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**SUBSTITUTE HOUSE BILL 1299**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Dolan, Doglio, Jinkins, Sells, Kilduff, Gregerson, Peterson, Goodman, Valdez, Riccelli, Macri, Frame, Appleton, Fitzgibbon, Tharinger, Ryu, Stanford, Hudgins, Lekanoff, Bergquist, Leavitt, Ormsby, and Pollet)

1 AN ACT Relating to extending collective bargaining rights to  
2 assistant attorneys general; amending RCW 41.80.005, 41.80.010,  
3 43.10.070, and 43.10.060; adding a new section to chapter 41.80 RCW;  
4 and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the legal  
7 services provided by assistant attorneys general in the office of the  
8 attorney general are crucial to the ability of the state officials,  
9 agencies, colleges, boards, and commissions to function and fulfill  
10 their obligations to the citizens of the state. Assistant attorneys  
11 general are exempt from civil service under RCW 41.06.070. The  
12 assistant attorneys general currently have no mechanism through which  
13 to collectively bargain for salary increases. The legislature finds  
14 the office of the attorney general has experienced increased  
15 difficulty recruiting and retaining attorneys due to the disparity in  
16 wages paid to assistant attorneys general as compared to attorneys in  
17 other public sector positions. This type of turnover is costly to the  
18 office of the attorney general, negatively impacts morale, interferes  
19 with the ability of the office to succession plan, and ultimately  
20 harms the citizens of this state. Therefore, it is the legislature's  
21 intent to empower assistant attorneys general to collectively bargain

1 for fair wages that will foster job satisfaction and the highest  
2 standards of professional competence among assistant attorneys  
3 general.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.80  
5 RCW to read as follows:

6 (1) In addition to the agencies defined in RCW 41.80.005 and  
7 subject to the provisions of this section, this chapter applies to  
8 assistant attorneys general.

9 (2)(a) Assistant attorneys general who are not otherwise excluded  
10 from bargaining under (b) of this subsection are granted the right to  
11 collectively bargain.

12 (b) Division chiefs, deputy attorneys general, the solicitor  
13 general, assistant attorneys general in the labor and personnel  
14 division, special assistant attorneys general, confidential employees  
15 as defined in RCW 41.80.005, and any assistant or deputy attorney  
16 general who reports directly to the attorney general are excluded  
17 from this section and do not have the right to collectively bargain.

18 (3) The only unit appropriate for the purpose of collective  
19 bargaining under this chapter is a statewide unit of all assistant  
20 attorneys general not otherwise excluded from bargaining.

21 (4) The governor or the governor's designee and an exclusive  
22 bargaining representative shall negotiate one master collective  
23 bargaining agreement for assistant attorneys general.

24 **Sec. 3.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each  
25 amended to read as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout this chapter.

28 (1) "Agency" means any agency as defined in RCW 41.06.020 and  
29 covered by chapter 41.06 RCW. "Agency" also includes the assistant  
30 attorneys general of the attorney general's office, regardless of  
31 whether those employees are exempt under chapter 41.06 RCW.

32 (2) "Collective bargaining" means the performance of the mutual  
33 obligation of the representatives of the employer and the exclusive  
34 bargaining representative to meet at reasonable times and to bargain  
35 in good faith in an effort to reach agreement with respect to the  
36 subjects of bargaining specified under RCW 41.80.020. The obligation  
37 to bargain does not compel either party to agree to a proposal or to  
38 make a concession, except as otherwise provided in this chapter.

1 (3) "Commission" means the public employment relations  
2 commission.

3 (4) "Confidential employee" means an employee who, in the regular  
4 course of his or her duties, assists in a confidential capacity  
5 persons who formulate, determine, and effectuate management policies  
6 with regard to labor relations or who, in the regular course of his  
7 or her duties, has authorized access to information relating to the  
8 effectuation or review of the employer's collective bargaining  
9 policies, or who assists or aids a manager. "Confidential employee"  
10 also includes employees who assist assistant attorneys general who  
11 advise and represent managers or confidential employees in personnel  
12 or labor relations matters, or who advise or represent the state in  
13 tort actions.

14 (5) "Director" means the director of the public employment  
15 relations commission.

16 (6) "Employee" means any employee, including employees whose work  
17 has ceased in connection with the pursuit of lawful activities  
18 protected by this chapter, covered by chapter 41.06 RCW(~~(, except)~~).  
19 "Employee" includes assistant attorneys general of the office of the  
20 attorney general, regardless of their exemption under chapter 41.06  
21 RCW. "Employee" does not include:

22 (a) Employees covered for collective bargaining by chapter 41.56  
23 RCW;

24 (b) Confidential employees;

25 (c) Members of the Washington management service;

26 (d) Internal auditors in any agency; or

27 (e) Any employee of the commission, the office of financial  
28 management, or the office of risk management within the department of  
29 enterprise services.

30 (7) "Employee organization" means any organization, union, or  
31 association in which employees participate and that exists for the  
32 purpose, in whole or in part, of collective bargaining with  
33 employers.

34 (8) "Employer" means the state of Washington.

35 (9) "Exclusive bargaining representative" means any employee  
36 organization that has been certified under this chapter as the  
37 representative of the employees in an appropriate bargaining unit.

38 (10) "Institutions of higher education" means the University of  
39 Washington, Washington State University, Central Washington  
40 University, Eastern Washington University, Western Washington

1 University, The Evergreen State College, and the various state  
2 community colleges.

3 (11) "Labor dispute" means any controversy concerning terms,  
4 tenure, or conditions of employment, or concerning the association or  
5 representation of persons in negotiating, fixing, maintaining,  
6 changing, or seeking to arrange terms or conditions of employment  
7 with respect to the subjects of bargaining provided in this chapter,  
8 regardless of whether the disputants stand in the proximate relation  
9 of employer and employee.

10 (12) "Manager" means "manager" as defined in RCW 41.06.022.

11 (13) "Supervisor" means an employee who has authority, in the  
12 interest of the employer, to hire, transfer, suspend, lay off,  
13 recall, promote, discharge, direct, reward, or discipline employees,  
14 or to adjust employee grievances, or effectively to recommend such  
15 action, if the exercise of the authority is not of a merely routine  
16 nature but requires the consistent exercise of individual judgment.  
17 However, no employee who is a member of the Washington management  
18 service may be included in a collective bargaining unit established  
19 under this section.

20 (14) "Unfair labor practice" means any unfair labor practice  
21 listed in RCW 41.80.110.

22 **Sec. 4.** RCW 41.80.010 and 2017 3rd sp.s. c 23 s 3 are each  
23 amended to read as follows:

24 (1) For the purpose of negotiating collective bargaining  
25 agreements under this chapter, the employer shall be represented by  
26 the governor or governor's designee, except as provided for  
27 institutions of higher education in subsection (4) of this section.

28 (2)(a) Except as otherwise provided, if an exclusive bargaining  
29 representative represents more than one bargaining unit, the  
30 exclusive bargaining representative shall negotiate with each  
31 employer representative as designated in subsection (1) of this  
32 section one master collective bargaining agreement on behalf of all  
33 the employees in bargaining units that the exclusive bargaining  
34 representative represents. For those exclusive bargaining  
35 representatives who represent fewer than a total of five hundred  
36 employees each, negotiation shall be by a coalition of all those  
37 exclusive bargaining representatives. The coalition shall bargain for  
38 a master collective bargaining agreement covering all of the  
39 employees represented by the coalition. The governor's designee and

1 the exclusive bargaining representative or representatives are  
2 authorized to enter into supplemental bargaining of agency-specific  
3 issues for inclusion in or as an addendum to the master collective  
4 bargaining agreement, subject to the parties' agreement regarding the  
5 issues and procedures for supplemental bargaining. This section does  
6 not prohibit cooperation and coordination of bargaining between two  
7 or more exclusive bargaining representatives.

8 (b) This subsection (2) does not apply to exclusive bargaining  
9 representatives who represent employees of institutions of higher  
10 education, except when the institution of higher education has  
11 elected to exercise its option under subsection (4) of this section  
12 to have its negotiations conducted by the governor or governor's  
13 designee under the procedures provided for general government  
14 agencies in subsections (1) through (3) of this section.

15 (c) If five hundred or more employees of an independent state  
16 elected official listed in RCW 43.01.010 are organized in a  
17 bargaining unit or bargaining units under RCW 41.80.070, the official  
18 shall be consulted by the governor or the governor's designee before  
19 any agreement is reached under (a) of this subsection concerning  
20 supplemental bargaining of agency specific issues affecting the  
21 employees in such bargaining unit.

22 (d) For assistant attorneys general, the governor or the  
23 governor's designee and an exclusive bargaining representative shall  
24 negotiate one master collective bargaining agreement.

25 (3) The governor shall submit a request for funds necessary to  
26 implement the compensation and fringe benefit provisions in the  
27 master collective bargaining agreement or for legislation necessary  
28 to implement the agreement. Requests for funds necessary to implement  
29 the provisions of bargaining agreements shall not be submitted to the  
30 legislature by the governor unless such requests:

31 (a) Have been submitted to the director of the office of  
32 financial management by October 1 prior to the legislative session at  
33 which the requests are to be considered; and

34 (b) Have been certified by the director of the office of  
35 financial management as being feasible financially for the state.

36 The legislature shall approve or reject the submission of the  
37 request for funds as a whole. The legislature shall not consider a  
38 request for funds to implement a collective bargaining agreement  
39 unless the request is transmitted to the legislature as part of the  
40 governor's budget document submitted under RCW 43.88.030 and

1 43.88.060. If the legislature rejects or fails to act on the  
2 submission, either party may reopen all or part of the agreement or  
3 the exclusive bargaining representative may seek to implement the  
4 procedures provided for in RCW 41.80.090.

5 (4) (a) (i) For the purpose of negotiating agreements for  
6 institutions of higher education, the employer shall be the  
7 respective governing board of each of the universities, colleges, or  
8 community colleges or a designee chosen by the board to negotiate on  
9 its behalf.

10 (ii) A governing board of a university or college may elect to  
11 have its negotiations conducted by the governor or governor's  
12 designee under the procedures provided for general government  
13 agencies in subsections (1) through (3) of this section, except that:

14 (A) The governor or the governor's designee and an exclusive  
15 bargaining representative shall negotiate one master collective  
16 bargaining agreement for all of the bargaining units of employees of  
17 a university or college that the representative represents; or

18 (B) If the parties mutually agree, the governor or the governor's  
19 designee and an exclusive bargaining representative shall negotiate  
20 one master collective bargaining agreement for all of the bargaining  
21 units of employees of more than one university or college that the  
22 representative represents.

23 (iii) A governing board of a community college may elect to have  
24 its negotiations conducted by the governor or governor's designee  
25 under the procedures provided for general government agencies in  
26 subsections (1) through (3) of this section.

27 (b) Prior to entering into negotiations under this chapter, the  
28 institutions of higher education or their designees shall consult  
29 with the director of the office of financial management regarding  
30 financial and budgetary issues that are likely to arise in the  
31 impending negotiations.

32 (c) (i) In the case of bargaining agreements reached between  
33 institutions of higher education other than the University of  
34 Washington and exclusive bargaining representatives agreed to under  
35 the provisions of this chapter, if appropriations are necessary to  
36 implement the compensation and fringe benefit provisions of the  
37 bargaining agreements, the governor shall submit a request for such  
38 funds to the legislature according to the provisions of subsection  
39 (3) of this section, except as provided in (c) (iii) of this  
40 subsection.

1 (ii) In the case of bargaining agreements reached between the  
2 University of Washington and exclusive bargaining representatives  
3 agreed to under the provisions of this chapter, if appropriations are  
4 necessary to implement the compensation and fringe benefit provisions  
5 of a bargaining agreement, the governor shall submit a request for  
6 such funds to the legislature according to the provisions of  
7 subsection (3) of this section, except as provided in this subsection  
8 (4)(c)(ii) and as provided in (c)(iii) of this subsection.

9 (A) If appropriations of less than ten thousand dollars are  
10 necessary to implement the provisions of a bargaining agreement, a  
11 request for such funds shall not be submitted to the legislature by  
12 the governor unless the request has been submitted to the director of  
13 the office of financial management by October 1 prior to the  
14 legislative session at which the request is to be considered.

15 (B) If appropriations of ten thousand dollars or more are  
16 necessary to implement the provisions of a bargaining agreement, a  
17 request for such funds shall not be submitted to the legislature by  
18 the governor unless the request:

19 (I) Has been submitted to the director of the office of financial  
20 management by October 1 prior to the legislative session at which the  
21 request is to be considered; and

22 (II) Has been certified by the director of the office of  
23 financial management as being feasible financially for the state.

24 (C) If the director of the office of financial management does  
25 not certify a request under (c)(ii)(B) of this subsection as being  
26 feasible financially for the state, the parties shall enter into  
27 collective bargaining solely for the purpose of reaching a mutually  
28 agreed upon modification of the agreement necessary to address the  
29 absence of those requested funds. The legislature may act upon the  
30 compensation and fringe benefit provisions of the modified collective  
31 bargaining agreement if those provisions are agreed upon and  
32 submitted to the office of financial management and legislative  
33 budget committees before final legislative action on the biennial or  
34 supplemental operating budget by the sitting legislature.

35 (iii) In the case of a bargaining unit of employees of  
36 institutions of higher education in which the exclusive bargaining  
37 representative is certified during or after the conclusion of a  
38 legislative session, the legislature may act upon the compensation  
39 and fringe benefit provisions of the unit's initial collective  
40 bargaining agreement if those provisions are agreed upon and

1 submitted to the office of financial management and legislative  
2 budget committees before final legislative action on the biennial or  
3 supplemental operating budget by the sitting legislature.

4 (5) If, after the compensation and fringe benefit provisions of  
5 an agreement are approved by the legislature, a significant revenue  
6 shortfall occurs resulting in reduced appropriations, as declared by  
7 proclamation of the governor or by resolution of the legislature,  
8 both parties shall immediately enter into collective bargaining for a  
9 mutually agreed upon modification of the agreement.

10 (6) After the expiration date of a collective bargaining  
11 agreement negotiated under this chapter, all of the terms and  
12 conditions specified in the collective bargaining agreement remain in  
13 effect until the effective date of a subsequently negotiated  
14 agreement, not to exceed one year from the expiration date stated in  
15 the agreement. Thereafter, the employer may unilaterally implement  
16 according to law.

17 (7) For the 2013-2015 fiscal biennium, a collective bargaining  
18 agreement related to employee health care benefits negotiated between  
19 the employer and coalition pursuant to RCW 41.80.020(3) regarding the  
20 dollar amount expended on behalf of each employee shall be a separate  
21 agreement for which the governor may request funds necessary to  
22 implement the agreement. The legislature may act upon a 2013-2015  
23 collective bargaining agreement related to employee health care  
24 benefits if an agreement is reached and submitted to the office of  
25 financial management and legislative budget committees before final  
26 legislative action on the biennial or supplemental operating  
27 appropriations act by the sitting legislature.

28 (8)(a) For the 2015-2017 fiscal biennium, the governor may  
29 request funds to implement:

30 (i) Modifications to collective bargaining agreements as set  
31 forth in a memorandum of understanding negotiated between the  
32 employer and the service employees international union healthcare  
33 1199nw, an exclusive bargaining representative, that was necessitated  
34 by an emergency situation or an imminent jeopardy determination by  
35 the center for medicare and medicaid services that relates to the  
36 safety or health of the clients, employees, or both the clients and  
37 employees.

38 (ii) Unilaterally implemented modifications to collective  
39 bargaining agreements, resulting from the employer being prohibited  
40 from negotiating with an exclusive bargaining representative due to a

1 pending representation petition, necessitated by an emergency  
2 situation or an imminent jeopardy determination by the center for  
3 medicare and medicaid services that relates to the safety or health  
4 of the clients, employees, or both the clients and employees.

5 (iii) Modifications to collective bargaining agreements as set  
6 forth in a memorandum of understanding negotiated between the  
7 employer and the union of physicians of Washington, an exclusive  
8 bargaining representative, that was necessitated by an emergency  
9 situation or an imminent jeopardy determination by the center for  
10 medicare and medicaid services that relates to the safety or health  
11 of the clients, employees, or both the clients and employees. If the  
12 memorandum of understanding submitted to the legislature as part of  
13 the governor's budget document is rejected by the legislature, and  
14 the parties reach a new memorandum of understanding by June 30, 2016,  
15 within the funds, conditions, and limitations provided in section  
16 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of  
17 understanding shall be considered approved by the legislature and may  
18 be retroactive to December 1, 2015.

19 (iv) Modifications to collective bargaining agreements as set  
20 forth in a memorandum of understanding negotiated between the  
21 employer and the teamsters union local 117, an exclusive bargaining  
22 representative, for salary adjustments for the state employee job  
23 classifications of psychiatrist, psychiatric social worker, and  
24 psychologist.

25 (b) For the 2015-2017 fiscal biennium, the legislature may act  
26 upon the request for funds for modifications to a 2015-2017  
27 collective bargaining agreement under (a) (i), (ii), (iii), and (iv)  
28 of this subsection if funds are requested by the governor before  
29 final legislative action on the supplemental omnibus appropriations  
30 act by the sitting legislature.

31 (c) The request for funding made under this subsection and any  
32 action by the legislature taken pursuant to this subsection is  
33 limited to the modifications described in this subsection and may not  
34 otherwise affect the original terms of the 2015-2017 collective  
35 bargaining agreement.

36 (d) Subsection (3) (a) and (b) of this section do not apply to  
37 requests for funding made pursuant to this subsection.

38 **Sec. 5.** RCW 43.10.070 and 1965 c 8 s 43.10.070 are each amended  
39 to read as follows:

1       Subject to any collective bargaining agreement, the attorney  
2 general shall fix the compensation of all assistants, attorneys, and  
3 employees, and in the event they are assigned to any department,  
4 board, or commission, such department, board, or commission shall pay  
5 the compensation as fixed by the attorney general, not however in  
6 excess of the amount made available to the department by law for  
7 legal services.

8       **Sec. 6.** RCW 43.10.060 and 2009 c 549 s 5049 are each amended to  
9 read as follows:

10       The attorney general may appoint necessary assistants(~~(, who~~  
11 ~~shall hold office at his or her pleasure, and)~~) who shall have the  
12 power to perform any act which the attorney general is authorized by  
13 law to perform. Subject to any collective bargaining agreement,  
14 assistants shall hold office at the attorney general's pleasure.

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