by the
16 department of transportation as soon as practicable in order to benefit
17 from the efficiencies and cost savings identified in the
18 recommendations. It is also the intent of the legislature to make
19 various additional policy changes aimed at further efficiencies and

1 cost savings. Since the study began in 2006, recommendations have been
2 made with regard to long range planning and implementing the most
3 efficient and effective balance between ferry capital and operating
4 investments. It is intended that this act, the 2009-2011 omnibus
5 transportation appropriations act, and subsequent transportation
6 appropriations acts serve as vehicles for enacting these
7 recommendations in order to maximize the utilization of existing
8 capacity and to make the most efficient use of existing assets and tax
9 dollars.

10 **Sec. 2.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read
11 as follows:

12 (1) Terminal and vessel preservation funding requests shall only be
13 for assets in the life-cycle cost model.

14 (2) Terminal and vessel preservation funding requests that exceed
15 five million dollars per project must be accompanied by a predesign
16 study. The predesign study must include all elements required by the
17 office of financial management.

18 **Sec. 3.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read
19 as follows:

20 The department shall develop terminal and vessel design standards
21 that:

22 (1) Adhere to vehicle level of service standards as described in
23 RCW 47.06.140;

24 (2) Adhere to operational strategies as described in RCW 47.60.327;
25 and

26 (3) Choose the most efficient balance between capital and operating
27 investments by using a life-cycle cost analysis.

28 **Sec. 4.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read
29 as follows:

30 (1) The capital plan must adhere to the following:

31 (a) A current ridership demand forecast;

32 (b) Vehicle level of service standards as described in RCW
33 47.06.140;

34 (c) Operational strategies as described in RCW 47.60.327; and

1 (d) Terminal and vessel design standards as described in RCW
2 47.60.365.

3 (2) The capital plan must include the following:

4 (a) A current vessel preservation plan;

5 (b) A current systemwide vessel rebuild and replacement plan as
6 described in RCW 47.60.377;

7 (c) A current vessel deployment plan; and

8 (d) A current terminal preservation plan that adheres to the life-
9 cycle cost model on capital assets as described in RCW 47.60.345.

10 **Sec. 5.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read
11 as follows:

12 (1) Terminal improvement, vessel improvement, and vessel
13 acquisition project funding requests must adhere to the capital plan(~~(-~~

14 ~~(2) Requests for terminal improvement design and construction~~
15 ~~funding must)), include route-based planning, and be submitted with a
16 predesign study that:~~

17 (a) Includes all elements required by the office of financial
18 management;

19 (b) Separately identifies basic terminal and vessel elements
20 essential for operation and their costs;

21 (c) Separately identifies additional elements to provide ancillary
22 revenue and customer comfort and their costs;

23 (d) Includes construction phasing options that are consistent with
24 forecasted ridership increases;

25 (e) Separately identifies additional elements requested by local
26 governments and the cost and proposed funding source of those elements;

27 (f) Separately identifies multimodal elements and the cost and
28 proposed funding source of those elements; (~~and~~))

29 (g) Identifies all contingency amounts(~~(-~~

30 ~~(h))[(3)] When planning for new vessel acquisitions, the department
31 must evaluate the long term vessel operating costs related to fuel
32 efficiency and staffing));~~

33 (h) Identifies any terminal, vessel, or other capital modifications
34 that would be required as a result of the proposed capital project;

35 (i) Includes planned service modifications as a result of the
36 proposed capital project, and the consistency of those service
37 modifications with the capital plan; and

1 (j) Demonstrates the evaluation of long-term operating costs
2 including fuel efficiency, staffing, and preservation.

3 (2) The department shall prioritize vessel preservation and
4 acquisition funding requests over vessel improvement funding requests.

5 NEW SECTION. Sec. 6. A new section is added to chapter 47.60 RCW
6 to read as follows:

7 (1) In addition to the requirements of RCW 47.60.385(1), initial
8 requests for, and substantial modification requests to, vessel
9 acquisition funding must be submitted with a predesign study that:

10 (a) Includes a business decision case on vessel sizing;

11 (b) Includes an updated vessel deployment plan demonstrating
12 maximum use of existing vessels, and an updated systemwide vessel
13 rebuild and replacement plan;

14 (c) Includes an analysis that demonstrates that acquiring a new
15 vessel or improving an existing vessel is more cost-effective than
16 other alternatives considered. At a minimum, alternatives explored
17 must include:

18 (i) Alternatives to new vessel construction that increase capacity
19 of existing vessels;

20 (ii) Service level changes in lieu of adding vessel capacity; and

21 (iii) Acquiring existing vessels or existing vessel plans rather
22 than wholly new vessels or vessel plans; and

23 (d) Demonstrates that the vessel proposed for improvement,
24 construction, or purchase, if intended to replace an existing vessel or
25 to place an existing vessel into inactive or reserve status, is
26 consistent with the scheduled replacements in the rebuild and
27 replacement plan.

28 (2) In addition to the requirements of RCW 47.60.385(1), initial
29 requests for, and substantial modification requests to, vessel
30 improvement funding must be submitted with a predesign study that
31 includes:

32 (a) An explanation of any regulatory changes necessitating the
33 improvement;

34 (b) The requirements under subsection (1) of this section, if the
35 improvement modifies the capacity of a vessel;

36 (c) A cost-benefit analysis of any modifications designed to

1 improve fuel efficiency, including potential impacts on vessel
2 maintenance and repair; and

3 (d) An assessment of out-of-service time associated with making the
4 improvement and ongoing preservation of the improvement.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 47.60 RCW
6 to read as follows:

7 (1) The legislature finds measuring the performance of Washington
8 state ferries requires the measurement of quality, timeliness, and unit
9 cost of services delivered to customers. Consequently, the department
10 must develop a set of metrics that measure that performance and report
11 to the transportation committees of the house of representatives and
12 senate and to the office of financial management on the development of
13 these measurements along with recommendations to the 2011 legislature
14 on which measurements must become a part of the next transportation
15 budget.

16 (2) Annually, the department shall report to the transportation
17 committees of the legislature statistics regarding its on-time arrival
18 and departure status on a route-by-route and month-by-month basis, as
19 well as an annual route-by-route and systemwide basis, weighted by the
20 number of customers on each sailing and distinguishing peak period on-
21 time performance. The statistics must include reasons for any delays
22 over ten minutes from the scheduled time. The statistics must be
23 prominently displayed on the Washington state ferries' web site. Each
24 Washington state ferries vessel and terminal must prominently display
25 the statistics as they relate to their specific route.

26 NEW SECTION. **Sec. 8.** (1) Signage must be prominently displayed at
27 each terminal and on each vessel that informs the public that assaults
28 on Washington state employees will be prosecuted to the full extent of
29 the law.

30 (2) The department shall investigate the frequency, severity, and
31 prosecutorial results of assaults on Washington state ferries employees
32 and, if appropriate, make recommendations to the transportation
33 committees of the senate and house of representatives during the 2011
34 legislative session regarding methods to decrease the number of
35 assaults on employees and procedures for prosecuting those who assault
36 employees.

1 (3) This section expires June 30, 2011.

2 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
3 repealed:

4 (1) RCW 47.61.010 (Authority to enter into agreement and apply for
5 financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

6 (2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and
7 1965 ex.s. c 56 s 2;

8 (3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965
9 ex.s. c 56 s 3;

10 (4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable--
11 Negotiable instruments) and 1965 ex.s. c 56 s 4;

12 (5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale--
13 Legal investment for state funds) and 1965 ex.s. c 56 s 5;

14 (6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965
15 ex.s. c 56 s 6;

16 (7) RCW 47.61.070 (Statement describing nature of bond obligation--
17 Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

18 (8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant
19 agreement) and 1965 ex.s. c 56 s 8;

20 (9) RCW 47.61.090 (Designation of funds to repay bonds and
21 interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

22 (10) RCW 47.61.100 (Bond repayment procedure--Highway bond
23 retirement fund) and 1965 ex.s. c 56 s 10;

24 (11) RCW 47.61.110 (Sums in excess of bond retirement
25 requirements--Use) and 1965 ex.s. c 56 s 11;

26 (12) RCW 47.60.210 (Seamen may sue for injuries--Venue) and 1984 c
27 7 s 315 & 1961 c 13 s 47.60.210; and

28 (13) RCW 47.60.240 (Liability to persons other than shippers or
29 passengers--Limitation) and 1984 c 7 s 318 & 1961 c 13 s 47.60.240;

30 (14) RCW 47.60.395 (Evaluation of cost allocation methodology and
31 preservation and improvement costs--Exception) and 2009 c 470 s 707 &
32 2007 c 512 s 15;

33 (15) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998
34 c 166 s 1;

35 (16) RCW 47.60.652 (Passenger-only ferry service--Vessel and
36 terminal acquisition, procurement, and construction) and 1998 c 166 s
37 2;

1 (17) RCW 47.60.654 (Passenger-only ferry service--Contingency) and
2 1998 c 166 s 3;

3 (18) RCW 47.60.658 (Passenger-only ferry service between Vashon and
4 Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

5 (19) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c
6 493 s 1;

7 (20) RCW 47.60.772 (Jumbo ferry construction--Bidding documents)
8 and 1993 c 493 s 2;

9 (21) RCW 47.60.774 (Jumbo ferry construction--Procedure on
10 conclusion of evaluation) and 1993 c 493 s 4;

11 (22) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c
12 493 s 5;

13 (23) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low
14 bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6; and

15 (24) RCW 47.60.780 (Jumbo ferry construction--Propulsion system
16 acquisition) and 1994 c 181 s 2.

17 **Sec. 10.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read
18 as follows:

19 As used in this chapter, unless the context otherwise requires, the
20 definitions in this section shall apply.

21 (1) "Collective bargaining representative" means the persons
22 designated by the governor and employee organizations to be the
23 exclusive representatives during collective bargaining negotiations.

24 (2) "Commission" means the (~~marine employees~~) public employment
25 relations commission created in RCW (~~47.64.280~~) 41.58.010.

26 (3) "Department of transportation" means the department as defined
27 in RCW 47.01.021.

28 (4) "Employer" means the state of Washington.

29 (5) "Ferry employee" means any employee of the marine
30 transportation division of the department of transportation who is a
31 member of a collective bargaining unit represented by a ferry employee
32 organization and does not include an exempt employee pursuant to RCW
33 41.06.079.

34 (6) "Ferry employee organization" means any labor organization
35 recognized to represent a collective bargaining unit of ferry
36 employees.

1 (7) "Lockout" means the refusal of the employer to furnish work to
2 ferry employees in an effort to get ferry employee organizations to
3 make concessions during collective bargaining, grievance, or other
4 labor relation negotiations. Curtailment of employment of ferry
5 employees due to lack of work resulting from a strike or work stoppage
6 shall not be considered a lockout.

7 (8) "Office of financial management" means the office as created in
8 RCW 43.41.050.

9 (9) "Strike or work stoppage" means a ferry employee's refusal, in
10 concerted action with others, to report to duty, or his or her willful
11 absence from his or her position, or his or her stoppage or slowdown of
12 work, or his or her abstinence in whole or in part from the full,
13 faithful, and proper performance of the duties of employment, for the
14 purpose of inducing, influencing, or coercing a change in conditions,
15 compensation, rights, privileges, or obligations of his, her, or any
16 other ferry employee's employment. A refusal, in good faith, to work
17 under conditions which pose an endangerment to the health and safety of
18 ferry employees or the public, as determined by the master of the
19 vessel, shall not be considered a strike for the purposes of this
20 chapter.

21 **Sec. 11.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are
22 each reenacted and amended to read as follows:

23 (1) Except as provided in RCW 47.60.656 and subsections (2) and (4)
24 of this section, or as provided in RCW 36.54.130 and subsection (3) of
25 this section, if any party assumes the operation and maintenance of any
26 ferry or ferry system by rent, lease, or charter from the department of
27 transportation, such party shall assume and be bound by all the
28 provisions herein and any agreement or contract for such operation of
29 any ferry or ferry system entered into by the department shall provide
30 that the wages to be paid, hours of employment, working conditions, and
31 seniority rights of employees will be established by the ((marine
32 employees)) commission in accordance with the terms and provisions of
33 this chapter and it shall further provide that all labor disputes shall
34 be adjudicated in accordance with chapter 47.64 RCW.

35 (2) If a public transportation benefit area meeting the
36 requirements of RCW 36.57A.200 has voter approval to operate passenger-
37 only ferry service, it may enter into an agreement with Washington

1 State Ferries to rent, lease, or purchase passenger-only vessels,
2 related equipment, or terminal space for purposes of loading and
3 unloading the passenger-only ferry. Charges for the vessels,
4 equipment, and space must be fair market value taking into account the
5 public benefit derived from the ferry service. A benefit area or
6 subcontractor of that benefit area that qualifies under this subsection
7 is not subject to the restrictions of subsection (1) of this section,
8 but is subject to:

9 (a) The terms of those collective bargaining agreements that it or
10 its subcontractors negotiate with the exclusive bargaining
11 representatives of its or its subcontractors' employees under chapter
12 41.56 RCW or the National Labor Relations Act, as applicable;

13 (b) Unless otherwise prohibited by federal or state law, a
14 requirement that the benefit area and any contract with its
15 subcontractors, give preferential hiring to former employees of the
16 department of transportation who separated from employment with the
17 department because of termination of the ferry service by the state of
18 Washington; and

19 (c) Unless otherwise prohibited by federal or state law, a
20 requirement that the benefit area and any contract with its
21 subcontractors, on any questions concerning representation of employees
22 for collective bargaining purposes, may be determined by conducting a
23 cross-check comparing an employee organization's membership records or
24 bargaining authorization cards against the employment records of the
25 employer.

26 (3) If a ferry district is formed under RCW 36.54.110 to operate
27 passenger-only ferry service, it may enter into an agreement with
28 Washington State Ferries to rent, lease, or purchase vessels, related
29 equipment, or terminal space for purposes of loading and unloading the
30 ferry. Charges for the vessels, equipment, and space must be fair
31 market value taking into account the public benefit derived from the
32 ferry service. A ferry district or subcontractor of that district that
33 qualifies under this subsection is not subject to the restrictions of
34 subsection (1) of this section, but is subject to:

35 (a) The terms of those collective bargaining agreements that it or
36 its subcontractors negotiate with the exclusive bargaining
37 representatives of its or its subcontractors' employees under chapter
38 41.56 RCW or the National Labor Relations Act, as applicable;

1 (b) Unless otherwise prohibited by federal or state law, a
2 requirement that the ferry district and any contract with its
3 subcontractors, give preferential hiring to former employees of the
4 department of transportation who separated from employment with the
5 department because of termination of the ferry service by the state of
6 Washington; and

7 (c) Unless otherwise prohibited by federal or state law, a
8 requirement that the ferry district and any contract with its
9 subcontractors, on any questions concerning representation of employees
10 for collective bargaining purposes, may be determined by conducting a
11 cross-check comparing an employee organization's membership records or
12 bargaining authorization cards against the employment records of the
13 employer.

14 (4) The department of transportation shall make its terminal, dock,
15 and pier space available to private operators of passenger-only ferries
16 if the space can be made available without limiting the operation of
17 car ferries operated by the department. These private operators are
18 not bound by the provisions of subsection (1) of this section. Charges
19 for the equipment and space must be fair market value taking into
20 account the public benefit derived from the passenger-only ferry
21 service.

22 **Sec. 12.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read
23 as follows:

24 An agreement with a ferry employee organization that is the
25 exclusive representative of ferry employees in an appropriate unit may
26 provide procedures for the consideration of ferry employee grievances
27 and of disputes over the interpretation and application of agreements.
28 Negotiated procedures may provide for binding arbitration of ferry
29 employee grievances and of disputes over the interpretation and
30 application of existing agreements. An arbitrator's decision on a
31 grievance shall not change or amend the terms, conditions, or
32 applications of the collective bargaining agreement. The procedures
33 shall provide for the invoking of arbitration only with the approval of
34 the employee organization. The costs of arbitrators shall be shared
35 equally by the parties.

36 Ferry system employees shall follow either the grievance procedures

1 provided in a collective bargaining agreement, or if no such procedures
2 are so provided, shall submit the grievances to the ((marine
3 employees)) commission ((as provided in RCW 47.64.280)).

4 **Sec. 13.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read
5 as follows:

6 For any matter concerning the state ferry system and employee
7 relations, collective bargaining, or labor disputes or stoppages, the
8 provisions of chapter 47.64 RCW and this chapter shall govern.
9 However, if a conflict exists between the provisions of chapter 47.64
10 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

11 **Sec. 14.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are
12 each reenacted and amended to read as follows:

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

14 (a) The members of the legislature or to any employee of, or
15 position in, the legislative branch of the state government including
16 members, officers, and employees of the legislative council, joint
17 legislative audit and review committee, statute law committee, and any
18 interim committee of the legislature;

19 (b) The justices of the supreme court, judges of the court of
20 appeals, judges of the superior courts or of the inferior courts, or to
21 any employee of, or position in the judicial branch of state
22 government;

23 (c) Officers, academic personnel, and employees of technical
24 colleges;

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

26 (e) Elective officers of the state;

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

28 (g) In the departments of employment security and social and health
29 services, the director and the director's confidential secretary; in
30 all other departments, the executive head of which is an individual
31 appointed by the governor, the director, his or her confidential
32 secretary, and his or her statutory assistant directors;

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

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

1 (ii) If the members of the board, commission, or committee serve on
2 a part-time basis and there is a statutory executive officer: The
3 secretary of the board, commission, or committee; the chief executive
4 officer of the board, commission, or committee; and the confidential
5 secretary of the chief executive officer of the board, commission, or
6 committee;

7 (iii) If the members of the board, commission, or committee serve
8 on a full-time basis: The chief executive officer or administrative
9 officer as designated by the board, commission, or committee; and a
10 confidential secretary to the chair of the board, commission, or
11 committee;

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

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

17 (j) Assistant attorneys general;

18 (k) Commissioned and enlisted personnel in the military service of
19 the state;

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

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

25 (n) Officers and employees of the Washington state fruit
26 commission;

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

28 (p) Officers and employees of the Washington state dairy products
29 commission;

30 (q) Officers and employees of the Washington tree fruit research
31 commission;

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

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

34 (t) Officers and employees of any commission formed under chapter
35 15.66 RCW;

36 (u) Officers and employees of agricultural commissions formed under
37 chapter 15.65 RCW;

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

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

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

13 (y) ~~((All employees of the marine employees' commission;~~
14 ~~(z)))~~ Staff employed by the department of ~~((community, trade, and~~
15 ~~economic development))~~ commerce to administer energy policy functions
16 and manage energy site evaluation council activities under RCW
17 43.21F.045(2)(m);

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

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

24 (a) Members of the governing board of each institution of higher
25 education and related boards, all presidents, vice presidents, and
26 their confidential secretaries, administrative, and personal
27 assistants; deans, directors, and chairs; academic personnel; and
28 executive heads of major administrative or academic divisions employed
29 by institutions of higher education; principal assistants to executive
30 heads of major administrative or academic divisions; other managerial
31 or professional employees in an institution or related board having
32 substantial responsibility for directing or controlling program
33 operations and accountable for allocation of resources and program
34 results, or for the formulation of institutional policy, or for
35 carrying out personnel administration or labor relations functions,
36 legislative relations, public information, development, senior computer
37 systems and network programming, or internal audits and investigations;
38 and any employee of a community college district whose place of work is

1 one which is physically located outside the state of Washington and who
2 is employed pursuant to RCW 28B.50.092 and assigned to an educational
3 program operating outside of the state of Washington;

4 (b) The governing board of each institution, and related boards,
5 may also exempt from this chapter classifications involving research
6 activities, counseling of students, extension or continuing education
7 activities, graphic arts or publications activities requiring
8 prescribed academic preparation or special training as determined by
9 the board: PROVIDED, That no nonacademic employee engaged in office,
10 clerical, maintenance, or food and trade services may be exempted by
11 the board under this provision;

12 (c) Printing craft employees in the department of printing at the
13 University of Washington.

14 (3) In addition to the exemptions specifically provided by this
15 chapter, the director of personnel may provide for further exemptions
16 pursuant to the following procedures. The governor or other
17 appropriate elected official may submit requests for exemption to the
18 director of personnel stating the reasons for requesting such
19 exemptions. The director of personnel shall hold a public hearing,
20 after proper notice, on requests submitted pursuant to this subsection.
21 If the director determines that the position for which exemption is
22 requested is one involving substantial responsibility for the
23 formulation of basic agency or executive policy or one involving
24 directing and controlling program operations of an agency or a major
25 administrative division thereof, the director of personnel shall grant
26 the request and such determination shall be final as to any decision
27 made before July 1, 1993. The total number of additional exemptions
28 permitted under this subsection shall not exceed one percent of the
29 number of employees in the classified service not including employees
30 of institutions of higher education and related boards for those
31 agencies not directly under the authority of any elected public
32 official other than the governor, and shall not exceed a total of
33 twenty-five for all agencies under the authority of elected public
34 officials other than the governor.

35 The salary and fringe benefits of all positions presently or
36 hereafter exempted except for the chief executive officer of each
37 agency, full-time members of boards and commissions, administrative
38 assistants and confidential secretaries in the immediate office of an

1 elected state official, and the personnel listed in subsections (1)(j)
2 through (v) (~~and (y)~~) and (2) of this section, shall be determined by
3 the director of personnel. Changes to the classification plan
4 affecting exempt salaries must meet the same provisions for classified
5 salary increases resulting from adjustments to the classification plan
6 as outlined in RCW 41.06.152.

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

10 Any person holding a classified position subject to the provisions
11 of this chapter shall, when and if such position is subsequently
12 exempted from the application of this chapter, be afforded the
13 following rights: If such person previously held permanent status in
14 another classified position, such person shall have a right of
15 reversion to the highest class of position previously held, or to a
16 position of similar nature and salary.

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

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

24 NEW SECTION. **Sec. 15.** RCW 47.64.280 (Marine employees'
25 commission) and 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19 are
26 each repealed.

27 NEW SECTION. **Sec. 16.** (1) The marine employees' commission is
28 hereby abolished and its powers, duties, and functions are hereby
29 transferred to the public employment relations commission.

30 (2)(a) All reports, documents, surveys, books, records, files,
31 papers, or written material in the possession of the marine employees'
32 commission shall be delivered to the custody of the public employment
33 relations commission. All cabinets, furniture, office equipment, motor
34 vehicles, and other tangible property employed by the marine employees'
35 commission shall be made available to the public employment relations

1 commission. All funds, credits, or other assets held by the marine
2 employees' commission shall be assigned to the public employment
3 relations commission.

4 (b) Any appropriations made to the marine employees' commission
5 shall, on the effective date of this section, be transferred and
6 credited to the public employment relations commission.

7 (c) If any question arises as to the transfer of any funds, books,
8 documents, records, papers, files, equipment, or other tangible
9 property used or held in the exercise of the powers and the performance
10 of the duties and functions transferred, the director of financial
11 management shall make a determination as to the proper allocation and
12 certify the same to the state agencies concerned.

13 (3) All rules and all pending business before the marine employees'
14 commission shall be continued and acted upon by the public employment
15 relations commission. All existing contracts and obligations shall
16 remain in full force and shall be performed by the public employment
17 relations commission.

18 (4) The transfer of the powers, duties, and functions of the marine
19 employees' commission shall not affect the validity of any act
20 performed before the effective date of this section.

21 (5) If apportionments of budgeted funds are required because of the
22 transfers directed by this section, the director of financial
23 management shall certify the apportionments to the agencies affected,
24 the state auditor, and the state treasurer. Each of these shall make
25 the appropriate transfer and adjustments in funds and appropriation
26 accounts and equipment records in accordance with the certification.

27 NEW SECTION. **Sec. 17.** This act takes effect July 1, 2010.

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