

Chapter 41.58 RCW
PUBLIC EMPLOYMENT LABOR RELATIONS

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RCW 41.58.005 Intent—Construction. (1) It is the intent of the legislature by the adoption of chapter 296, Laws of 1975 1st ex. sess. to provide, in the area of public employment, for the more uniform and impartial (a) adjustment and settlement of complaints, grievances, and disputes arising out of employer-employee relations and, (b) selection and certification of bargaining representatives by transferring jurisdiction of such matters to the public employment relations commission from other boards and commissions. It is further the intent of the legislature, by such transfer, to achieve more efficient and expert administration of public labor relations administration and to thereby ensure the public of quality public services.

(2) Nothing contained in chapter 296, Laws of 1975 1st ex. sess. shall be construed to alter any existing collective bargaining unit or the provisions of any existing bargaining agreement.

(3) Nothing contained in chapter 296, Laws of 1975 1st ex. sess. shall be construed to alter any power or authority regarding the scope of collective bargaining in the employment areas affected by chapter 296, Laws of 1975 1st ex. sess., but chapter 296, Laws of 1975 1st ex. sess. shall be construed as transferring existing jurisdiction and authority to the public employment relations commission.

(4) Nothing contained in chapter 296, Laws of 1975 1st ex. sess. shall be construed to prohibit the consideration or adjustment of complaints or grievances by the public employer. [1975 1st ex.s. c 296 § 1.]

**RCW 41.58.010 Public employment relations commission—Created—
Membership—Terms—Vacancies—Quorum—Report.** (1) There is hereby created the public employment relations commission (hereafter called the "commission") to administer the provisions of this chapter. The commission shall consist of three members who shall be citizens

appointed by the governor by and with the advice and consent of the senate. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members shall be eligible for reappointment. The governor shall designate one member to serve as chair of the commission. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members shall not be eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission.

(2) In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons knowledgeable in the area of labor relations in the state.

(3) A vacancy in the commission shall not impair the right of the remaining members to exercise all of the powers of the commission, and two members of the commission shall, at all times, constitute a quorum of the commission.

(4) The commission shall at the close of each fiscal year make a report in writing to the legislature and to the governor stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the commission, and an account of all moneys it has disbursed. [2012 c 117 § 89; 1981 c 338 § 21; 1975-'76 2nd ex.s. c 5 § 1.]

RCW 41.58.015 Compensation and travel expenses of members—

Executive director—Employees. (1) Each member of the commission shall be compensated in accordance with RCW 43.03.250. Members of the commission shall also be reimbursed for travel expenses incurred in the discharge of their official duties on the same basis as is provided in RCW 43.03.050 and 43.03.060.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. The executive director shall perform such duties and have such powers as the commission shall prescribe in order to implement and enforce the provisions of this chapter. In addition to the performance of administrative duties, the commission may delegate to the executive director authority with respect to, but not limited to, representation proceedings, unfair labor practice proceedings, mediation of labor disputes, arbitration of disputes concerning the interpretation or application of a collective bargaining agreement, and, in certain cases, fact-finding or arbitration of disputes concerning the terms of a collective bargaining agreement. Such delegation shall not eliminate a party's right of appeal to the commission. The executive director, with such assistance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, when necessary to carry out or enforce any action or decision of the commission, to petition any court of competent jurisdiction for an order requiring compliance with the action or decision.

(3) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(4) The payment of all of the expenses of the commission, including travel expenses incurred by the members or employees of the commission under its orders, shall be subject to the provisions of RCW 43.03.050 and 43.03.060. [1984 c 287 § 71; 1979 ex.s. c 146 § 2; 1975-'76 2nd ex.s. c 34 § 91; 1975-'76 2nd ex.s. c 5 § 2.]

Legislative findings—Severability—Effective date—1984 c 287:
See notes following RCW 43.03.220.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 41.58.020 Powers and duties of commission. (1) It shall be the duty of the commission, in order to prevent or minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute arising under a collective bargaining statute administered by the commission, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

(3) If the director is not able to bring the parties to agreement by mediation within a reasonable time, the director shall seek to induce the parties to voluntarily seek other means of settling the dispute without resort to strike or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort. [1993 c 379 § 303; 1975 1st ex.s. c 296 § 4.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

RCW 41.58.030 Office. The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state. [1975 1st ex.s. c 296 § 5.]

RCW 41.58.040 Duties of employers and employees. In order to prevent or minimize disruptions to the public welfare growing out of

labor disputes, employers and employees and their representatives shall:

(1) Exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) Whenever a dispute arises over the terms or application of a collective bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) In case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the commission under this chapter for the purpose of aiding in a settlement of the dispute. [1975 1st ex.s. c 296 § 6.]

RCW 41.58.050 Rules and regulations. The commission shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter. [2011 1st sp.s. c 16 § 17; 1975 1st ex.s. c 296 § 7.]

Effective date—2011 1st sp.s. c 16 §§ 16-25: See note following RCW 41.58.060.

Transfer of powers, duties, and functions—2011 1st sp.s. c 16: See note following RCW 41.58.060.

RCW 41.58.060 State ferry system, which chapter governs. For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of this chapter and chapter 47.64 RCW shall govern. However, if a conflict exists between this chapter and chapter 47.64 RCW, this chapter shall govern. [2011 1st sp.s. c 16 § 18; 1983 c 15 § 22.]

Effective date—2011 1st sp.s. c 16 §§ 16-25: "Sections 16 through 25 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2011." [2011 1st sp.s. c 16 § 31.]

Transfer of powers, duties, and functions—2011 1st sp.s. c 16:

"(1) Consistent with *RCW 41.58.065, the marine employees' commission's powers, duties, and functions are transferred to the public employment relations commission.

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

marine employees' commission shall be assigned to the public employment relations commission.

(b) Any appropriations made to the marine employees' commission shall, on July 1, 2011, be transferred and credited to the public employment relations commission.

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

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

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before July 1, 2011.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification." [2011 1st sp.s. c 16 § 23.]

***Reviser's note:** RCW 41.58.065 expired June 30, 2013.

RCW 41.58.070 Law enforcement personnel disciplinary grievance arbitration—Procedures—Effect of collective bargaining agreements—Arbitrator roster.

(1) For the purposes of this section, the definitions in this subsection have the meanings given them.

(a) "Employer" means a political subdivision or law enforcement agency employing law enforcement personnel.

(b) (i) "Law enforcement personnel" means:

(A) Any individual employed, hired, or otherwise commissioned to enforce criminal laws by any municipal, county, or state agency or department, or combination thereof, that has, as its primary function, the enforcement of criminal laws in general, rather than the implementation or enforcement of laws related to specialized subject matter areas. For the purposes of this subsection (1) (b), officers employed, hired, or otherwise commissioned by the department of fish and wildlife are considered law enforcement personnel.

(B) Corrections officers and community corrections officers employed by the department of corrections.

(ii) "Law enforcement personnel" does not include any individual hired as an attorney to prosecute or litigate state or local criminal laws or ordinances, nor any civilian individuals hired to do administrative work.

(iii) For the purposes of this subsection (1) (b), "primary function" means that function to which the greater allocation of resources is made.

(c) "Disciplinary grievance" means a dispute or disagreement regarding any disciplinary action, discharge, or termination decision

arising under a collective bargaining agreement covering law enforcement personnel.

(d) "Grievance arbitration" means binding arbitration of a disciplinary grievance under the grievance procedures established in a collective bargaining agreement covering law enforcement personnel.

(2) (a) The arbitrator selection procedure established under this section applies to all grievance arbitrations for disciplinary actions, discharges, or terminations of law enforcement personnel which are heard on or after January 1, 2022.

(b) (i) The grievance procedures for all collective bargaining agreements covering law enforcement personnel negotiated or renewed on or after January 1, 2022, must include the arbitrator selection procedure established in this section if the collective bargaining agreement provides for arbitration as a means of resolving grievances for disciplinary actions, discharges, or terminations.

(ii) The provisions of grievance procedures governing the appeal of disciplinary grievances in collective bargaining agreements covering law enforcement personnel negotiated or renewed prior to January 1, 2022, that provide for arbitration but do not contain the arbitrator selection procedures established in this section expire upon the expiration date of the collective bargaining agreement and may not be extended or rolled over beyond the expiration date of the collective bargaining agreement.

(c) This section does not require any party to a collective bargaining agreement in existence on July 25, 2021, to reopen negotiations of the agreement or to apply any of the rights and responsibilities under chapter 13, Laws of 2021 unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(3) All fees charged by arbitrators under this section must be in accordance with a schedule of fees established by the commission on an annual basis. The parties are responsible for paying the arbitrator's fees as set forth in the parties' negotiated fee-sharing provisions of their collective bargaining agreement or, in the absence of contractual fee-sharing provisions, shall be borne equally by the parties.

(4) The commission must appoint a roster of a minimum of nine persons and a maximum of 18 persons suited and qualified by training and experience to act as arbitrators for law enforcement personnel grievance arbitrations under this section.

(a) The commission may only consider appointing persons who possess:

(i) A minimum of six years' experience as a full-time labor relations advocate and who has been the principal representative of either labor or management in at least 10 arbitration proceedings;

(ii) A minimum of six years' experience as a full-time labor mediator with substantial mediation experience;

(iii) A minimum of six years' experience as an arbitrator and who has decided at least 10 cases involving collective bargaining disputes; or

(iv) A minimum of six years' experience as a practitioner or full-time instructor of labor law or industrial relations, including substantial content in the area of collective bargaining, labor agreements, and contract administration.

(b) In making these appointments, and as applicable, the commission must consider these factors:

(i) A candidate's familiarity, experience, and technical and theoretical understanding of and experience with labor law, the grievance process, and the field of labor arbitration;

(ii) A candidate's ability and willingness to travel through the state, conduct hearings in a fair and impartial manner, analyze and evaluate testimony and exhibits, write clear and concise awards in a timely manner, and be available for hearings within a reasonable time after the request of the parties;

(iii) A candidate's experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and

(iv) A candidate's familiarity and experience with the law enforcement profession, including ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required by officers in the field.

(5) The appointments are effective immediately upon selection by the commission. Except for appointments subject to subsection (6) of this section, appointments are for three years to expire on the first Monday in January.

(6) The commission must make at least three of the initial appointments to the roster of arbitrators for terms to expire on the first Monday in January 2024, at least three of the appointments for terms to expire on the first Monday in January 2025, and at least three of the appointments for terms to expire on the first Monday in January 2026. The initial terms of arbitrators appointed under this subsection may be for longer than three years.

(7) Subsequent appointments to the roster of arbitrators must be for three-year terms to expire on the first Monday in January, with the terms of no more than three arbitrators to expire in the same year.

(8) Nothing in this section prevents roster arbitrators from issuing decisions, or retaining jurisdiction to address issues relating to remedy, after the expiration of their term, if the arbitration hearing occurred during the term of their appointment.

(9) An arbitrator may be reappointed to the roster upon expiration of the arbitrator's term. If the arbitrator is not reappointed, the arbitrator may continue to serve until a successor is appointed, but in no case later than July 1st of the year in which the arbitrator's term expires.

(10) The commission may remove an arbitrator from the roster through a majority vote. A vacancy on the roster caused by a removal, a resignation, or another reason must be filled by the commission as necessary to fill the remainder of the arbitrator's term. A vacancy on the roster occurring with less than six months remaining in the arbitrator's term must be filled for the existing term and the following three-year term.

(11) A person appointed to the arbitrator roster under this section must complete training as developed, implemented, and required by the executive director. The commission may adopt rules establishing training requirements consistent with this section. The commission may also establish fees in order to cover the costs of developing and providing the training. At a minimum, an initial training must include:

(a) At least six hours on the topics of cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and

(b) At least six hours on topics related to the daily experience of law enforcement personnel, which may include ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, shoot/don't shoot training provided by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required of officers in the field. For the purposes of this subsection (11)(b), "shoot/don't shoot training" means an interactive firearms training that simulates real-world scenarios to train law enforcement personnel on the use of force.

(12) An arbitrator appointed to the roster of arbitrators must complete the required initial training within six months of the arbitrator's appointment.

(13)(a) The executive director must assign an arbitrator or panel of arbitrators from the roster to each law enforcement personnel grievance arbitration under this section on rotation through the roster alphabetically ordered by last name.

(i) If the arbitrator is unable to hear the case within three months from the request for an arbitrator, the executive director must appoint the next arbitrator from the roster alphabetically.

(ii) If an arbitrator has a conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality, the arbitrator must disclose such conflict to the executive director. The executive director may determine whether the conflict merits assigning the next arbitrator on the roster. Either party may petition the executive director to have an assigned arbitrator removed due to a conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality. If their petition is granted by the executive director, the executive director must assign the next arbitrator or panel of arbitrators on the roster.

(b) The arbitrator or panel of arbitrators shall decide the disciplinary grievance, and the decision is binding subject to the provisions of chapter 7.04A RCW.

(c) The parties may not participate in, negotiate for, or agree to the selection of an arbitrator or arbitration panel under this section. Employers and law enforcement personnel, through their certified exclusive bargaining representatives, do not have the right to negotiate for or agree to a collective bargaining agreement or a grievance arbitration selection procedure that is inconsistent with this section, if the collective bargaining agreement provides for arbitration as a means of resolving grievances for disciplinary actions, discharges, or terminations.

(14) The commission must post law enforcement grievance arbitration decisions made under this section on its website within 30 days of the date the grievance arbitration decision is made, with names of grievants and witnesses redacted.

(15) The arbitrator selection procedure for law enforcement grievance arbitrations established under this section supersedes any inconsistent provisions in any other chapter governing employee relations and collective bargaining for law enforcement personnel.
[2021 c 13 § 1.]

RCW 41.58.800 Transfer of employees to commission. All employees of the department of labor and industries classified under the provisions of chapter 41.06 RCW, the state civil service law,

whose positions are entirely concerned with functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall be transferred to the jurisdiction of the commission. [1975-'76 2nd ex.s. c 5 § 3.]

RCW 41.58.801 Transfer of reports, documents, records, property, etc., funds, appropriations, etc. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of the marine employee commission, the office of the superintendent of public instruction, the state board for community and technical colleges, and the department of labor and industries and pertaining to the functions transferred to the commission by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be delivered to the custody of the commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the functions transferred by chapter 296, Laws of 1975 1st ex. sess. shall by January 1, 1976, be transferred to the commission.

Any appropriation or portion thereof remaining as of January 1, 1976, and which is made to an agency for the purpose of carrying out functions transferred from such agency pursuant to chapter 296, Laws of 1975 1st ex. sess., shall, by January 1, 1976, be transferred and credited to the commission for the purpose of carrying out such functions. This paragraph shall not affect the transfer of moneys prior to January 1, 1976, pursuant to section 67, chapter 269, Laws of 1975 1st ex. sess.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the performance of the functions transferred under chapter 296, Laws of 1975 1st ex. sess., the director of financial management or his or her successor shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [2012 c 117 § 90; 1979 c 151 § 66; 1975-'76 2nd ex.s. c 5 § 4.]

RCW 41.58.802 Procedure for transfer of budgeted fund or equipment. Where transfers of budgeted funds or equipment are required under *this act, the director of financial management shall certify such transfers to the agencies affected, the state auditor and the state treasurer all of whom shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1979 c 151 § 67; 1975-'76 2nd ex.s. c 5 § 5.]

***Reviser's note:** For codification of "this act" [1975-'76 2nd ex.s. c 5], see Codification Tables.

RCW 41.58.803 Continuation and savings. On January 1, 1976, all rules and regulations, and all business pending before the agencies or divisions thereof from whom functions are transferred pursuant to chapter 296, Laws of 1975 1st ex. sess. and which pertain to such functions shall be continued and acted upon by the commission. All existing contracts and obligations pertaining to such functions shall remain in full force and effect, but shall be performed by the

commission in lieu of the agency from whom the functions are transferred. The transfer of any functions shall not affect the validity of any act performed by such agency or division thereof or any officer or employee thereof prior to the effective date of the transferral of such functions.

Notwithstanding any other provisions of *this act, contracts or agreements are authorized between the commission and other agencies with respect to functions transferred from other agencies pursuant to chapter 296, Laws of 1975 1st ex. sess. Such contract or agreement may provide for an employee or employees of such other agencies or other person or persons to continue to provide services relating to pending business which is transferred to the commission as of January 1, 1976, until such pending business is completed. [1975-'76 2nd ex.s. c 5 § 6.]

***Reviser's note:** For codification of "this act" [1975-'76 2nd ex.s. c 5], see Codification Tables.