
SENATE BILL 5691

State of Washington

66th Legislature

2019 Regular Session

By Senators Saldaña, Llias, Hunt, Wellman, and Keiser

1 AN ACT Relating to extending collective bargaining rights to
2 employees of the legislative branch of state government; amending RCW
3 41.80.005 and 41.80.010; and adding new sections to chapter 41.80
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.80
7 RCW to read as follows:

8 (1) Except as otherwise provided, this chapter applies to
9 permanent employees of the legislative branch of the state
10 government, the joint legislative audit and review committee, and the
11 statute law committee.

12 (2) This chapter does not apply to:

13 (a) Elected members of the legislature;

14 (b) The chief clerk, deputy chief clerk, secretary of the senate,
15 and deputy secretary of the senate;

16 (c) Counsel for the house of representatives and senate;

17 (d) Directors and assistant directors of legislative staff work
18 groups; or

19 (e) Employees hired on a temporary or seasonal basis.

1 **Sec. 2.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each
2 amended to read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Agency" means any agency as defined in RCW 41.06.020 and
6 covered by chapter 41.06 RCW. "Agency" includes the legislative
7 branch of the state government, as described in section 1 of this
8 act, regardless of whether the employees of that agency are covered
9 by chapter 41.06 RCW.

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

17 (3) "Commission" means the public employment relations
18 commission.

19 (4) "Confidential employee" means an employee who, in the regular
20 course of his or her duties, assists in a confidential capacity
21 persons who formulate, determine, and effectuate management policies
22 with regard to labor relations or who, in the regular course of his
23 or her duties, has authorized access to information relating to the
24 effectuation or review of the employer's collective bargaining
25 policies, or who assists or aids a manager. "Confidential employee"
26 also includes employees who assist assistant attorneys general who
27 advise and represent managers or confidential employees in personnel
28 or labor relations matters, or who advise or represent the state in
29 tort actions.

30 (5) "Director" means the director of the public employment
31 relations commission.

32 (6) "Employee" means any employee, including employees whose work
33 has ceased in connection with the pursuit of lawful activities
34 protected by this chapter, covered by chapter 41.06 RCW, except:

35 (a) Employees covered for collective bargaining by chapter 41.56
36 RCW;

37 (b) Confidential employees;

38 (c) Members of the Washington management service;

39 (d) Internal auditors in any agency; or

1 (e) Any employee of the commission, the office of financial
2 management, or the office of risk management within the department of
3 enterprise services.

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

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

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

12 (10) "Institutions of higher education" means the University of
13 Washington, Washington State University, Central Washington
14 University, Eastern Washington University, Western Washington
15 University, The Evergreen State College, and the various state
16 community colleges.

17 (11) "Labor dispute" means any controversy concerning terms,
18 tenure, or conditions of employment, or concerning the association or
19 representation of persons in negotiating, fixing, maintaining,
20 changing, or seeking to arrange terms or conditions of employment
21 with respect to the subjects of bargaining provided in this chapter,
22 regardless of whether the disputants stand in the proximate relation
23 of employer and employee.

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

25 (13) "Supervisor" means an employee who has authority, in the
26 interest of the employer, to hire, transfer, suspend, lay off,
27 recall, promote, discharge, direct, reward, or discipline employees,
28 or to adjust employee grievances, or effectively to recommend such
29 action, if the exercise of the authority is not of a merely routine
30 nature but requires the consistent exercise of individual judgment.
31 However, no employee who is a member of the Washington management
32 service may be included in a collective bargaining unit established
33 under this section.

34 (14) "Unfair labor practice" means any unfair labor practice
35 listed in RCW 41.80.110.

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

38 (1) For the purpose of negotiating collective bargaining
39 agreements under this chapter, the employer shall be represented by

1 the governor or governor's designee, except as provided for
2 institutions of higher education in subsection (4) of this section
3 and for legislative employees in section 4 of this act.

4 (2) (a) If an exclusive bargaining representative represents more
5 than one bargaining unit, the exclusive bargaining representative
6 shall negotiate with each employer representative as designated in
7 subsection (1) of this section one master collective bargaining
8 agreement on behalf of all the employees in bargaining units that the
9 exclusive bargaining representative represents. For those exclusive
10 bargaining representatives who represent fewer than a total of five
11 hundred employees each, negotiation shall be by a coalition of all
12 those exclusive bargaining representatives. The coalition shall
13 bargain for a master collective bargaining agreement covering all of
14 the employees represented by the coalition. The governor's designee
15 and the exclusive bargaining representative or representatives are
16 authorized to enter into supplemental bargaining of agency-specific
17 issues for inclusion in or as an addendum to the master collective
18 bargaining agreement, subject to the parties' agreement regarding the
19 issues and procedures for supplemental bargaining. This section does
20 not prohibit cooperation and coordination of bargaining between two
21 or more exclusive bargaining representatives.

22 (b) This subsection (2) does not apply to exclusive bargaining
23 representatives who represent employees of the legislative branch of
24 state government or to employees of institutions of higher education,
25 except when the institution of higher education has elected to
26 exercise its option under subsection (4) of this section to have its
27 negotiations conducted by the governor or governor's designee under
28 the procedures provided for general government agencies in
29 subsections (1) through (3) of this section.

30 (c) If five hundred or more employees of an independent state
31 elected official listed in RCW 43.01.010 are organized in a
32 bargaining unit or bargaining units under RCW 41.80.070, the official
33 shall be consulted by the governor or the governor's designee before
34 any agreement is reached under (a) of this subsection concerning
35 supplemental bargaining of agency specific issues affecting the
36 employees in such bargaining unit.

37 (3) The governor shall submit a request for funds necessary to
38 implement the compensation and fringe benefit provisions in the
39 master collective bargaining agreement or for legislation necessary
40 to implement the agreement. Requests for funds necessary to implement

1 the provisions of bargaining agreements shall not be submitted to the
2 legislature by the governor unless such requests:

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

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

8 The legislature shall approve or reject the submission of the
9 request for funds as a whole. The legislature shall not consider a
10 request for funds to implement a collective bargaining agreement
11 unless the request is transmitted to the legislature as part of the
12 governor's budget document submitted under RCW 43.88.030 and
13 43.88.060. If the legislature rejects or fails to act on the
14 submission, either party may reopen all or part of the agreement or
15 the exclusive bargaining representative may seek to implement the
16 procedures provided for in RCW 41.80.090.

17 (4) (a) (i) For the purpose of negotiating agreements for
18 institutions of higher education, the employer shall be the
19 respective governing board of each of the universities, colleges, or
20 community colleges or a designee chosen by the board to negotiate on
21 its behalf.

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

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

30 (B) If the parties mutually agree, the governor or the governor's
31 designee and an exclusive bargaining representative shall negotiate
32 one master collective bargaining agreement for all of the bargaining
33 units of employees of more than one university or college that the
34 representative represents.

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

39 (b) Prior to entering into negotiations under this chapter, the
40 institutions of higher education or their designees shall consult

1 with the director of the office of financial management regarding
2 financial and budgetary issues that are likely to arise in the
3 impending negotiations.

4 (c)(i) In the case of bargaining agreements reached between
5 institutions of higher education other than the University of
6 Washington and exclusive bargaining representatives agreed to under
7 the provisions of this chapter, if appropriations are necessary to
8 implement the compensation and fringe benefit provisions of the
9 bargaining agreements, the governor shall submit a request for such
10 funds to the legislature according to the provisions of subsection
11 (3) of this section, except as provided in (c)(iii) of this
12 subsection.

13 (ii) In the case of bargaining agreements reached between the
14 University of Washington and exclusive bargaining representatives
15 agreed to under the provisions of this chapter, if appropriations are
16 necessary to implement the compensation and fringe benefit provisions
17 of a bargaining agreement, the governor shall submit a request for
18 such funds to the legislature according to the provisions of
19 subsection (3) of this section, except as provided in this subsection
20 (4)(c)(ii) and as provided in (c)(iii) of this subsection.

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

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

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

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

36 (C) If the director of the office of financial management does
37 not certify a request under (c)(ii)(B) of this subsection as being
38 feasible financially for the state, the parties shall enter into
39 collective bargaining solely for the purpose of reaching a mutually
40 agreed upon modification of the agreement necessary to address the

1 absence of those requested funds. The legislature may act upon the
2 compensation and fringe benefit provisions of the modified collective
3 bargaining agreement if those provisions are agreed upon and
4 submitted to the office of financial management and legislative
5 budget committees before final legislative action on the biennial or
6 supplemental operating budget by the sitting legislature.

7 (iii) In the case of a bargaining unit of employees of
8 institutions of higher education in which the exclusive bargaining
9 representative is certified during or after the conclusion of a
10 legislative session, the legislature may act upon the compensation
11 and fringe benefit provisions of the unit's initial collective
12 bargaining agreement if those provisions are agreed upon and
13 submitted to the office of financial management and legislative
14 budget committees before final legislative action on the biennial or
15 supplemental operating budget by the sitting legislature.

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

22 (6) After the expiration date of a collective bargaining
23 agreement negotiated under this chapter, all of the terms and
24 conditions specified in the collective bargaining agreement remain in
25 effect until the effective date of a subsequently negotiated
26 agreement, not to exceed one year from the expiration date stated in
27 the agreement. Thereafter, the employer may unilaterally implement
28 according to law.

29 (7) For the 2013-2015 fiscal biennium, a collective bargaining
30 agreement related to employee health care benefits negotiated between
31 the employer and coalition pursuant to RCW 41.80.020(3) regarding the
32 dollar amount expended on behalf of each employee shall be a separate
33 agreement for which the governor may request funds necessary to
34 implement the agreement. The legislature may act upon a 2013-2015
35 collective bargaining agreement related to employee health care
36 benefits if an agreement is reached and submitted to the office of
37 financial management and legislative budget committees before final
38 legislative action on the biennial or supplemental operating
39 appropriations act by the sitting legislature.

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

3 (i) Modifications to collective bargaining agreements as set
4 forth in a memorandum of understanding negotiated between the
5 employer and the service employees international union healthcare
6 1199nw, an exclusive bargaining representative, that was necessitated
7 by an emergency situation or an imminent jeopardy determination by
8 the center for medicare and medicaid services that relates to the
9 safety or health of the clients, employees, or both the clients and
10 employees.

11 (ii) Unilaterally implemented modifications to collective
12 bargaining agreements, resulting from the employer being prohibited
13 from negotiating with an exclusive bargaining representative due to a
14 pending representation petition, necessitated by an emergency
15 situation or an imminent jeopardy determination by the center for
16 medicare and medicaid services that relates to the safety or health
17 of the clients, employees, or both the clients and employees.

18 (iii) Modifications to collective bargaining agreements as set
19 forth in a memorandum of understanding negotiated between the
20 employer and the union of physicians of Washington, an exclusive
21 bargaining representative, that was necessitated by an emergency
22 situation or an imminent jeopardy determination by the center for
23 medicare and medicaid services that relates to the safety or health
24 of the clients, employees, or both the clients and employees. If the
25 memorandum of understanding submitted to the legislature as part of
26 the governor's budget document is rejected by the legislature, and
27 the parties reach a new memorandum of understanding by June 30, 2016,
28 within the funds, conditions, and limitations provided in section
29 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of
30 understanding shall be considered approved by the legislature and may
31 be retroactive to December 1, 2015.

32 (iv) Modifications to collective bargaining agreements as set
33 forth in a memorandum of understanding negotiated between the
34 employer and the teamsters union local 117, an exclusive bargaining
35 representative, for salary adjustments for the state employee job
36 classifications of psychiatrist, psychiatric social worker, and
37 psychologist.

38 (b) For the 2015-2017 fiscal biennium, the legislature may act
39 upon the request for funds for modifications to a 2015-2017
40 collective bargaining agreement under (a)(i), (ii), (iii), and (iv)

1 of this subsection if funds are requested by the governor before
2 final legislative action on the supplemental omnibus appropriations
3 act by the sitting legislature.

4 (c) The request for funding made under this subsection and any
5 action by the legislature taken pursuant to this subsection is
6 limited to the modifications described in this subsection and may not
7 otherwise affect the original terms of the 2015-2017 collective
8 bargaining agreement.

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

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

13 For the purpose of negotiating agreements for legislative
14 employees that may collectively bargain as provided under section 1
15 of this act, the employer shall be a designee chosen by the
16 legislature to negotiate on its behalf.

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