
SENATE BILL 6244

State of Washington

63rd Legislature

2014 Regular Session

By Senators Hewitt, King, and Honeyford

Read first time 01/20/14. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to restrictions on when representation under a
2 public collective bargaining agreement may be challenged; amending RCW
3 41.56.070, 41.59.070, 41.76.020, 41.80.080, 49.39.040, and 47.64.135;
4 and adding a new section to chapter 28B.52 RCW.

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

6 **Sec. 1.** RCW 41.56.070 and 2012 c 117 s 83 are each amended to read
7 as follows:

8 In the event the commission elects to conduct an election to
9 ascertain the exclusive bargaining representative, and upon the request
10 of a prospective bargaining representative showing written proof of at
11 least thirty percent representation of the public employees within the
12 unit, the commission shall hold an election by secret ballot to
13 determine the issue. The ballot shall contain the name of such
14 bargaining representative and of any other bargaining representative
15 showing written proof of at least ten percent representation of the
16 public employees within the unit, together with a choice for any public
17 employee to designate that he or she does not desire to be represented
18 by any bargaining agent. Where more than one organization is on the
19 ballot and neither of the three or more choices receives a majority

1 vote of the public employees within the bargaining unit, a run-off
2 election shall be held. The run-off ballot shall contain the two
3 choices which received the largest and second-largest number of votes.
4 No question concerning representation may be raised within one year of
5 a certification or attempted certification. Where there is a valid
6 collective bargaining agreement in effect, no question of
7 representation may be raised except during the period not more than
8 (~~ninety~~) one hundred fifty days nor less than sixty days prior to the
9 expiration date of the agreement. Any agreement which contains a
10 provision for automatic renewal or extension of the agreement shall not
11 be a valid agreement; nor shall any agreement be valid if it provides
12 for a term of existence for more than three years, except that any
13 agreement entered into between school districts, cities, counties, or
14 municipal corporations, and their respective employees, may provide for
15 a term of existence of up to six years.

16 **Sec. 2.** RCW 41.59.070 and 1975 1st ex.s. c 288 s 8 are each
17 amended to read as follows:

18 (1) Any employee organization may file a request with the
19 commission for recognition as the exclusive representative. Such
20 request shall allege that a majority of the employees in an appropriate
21 collective bargaining unit wish to be represented for the purpose of
22 collective bargaining by such organization, shall describe the grouping
23 of jobs or positions which constitute the unit claimed to be
24 appropriate, shall be supported by credible evidence demonstrating that
25 at least thirty percent of the employees in the appropriate unit desire
26 the organization requesting recognition as their exclusive
27 representative, and shall indicate the name, address, and telephone
28 number of any other interested employee organization, if known to the
29 requesting organization.

30 (2) The commission shall determine the exclusive representative by
31 conducting an election by secret ballot, except under the following
32 circumstances:

33 (a) In instances where a serious unfair labor practice has been
34 committed which interfered with the election process and precluded the
35 holding of a fair election, the commission shall determine the
36 exclusive bargaining representative by an examination of organization

1 membership rolls or a comparison of signatures on organization
2 bargaining authorization cards.

3 (b) In instances where there is then in effect a lawful written
4 collective bargaining agreement between the employer and another
5 employee organization covering any employees included in the unit
6 described in the request for recognition, the request for recognition
7 shall not be entertained unless it shall be filed within the time
8 limits prescribed in subsection (3) of this section for decertification
9 or a new recognition election.

10 (c) In instances where within the previous twelve months another
11 employee organization has been lawfully recognized or certified as the
12 exclusive bargaining representative of any employees included in the
13 unit described in the request for recognition, the request for
14 recognition shall not be entertained.

15 (d) In instances where the commission has within the previous
16 twelve months conducted a secret ballot election involving any
17 employees included in the unit described in the request for recognition
18 in which a majority of the valid ballots cast chose not to be
19 represented by any employee organization, the request for recognition
20 shall not be entertained.

21 (3) Whenever the commission conducts an election to ascertain the
22 exclusive bargaining representative, the ballot shall contain the name
23 of the proposed bargaining representative and of any other bargaining
24 representative showing written proof of at least ten percent
25 representation of the educational employees within the unit, together
26 with a choice for any educational employee to designate that he or she
27 does not desire to be represented by any bargaining agent. Where more
28 than one organization is on the ballot and neither of the three or more
29 choices receives a majority of the valid ballots cast by the
30 educational employees within the bargaining unit, a run-off election
31 shall be held. The run-off ballot shall contain the two choices which
32 receive the largest and second largest number of votes. No question
33 concerning representation may be raised within one year of a
34 certification or attempted certification. Where there is a valid
35 collective bargaining agreement in effect, no question of
36 representation may be raised except during the period not more than
37 (~~ninety~~) one hundred fifty days nor less than sixty days prior to the
38 expiration date of the agreement. In the event that a valid collective

1 bargaining agreement, together with any renewals or extensions thereof,
2 has been or will be in existence for three years, then the question of
3 representation may be raised not more than (~~ninety~~) one hundred fifty
4 days nor less than sixty days prior to the third anniversary date of
5 the agreement or any renewals or extensions thereof as long as such
6 renewals and extensions do not exceed three years; and if the exclusive
7 bargaining representative is removed as a result of such procedure, the
8 then existing collective bargaining agreement shall be terminable by
9 the new exclusive bargaining representative so selected within sixty
10 days after its certification or terminated on its expiration date,
11 whichever is sooner, or if no exclusive bargaining representative is so
12 selected, then the agreement shall be deemed to be terminated at its
13 expiration date or as of such third anniversary date, whichever is
14 sooner.

15 (4) Within the time limits prescribed in subsection (3) of this
16 section, a petition may be filed signed by at least thirty percent of
17 the employees of a collective bargaining unit, then represented by an
18 exclusive bargaining representative, alleging that a majority of the
19 employees in that unit do not wish to be represented by an employee
20 organization, requesting that the exclusive bargaining representative
21 be decertified, and indicating the name, address and telephone number
22 of the exclusive bargaining representative and any other interested
23 employee organization, if known. Upon the verification of the
24 signatures on the petition, the commission shall conduct an election by
25 secret ballot as prescribed by subsection (3) of this section.

26 **Sec. 3.** RCW 41.76.020 and 2002 c 356 s 7 are each amended to read
27 as follows:

28 The commission shall certify exclusive bargaining representatives
29 in accordance with the procedures specified in this section.

30 (1) No question concerning representation may be raised within one
31 year following issuance of a certification under this section.

32 (2) If there is a valid collective bargaining agreement in effect,
33 no question concerning representation may be raised except during the
34 period not more than (~~ninety~~) one hundred fifty days nor less than
35 sixty days prior to the expiration date of the agreement: PROVIDED,
36 That in the event a valid collective bargaining agreement, together
37 with any renewals or extensions thereof, has been or will be in

1 existence for more than three years, then a question concerning
2 representation may be raised not more than (~~ninety~~) one hundred fifty
3 days nor less than sixty days prior to the third anniversary date or
4 any subsequent anniversary date of the agreement; and if the exclusive
5 bargaining representative is removed as the result of such procedure,
6 the collective bargaining agreement shall be deemed to be terminated as
7 of the date of the certification or the anniversary date following the
8 filing of the petition, whichever is later.

9 (3) An employee organization seeking certification as exclusive
10 bargaining representative of a bargaining unit, or faculty members
11 seeking decertification of their exclusive bargaining representative,
12 must make a confidential showing to the commission of credible evidence
13 demonstrating that at least thirty percent of the faculty in the
14 bargaining unit are in support of the petition. The petition must
15 indicate the name, address, and telephone number of any employee
16 organization known to claim an interest in the bargaining unit.

17 (4) A petition filed by an employer must be supported by credible
18 evidence demonstrating the good faith basis on which the employer
19 claims the existence of a question concerning the representation of its
20 faculty.

21 (5) Any employee organization which makes a confidential showing to
22 the commission of credible evidence demonstrating that it has the
23 support of at least ten percent of the faculty in the bargaining unit
24 involved is entitled to intervene in proceedings under this section and
25 to have its name listed as a choice on the ballot in an election
26 conducted by the commission.

27 (6) The commission shall determine any question concerning
28 representation by conducting a secret ballot election among the faculty
29 members in the bargaining unit, except under the following
30 circumstances:

31 (a) If only one employee organization is seeking certification as
32 exclusive bargaining representative of a bargaining unit for which
33 there is no incumbent exclusive bargaining representative, the
34 commission may, upon the concurrence of the employer and the employee
35 organization, determine the question concerning representation by
36 conducting a cross-check comparing the employee organization's
37 membership records or bargaining authorization cards against the
38 employment records of the employer; or

1 (b) If the commission determines that a serious unfair labor
2 practice has been committed which interfered with the election process
3 and precludes the holding of a fair election, the commission may
4 determine the question concerning representation by conducting a cross-
5 check comparing the employee organization's membership records or
6 bargaining authorization cards against the employment records of the
7 employer.

8 (7) The representation election ballot must contain a choice for
9 each employee organization qualifying under subsection (3) or (5) of
10 this section, together with a choice for no representation. The
11 representation election shall be determined by the majority of the
12 valid ballots cast. If there are three or more choices on the ballot
13 and none of the three or more choices receives a majority of the valid
14 ballots cast, a runoff election shall be conducted between the two
15 choices receiving the highest and second highest numbers of votes.

16 (8) The commission shall certify as the exclusive bargaining
17 representative the employee organization that has been determined to
18 represent a majority of faculty members in a bargaining unit.

19 **Sec. 4.** RCW 41.80.080 and 2002 c 354 s 309 are each amended to
20 read as follows:

21 (1) The commission shall determine all questions pertaining to
22 representation and shall administer all elections and be responsible
23 for the processing and adjudication of all disputes that arise as a
24 consequence of elections. The commission shall adopt rules that
25 provide for at least the following:

- 26 (a) Secret balloting;
- 27 (b) Consulting with employee organizations;
- 28 (c) Access to lists of employees, job classification, work
29 locations, and home mailing addresses;
- 30 (d) Absentee voting;
- 31 (e) Procedures for the greatest possible participation in voting;
- 32 (f) Campaigning on the employer's property during working hours;
- 33 and
- 34 (g) Election observers.

35 (2)(a) If an employee organization has been certified as the
36 exclusive bargaining representative of the employees of a bargaining
37 unit, the employee organization may act for and negotiate master

1 collective bargaining agreements that will include within the coverage
2 of the agreement all employees in the bargaining unit as provided in
3 RCW 41.80.010(2)(a). However, if a master collective bargaining
4 agreement is in effect for the exclusive bargaining representative, it
5 shall apply to the bargaining unit for which the certification has been
6 issued. Nothing in this section requires the parties to engage in new
7 negotiations during the term of that agreement.

8 (b) This subsection (2) does not apply to exclusive bargaining
9 representatives who represent employees of institutions of higher
10 education.

11 (3) The certified exclusive bargaining representative shall be
12 responsible for representing the interests of all the employees in the
13 bargaining unit. This section shall not be construed to limit an
14 exclusive representative's right to exercise its discretion to refuse
15 to process grievances of employees that are unmeritorious.

16 (4) No question concerning representation may be raised if:

17 (a) Fewer than twelve months have elapsed since the last
18 certification or election; or

19 (b) A valid collective bargaining agreement exists covering the
20 unit, except for that period of no more than one hundred (~~twenty~~)
21 fifty calendar days nor less than (~~ninety~~) sixty calendar days before
22 the expiration of the contract.

23 **Sec. 5.** RCW 49.39.040 and 2010 c 6 s 5 are each amended to read as
24 follows:

25 If the commission elects to conduct an election to ascertain the
26 exclusive bargaining representative, and upon the request of a
27 prospective bargaining representative showing written proof of at least
28 thirty percent representation of the symphony musicians within the
29 unit, the commission shall hold an election by secret ballot to
30 determine the issue. The ballot shall contain the name of the
31 bargaining representative and of any other bargaining representative
32 showing written proof of at least ten percent representation of the
33 symphony musicians within the unit, together with a choice for any
34 symphony musician to designate that he or she does not desire to be
35 represented by any bargaining agent. Where more than one organization
36 is on the ballot and neither of the three or more choices receives a
37 majority vote of valid ballots cast, a run-off election shall be held.

1 The run-off ballot shall contain the two choices which received the
2 largest and second-largest number of votes. No question concerning
3 representation may be raised within one year of a certification or
4 attempted certification. Where there is a valid collective bargaining
5 agreement in effect, no question of representation may be raised except
6 during the period not more than (~~ninety~~) one hundred fifty nor less
7 than sixty days prior to the expiration date of the agreement. Any
8 agreement which contains a provision for automatic renewal or extension
9 of the agreement shall not be a valid agreement; nor shall any
10 agreement be valid if it provides for a term of existence for more than
11 three years.

12 **Sec. 6.** RCW 47.64.135 and 2011 1st sp.s. c 16 s 27 are each
13 amended to read as follows:

14 (1) The commission shall determine all questions pertaining to
15 representation and shall administer all elections and be responsible
16 for the processing and adjudication of all disputes that arise as a
17 consequence of elections. The commission shall adopt rules that
18 provide for at least the following:

- 19 (a) Secret balloting;
- 20 (b) Consulting with employee organizations;
- 21 (c) Access to lists of employees, job classification, work
22 locations, and home mailing addresses;
- 23 (d) Absentee voting;
- 24 (e) Procedures for the greatest possible participation in voting;
- 25 (f) Campaigning on the employer's property during working hours;
- 26 and
- 27 (g) Election observers.

28 (2) If an employee organization has been certified as the exclusive
29 bargaining representative of the employees of a bargaining unit, the
30 employee organization may act for and negotiate master collective
31 bargaining agreements that will include within the coverage of the
32 agreement all employees in the bargaining unit.

33 (3) The certified exclusive bargaining representative is
34 responsible for representing the interests of all the employees in the
35 bargaining unit. This section shall not be construed to limit an
36 exclusive representative's right to exercise its discretion to refuse
37 to process grievances of employees that are unmeritorious.

1 (4) No question concerning representation may be raised if:
2 (a) Fewer than twelve months have elapsed since the last
3 certification or election; or
4 (b) A valid collective bargaining agreement exists covering the
5 unit, except for that period of no more than one hundred (~~twenty~~)
6 eighty calendar days and no less than ninety calendar days before the
7 expiration of the contract.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 28B.52 RCW
9 to read as follows:

10 Academic employees may petition the commission for an election to
11 change or reject their exclusive bargaining representative, subject to
12 the following conditions:

13 (1) Petitioners must show written proof of at least thirty percent
14 representation of the academic employees within the bargaining unit;
15 and

16 (2) A question concerning representation may not be raised if:

17 (a) Fewer than twelve months have elapsed since the last
18 certification or election; or

19 (b) A valid collective bargaining agreement exists covering the
20 unit, except for that period of no more than one hundred fifty calendar
21 days and no less than sixty calendar days before the expiration of the
22 contract.

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