

Governor shall make a temporary appointment to fill the vacancy from a list of three names submitted by the state central committee of the same political party as the Senator holding the office prior to the vacancy. This procedure represents a very substantial departure from the tradition existing in this state since the beginning of popular elections for United States Senators. No other state in the Nation has such a provision and our state would stand alone in the procedure by which the Governor fills the vacancy in the office of United States Senator.

Veto
Message

I believe that in the election and appointment of federal and national offices there should be some consistency nationwide and it would be inappropriate for the State of Washington to differ in its practice from the other states.

For the foregoing reasons, I have determined to veto Section 2 of the bill. With the exception of that section, the remainder of the bill is approved."

CHAPTER 37

[Engrossed Substitute Senate Bill No. 2603]

ECONOMIC IMPACT ACT

AN ACT Relating to state government; setting forth an economic impact act for the state of Washington; adding a new chapter to Title 43 RCW; and declaring an emergency.

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

NEW SECTION. Section 1. When either for fiscal reasons, obsolescence or other extraordinary reasons, it becomes necessary to close a state facility, as defined by section 2 (2), the state has a responsibility to provide certain benefits to affected employees.

It is the purpose of this chapter to establish an economic impact act for the state of Washington to meet the emergency situation now in existence for state employees affected by the closure of state facilities, as defined in section 2 of this 1973 act.

NEW SECTION. Sec. 2. For purposes of this chapter:

(1) "Employees" includes those persons performing services for the state on a salaried or hourly basis including, but not limited to, persons in "classified service" as defined in RCW 41.06.020 (3) and those persons defined as exempt from the state civil service laws pursuant to RCW 41.06.070.

(2) The term "closure of a state facility" means the termination of services being provided by a facility operated by the department of social and health services or in conjunction with the department of natural resources, when such facility is terminated for fiscal reasons, obsolescence, or other extraordinary reasons and where vacancies in the same or a like job classification and at not more than one full range lower than the same salary range are not available to affected state employees.

(3) "Classified employees" means those employees performing classified service as defined in RCW 41.06.020(3).

NEW SECTION. Sec. 3. Excluded employment and excluded employees under this chapter include, but are not limited to, the following:

(1) State employment related to a single project under a program separately financed by a grant of nonstate funds, federal funds or state funds, or by a combination of such funding, which is designed to provide training or employment opportunities, expertise or additional manpower related to the project or which, because of the nature of the project funding requirements, is not intended as a permanent program.

(2) Activities at least seventy-five percent federally funded by a categorical grant for a specific purpose and any other activities terminated because of actions taken by the federal government or other funding sources other than the state of Washington in eliminating or substantially limiting funding sources, except to the extent that the federal government or such other funding sources may permit the use of nonstate funds to pay for any employee benefits authorized pursuant to this chapter.

(3) The following categories of employees are excluded from benefits under this chapter:

(a) employees refusing transfer to vacant positions in the same or a like job classification and at not more than one full range lower than the same salary range;

(b) classified employees having other than permanent status in the classified service;

(c) employees having less than three years' consecutive state service as an employee, except that such employees shall nonetheless be eligible for the benefits provided in subsections (1), (2), (4) and (5) of section 4 of this 1973 act.

(d) nothing in this chapter shall affect any other rights currently held by classified employees regarding reduction in force procedures and subsequent reemployment.

NEW SECTION. Sec. 4. In order to carry out the purposes of this chapter, the state shall take every reasonable step at its disposal to provide alternative employment and to minimize the

economic loss of state employees affected by the closure of state facilities. Affected state employees shall be paid benefits as specified in this section.

(1) Relocation expenses covering the movement of household goods, incurred by the necessity of an employee moving his domicile to be within reasonable commuting distance of a new job site, shall be paid by the state to employees transferring to other state employment by reason of the closure of a facility.

(2) Relocation leave shall be allowed up to five working days' leave with pay for the purpose of locating new residence in the area of employment.

(3) The state shall reimburse the transferring employee to the extent of any unavoidable financial loss suffered by an employee who sells his home at a price less than the true and fair market value as determined by the county assessor not exceeding three thousand dollars: PROVIDED, That this right of reimbursement must be exercised, and sale of the property must be accomplished, within a period of two years from the date other state employment is accepted.

(4) For employees in facilities which have been terminated who do not choose to participate in the transfer program set forth in the preceding subsections, the following terminal pay plan shall be available:

(a) For qualifying employees, for each one year of continuous state service, one week (five working days) of regular compensation shall be provided.

(b) Regular compensation as used in subsection (a) hereof shall include salary compensation at the rate being paid to the employees at the time operation of the facility is terminated.

(c) Terminal pay as set forth in subsections (a) and (b) hereof shall be paid to the employee at the termination of the employees last month of employment or within thirty days after the effective date of this 1973 act, whichever is later: PROVIDED, That from the total amount of terminal pay, the average sum of unemployment compensation that the qualifying employee is eligible to receive multiplied by the total number of weeks of terminal pay minus one week shall be deducted.

(d) Those employees electing the early retirement benefits as stated in subsection (5) of this section shall not be eligible for the terminal pay provisions as set forth in this subsection.

(e) Those employees who are reemployed by the state during the period they are receiving terminal pay pursuant to subsections (a), (b) and (c) of this section shall reimburse the state for that portion of the terminal pay covered by the period of new employment.

(5) As an option to transferring to other state employment an employee may elect early retirement under the following conditions:

V- PROVIDED, That such election shall be made within thirty days of termination:

(a) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this act who has attained the age of fifty-five years, with at least five years creditable service, shall be immediately eligible to retire, with no actuarial reduction in the amount of his pension benefit.

(b) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this act who has attained the age of forty-five years, with at least five years creditable service, shall be immediately eligible to retire with an actuarial reduction in the amount of his pension benefit of three percent for each complete year that such employee is under fifty-five years of age.

(c) Employees who elect to retire pursuant to RCW 41.40.180 shall be eligible to retire while on authorized leave of absence not in excess of one hundred and twenty days.

(d) Employees who elect to retire under the provisions of this section shall not be eligible for any retirement benefit in a V- calendar year following a calendar year in which their employment income was in excess of \$6,000. This \$6,000 base shall be adjusted annually beginning in 1974 by such cost of living adjustments as are applied by the Public Employees' Retirement System to membership retirement benefits. The public employees retirement system board shall adopt necessary rules and regulations to implement the provisions of this subsection.

NEW SECTION. Sec. 5. (1) Notwithstanding any other provision of this chapter employees affected by the closure of a state facility as defined in section 2(2) of this 1973 act who were employed as of May 1, 1973 at such facility, and who are still in employment of the state or on an official leave of absence as of the effective date of this 1973 act who would otherwise qualify for the enumerated benefits of this act are hereby declared eligible for such benefits under the following conditions:

(a) such employee must be actively employed by the state of Washington or on an official leave of absence on the effective date of this 1973 act, and unless the early retirement or terminal pay provisions of this chapter are elected, continue to be employed or to be available for employment in a same or like job classification at not less than one full range lower than the same salary range for a period of at least thirty days thereafter;

(b) such employee must give written notice of his election to avail himself of such benefits within thirty days after the passage of this 1973 act or upon closure of the institution, whichever is later.

NEW SECTION. Sec. 6. In order to reimburse the public

employees' retirement system for any increased costs occasioned by the provisions of this 1973 act which affect the retirement system, the public employees' retirement board shall, within thirty days of the date upon which any affected employee elects to take advantage of the retirement provisions of this 1973 act, determine the increased present and future cost to the retirement system of such employee's election. Upon the determination of the amount necessary to offset said increased cost, the retirement board shall bill the department of personnel for the amount of the increased cost: PROVIDED, That such billing shall not exceed \$861,000. Such billing shall be paid by the department as, and the same shall be, a proper charge against any moneys available or appropriated to the department for this purpose.

NEW SECTION. Sec. 7. Sections 1 through 6 and 9 of this 1973 act shall be added to Title 43 RCW as a new chapter thereof.

NEW SECTION. Sec. 8. If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. This 1973 act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions and shall take effect immediately: PROVIDED HOWEVER, That each of the provisions of this 1973 act shall be operative and in effect only for employees of those state facilities closed after May 1, 1973 and prior to September 14, 1974: PROVIDED FURTHER, That benefits under section 4(3) of this 1973 act shall be available until September 14, 1975.

Passed the Senate September 14, 1973.

Passed the House September 13, 1973.

Approved by the Governor September 26, 1973 with the exception of certain items which are vetoed.

Filed in Office of Secretary of State September 27, 1973.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to certain items Engrossed Substitute Senate Bill No. 2603
entitled: Veto
Message

"An ACT Relating to state government; setting forth an economic impact act for the state of Washington."

This act establishes the policy of the state to assist state employees whose jobs are terminated by closure

of state institutions by providing relocation expenses and reimbursement for limited amounts of financial losses on sales of homes required by relocation. It further provides eligible employees not electing to relocate termination pay and early retirement benefits. Veto
Message

Section 2 (2) of the act defines the term "closure of a state facility". The definition is needlessly complicated, however, by an item relating to availability of vacancies at other locations, the presumed intent of which is adequately covered in Section 3 (3). Accordingly, I have vetoed that item.

Section 4 (5) provides the conditions under which an affected employee may elect early retirement over relocation. A proviso in that subsection requires that the employee make his election within thirty days of termination. The effect of this proviso is to preclude affected employees at state institutions which were closed earlier this year, such as Northern State Hospital, from ever exercising the election of early retirement since thirty days have already expired since they were terminated by reason of the closure of the state institution. The presumed intent of this proviso is contained in Section 5 (1) (b) which requires the employee to make his election within thirty days after the passage of this act or upon closure of the institution, whichever is later. I have therefore vetoed the proviso in Section 4 (5), commencing at page 4, line 17, and ending on line 18.

Section 4 (5) (d) is intended to prevent the situation from occurring where an employee avails himself of the early retirement benefits of the act while earning over \$6,000 a year in other employment. As written, however, the effect of this subsection is to require that those employees eligible for early retirement under the act to spend two consecutive calendar years with income of less than \$6,000 in each calendar year before receiving retirement benefits. The items referring to the two consecutive calendar years with income of less than \$6,000 in each calendar year before an eligible employee may receive retirement benefits are clearly contrary to the intent of this act to provide immediate benefits to displaced employees. Accordingly, I have determined to veto those items.

It has further come to my attention that an ambiguity may exist in the language of Section 4 (4) (c) relating to terminal pay benefits. Specifically, the proviso in that subsection on page 4, lines 3 through 7, could possibly be construed to mean that a qualifying employee is entitled to full terminal pay even if he or she may have been working at other employment during a leave of absence since the closure of the state institution. Such employee might thereby be in a position to receive full terminal pay in addition to the outside income, which is a consequence not intended by this bill. The intent of the bill is to accord terminal pay benefits to a qualified employee reduced by the amounts of unemployment compensation actually received or which would have been received had the employee been eligible for unemployment compensation.

Veto
Message

With the exceptions noted above, I have approved the remainder of Engrossed Substitute Senate Bill No. 2603."

CHAPTER 38

[Senate Bill No. 2942]

CONTROLLED SUBSTANCES--DEFINITIONS--
NEGLIGENT HOMICIDE BY MOTOR VEHICLE

AN ACT Relating to controlled substances; amending section 69.50.101, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.101; amending section 46.56.040, chapter 12, Laws of 1961 as last amended by section 5, chapter 49, Laws of 1970 1st ex. sess. and RCW 46.61.520; and declaring an emergency.

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

Section 1. Section 69.50.101, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.101 are each amended to read as follows:

As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(1) a practitioner, or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.