
SENATE BILL 5169

State of Washington

66th Legislature

2019 Regular Session

By Senators Hasegawa, Saldaña, and Keiser

Read first time 01/15/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to ensuring the neutrality of public employers
2 and state contractors with regard to employees exercising their
3 rights to collectively bargain; amending RCW 28B.52.073, 39.04.350,
4 39.26.160, 41.56.140, 41.59.140, 41.76.050, 41.80.110, 47.64.130,
5 49.39.120, and 49.66.040; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** It is declared the policy of the state of
8 Washington to encourage labor peace and the practice and procedure of
9 collective bargaining by all workers whose rights are not otherwise
10 preempted by federal law, and to protect the exercise by these
11 workers of full freedom of association, self-organization, and
12 designation of representatives of their own choosing, for the purpose
13 of negotiating the terms and conditions of their employment or other
14 mutual aid or protection.

15 **Sec. 2.** RCW 28B.52.073 and 1987 c 314 s 11 are each amended to
16 read as follows:

17 (1) It shall be an unfair labor practice for an employer:

18 (a) To interfere with, restrain, or coerce employees in the
19 exercise of the rights guaranteed by this chapter;

1 (b) To dominate or interfere with the formation or administration
2 of any employee organization or contribute financial or other support
3 to it: PROVIDED, That subject to rules adopted by the commission, an
4 employer shall not be prohibited from permitting employees to confer
5 with it or its representatives or agents during working hours without
6 loss of time or pay;

7 (c) To encourage or discourage membership in any employee
8 organization by discrimination in regard to hire, tenure of
9 employment, or any term or condition of employment;

10 (d) To discharge or discriminate otherwise against an employee
11 because that employee has filed charges or given testimony under this
12 chapter;

13 (e) To refuse to bargain collectively with the representatives of
14 its employees;

15 (f) To not maintain neutrality in practices, policies, and
16 activity with regard to employees seeking to exercise rights
17 guaranteed by this chapter. For the purposes of this subsection
18 (1)(f), examples of when an employer does not maintain neutrality are
19 if it:

20 (i) Unless otherwise required by this chapter, distributes
21 literature, letters, emails, or postings to employees regarding the
22 exercise of the rights guaranteed by this chapter. This subsection
23 (1)(f)(i) does not prohibit communications mutually agreed to by the
24 employer and an exclusive bargaining representative already certified
25 under this chapter; or

26 (ii) Funds external organizations or external legal counsel to
27 influence employees seeking to exercise the rights guaranteed by this
28 chapter. This subsection (1)(f)(ii) does not prohibit an employer
29 from hiring external legal counsel to negotiate a collective
30 bargaining agreement with an exclusive bargaining representative, but
31 the legal counsel must also maintain neutrality.

32 (2) It shall be an unfair labor practice for an employee
33 organization:

34 (a) To restrain or coerce an employee in the exercise of the
35 rights guaranteed by this chapter: PROVIDED, That this subsection
36 shall not impair the right of an employee organization to prescribe
37 its own rules with respect to the acquisition or retention of
38 membership in the employee organization or to an employer in the
39 selection of its representatives for the purpose of bargaining or the
40 adjustment of grievances;

1 (b) To cause or attempt to cause an employer to discriminate
2 against an employee in violation of subsection (1)(c) of this
3 section;

4 (c) To discriminate against an employee because that employee has
5 filed charges or given testimony under this chapter;

6 (d) To refuse to bargain collectively with an employer.

7 (3) Except for an unfair labor practice under subsection (1)(f)
8 of this section, the expressing of any views, arguments, or opinion,
9 or the dissemination thereof to the public, whether in written,
10 printed, graphic, or visual form, shall not constitute or be evidence
11 of an unfair labor practice under this chapter, if such expression
12 contains no threat of reprisal or force or promise of benefit.

13 **Sec. 3.** RCW 39.04.350 and 2018 c 243 s 1 are each amended to
14 read as follows:

15 (1) Before award of a public works contract, a bidder must meet
16 the following responsibility criteria to be considered a responsible
17 bidder and qualified to be awarded a public works project. The bidder
18 must:

19 (a) At the time of bid submittal, have a certificate of
20 registration in compliance with chapter 18.27 RCW;

21 (b) Have a current state unified business identifier number;

22 (c) If applicable, have industrial insurance coverage for the
23 bidder's employees working in Washington as required in Title 51 RCW;
24 an employment security department number as required in Title 50 RCW;
25 and a state excise tax registration number as required in Title 82
26 RCW;

27 (d) Not be disqualified from bidding on any public works contract
28 under RCW 39.06.010 or 39.12.065(3);

29 (e) If bidding on a public works project subject to the
30 apprenticeship utilization requirements in RCW 39.04.320, not have
31 been found out of compliance by the Washington state apprenticeship
32 and training council for working apprentices out of ratio, without
33 appropriate supervision, or outside their approved work processes as
34 outlined in their standards of apprenticeship under chapter 49.04 RCW
35 for the one-year period immediately preceding the date of the bid
36 solicitation;

37 (f) Have received training on the requirements related to public
38 works and prevailing wage under this chapter and chapter 39.12 RCW.
39 The bidder must designate a person or persons to be trained on these

1 requirements. The training must be provided by the department of
2 labor and industries or by a training provider whose curriculum is
3 approved by the department. The department, in consultation with the
4 prevailing wage advisory committee, must determine the length of the
5 training. Bidders that have completed three or more public works
6 projects and have had a valid business license in Washington for
7 three or more years are exempt from this subsection. The department
8 of labor and industries must keep records of entities that have
9 satisfied the training requirement or are exempt and make the records
10 available on its web site. Responsible parties may rely on the
11 records made available by the department regarding satisfaction of
12 the training requirement or exemption; (~~and~~)

13 (g) Within the three-year period immediately preceding the date
14 of the bid solicitation, not have been determined by a final and
15 binding citation and notice of assessment issued by the department of
16 labor and industries or through a civil judgment entered by a court
17 of limited or general jurisdiction to have willfully violated, as
18 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or
19 49.52 RCW; and

20 (h) Certify that the bidder will not influence its employees
21 seeking to exercise rights guaranteed by the national labor relations
22 act (29 U.S.C. Sec. 151 et seq.).

23 (2) Before award of a public works contract, a bidder shall
24 submit to the contracting agency a signed statement in accordance
25 with RCW 9A.72.085 verifying under penalty of perjury that the bidder
26 is in compliance with the responsible bidder criteria requirement of
27 subsection (1)(g) of this section. A contracting agency may award a
28 contract in reasonable reliance upon such a sworn statement.

29 (3) In addition to the bidder responsibility criteria in
30 subsection (1) of this section, the state or municipality may adopt
31 relevant supplemental criteria for determining bidder responsibility
32 applicable to a particular project which the bidder must meet.

33 (a) Supplemental criteria for determining bidder responsibility,
34 including the basis for evaluation and the deadline for appealing a
35 determination that a bidder is not responsible, must be provided in
36 the invitation to bid or bidding documents.

37 (b) In a timely manner before the bid submittal deadline, a
38 potential bidder may request that the state or municipality modify
39 the supplemental criteria. The state or municipality must evaluate
40 the information submitted by the potential bidder and respond before

1 the bid submittal deadline. If the evaluation results in a change of
2 the criteria, the state or municipality must issue an addendum to the
3 bidding documents identifying the new criteria.

4 (c) If the bidder fails to supply information requested
5 concerning responsibility within the time and manner specified in the
6 bid documents, the state or municipality may base its determination
7 of responsibility upon any available information related to the
8 supplemental criteria or may find the bidder not responsible.

9 (d) If the state or municipality determines a bidder to be not
10 responsible, the state or municipality must provide, in writing, the
11 reasons for the determination. The bidder may appeal the
12 determination within the time period specified in the bidding
13 documents by presenting additional information to the state or
14 municipality. The state or municipality must consider the additional
15 information before issuing its final determination. If the final
16 determination affirms that the bidder is not responsible, the state
17 or municipality may not execute a contract with any other bidder
18 until two business days after the bidder determined to be not
19 responsible has received the final determination.

20 (4) The capital projects advisory review board created in RCW
21 39.10.220 shall develop suggested guidelines to assist the state and
22 municipalities in developing supplemental bidder responsibility
23 criteria. The guidelines must be posted on the board's web site.

24 **Sec. 4.** RCW 39.26.160 and 2017 c 258 s 3 are each amended to
25 read as follows:

26 (1)(a) After bids that are submitted in response to a competitive
27 solicitation process are reviewed by the awarding agency, the
28 awarding agency may:

29 (i) Reject all bids and rebid or cancel the competitive
30 solicitation;

31 (ii) Request best and final offers from responsive and
32 responsible bidders; or

33 (iii) Award the purchase or contract to the lowest responsive and
34 responsible bidder.

35 (b) The agency may award one or more contracts from a competitive
36 solicitation.

37 (2) In determining whether the bidder is a responsible bidder,
38 the agency must consider the following elements:

1 (a) The ability, capacity, and skill of the bidder to perform the
2 contract or provide the service required;

3 (b) The character, integrity, reputation, judgment, experience,
4 and efficiency of the bidder;

5 (c) Whether the bidder can perform the contract within the time
6 specified;

7 (d) The quality of performance of previous contracts or services;

8 (e) The previous and existing compliance by the bidder with laws
9 relating to the contract or services;

10 (f) Whether, within the three-year period immediately preceding
11 the date of the bid solicitation, the bidder has been determined by a
12 final and binding citation and notice of assessment issued by the
13 department of labor and industries or through a civil judgment
14 entered by a court of limited or general jurisdiction to have
15 willfully violated, as defined in RCW 49.48.082, any provision of
16 chapter 49.46, 49.48, or 49.52 RCW; (~~and~~)

17 (g) Whether the bidder has certified that it will not influence
18 its employees seeking to exercise rights guaranteed by the national
19 labor relations act (29 U.S.C. Sec. 151 et seq.); and

20 (h) Such other information as may be secured having a bearing on
21 the decision to award the contract.

22 (3) In determining the lowest responsive and responsible bidder,
23 an agency may consider best value criteria, including but not limited
24 to:

25 (a) Whether the bid satisfies the needs of the state as specified
26 in the solicitation documents;

27 (b) Whether the bid encourages diverse contractor participation;

28 (c) Whether the bid provides competitive pricing, economies, and
29 efficiencies;

30 (d) Whether the bid considers human health and environmental
31 impacts;

32 (e) Whether the bid appropriately weighs cost and noncost
33 considerations; and

34 (f) Life-cycle cost.

35 (4) The solicitation document must clearly set forth the
36 requirements and criteria that the agency will apply in evaluating
37 bid submissions. Before award of a contract, a bidder shall submit to
38 the contracting agency a signed statement in accordance with RCW
39 9A.72.085 verifying under penalty of perjury that the bidder is in
40 compliance with the responsible bidder criteria requirement of

1 subsection (2)(f) of this section. A contracting agency may award a
2 contract in reasonable reliance upon such a sworn statement.

3 (5) The awarding agency may at its discretion reject the bid of
4 any contractor who has failed to perform satisfactorily on a previous
5 contract with the state.

6 (6) After reviewing all bid submissions, an agency may enter into
7 negotiations with the lowest responsive and responsible bidder in
8 order to determine if the bid may be improved. An agency may not use
9 this negotiation opportunity to permit a bidder to change a
10 nonresponsive bid into a responsive bid.

11 (7) The procuring agency must enter into the state's enterprise
12 vendor registration and bid notification system the name of each
13 bidder and an indication as to the successful bidder.

14 **Sec. 5.** RCW 41.56.140 and 2011 c 222 s 2 are each amended to
15 read as follows:

16 It shall be an unfair labor practice for a public employer:

17 (1) To interfere with, restrain, or coerce public employees in
18 the exercise of their rights guaranteed by this chapter;

19 (2) To control, dominate, or interfere with a bargaining
20 representative;

21 (3) To discriminate against a public employee who has filed an
22 unfair labor practice charge;

23 (4) To refuse to engage in collective bargaining with the
24 certified exclusive bargaining representative;

25 (5) To not maintain neutrality in practices, policies, and
26 activity with regard to employees seeking to exercise rights
27 guaranteed by this chapter. For the purposes of this subsection (5),
28 examples of when an employer does not maintain neutrality are if it:

29 (a) Unless otherwise required by this chapter, distributes
30 literature, letters, emails, or postings to employees regarding the
31 exercise of the rights guaranteed by this chapter. This subsection
32 (5)(a) does not prohibit communications mutually agreed to by the
33 employer and an exclusive bargaining representative already certified
34 under this chapter; or

35 (b) Funds external organizations or external legal counsel to
36 influence employees seeking to exercise the rights guaranteed by this
37 chapter. This subsection (5)(b) does not prohibit an employer from
38 hiring external legal counsel to negotiate a collective bargaining

1 agreement with an exclusive bargaining representative, but the legal
2 counsel must also maintain neutrality.

3 **Sec. 6.** RCW 41.59.140 and 2012 c 117 s 93 are each amended to
4 read as follows:

5 (1) It shall be an unfair labor practice for an employer:

6 (a) To interfere with, restrain, or coerce employees in the
7 exercise of the rights guaranteed in RCW 41.59.060;

8 (b) To dominate or interfere with the formation or administration
9 of any employee organization or contribute financial or other support
10 to it: PROVIDED, That subject to rules and regulations made by the
11 commission pursuant to RCW 41.59.110, an employer shall not be
12 prohibited from permitting employees to confer with it or its
13 representatives or agents during working hours without loss of time
14 or pay;

15 (c) To encourage or discourage membership in any employee
16 organization by discrimination in regard to hire, tenure of
17 employment or any term or condition of employment, but nothing
18 contained in this subsection shall prevent an employer from
19 requiring, as a condition of continued employment, payment of
20 periodic dues and fees uniformly required to an exclusive bargaining
21 representative pursuant to RCW 41.59.100;

22 (d) To discharge or otherwise discriminate against an employee
23 because he or she has filed charges or given testimony under this
24 chapter;

25 (e) To refuse to bargain collectively with the representatives of
26 its employees;

27 (f) To not maintain neutrality in practices, policies, and
28 activity with regard to employees seeking to exercise rights
29 guaranteed by this chapter. For the purposes of this subsection
30 (1)(f), examples of when an employer does not maintain neutrality are
31 if it:

32 (i) Unless otherwise required by this chapter, distributes
33 literature, letters, emails, or postings to employees regarding the
34 exercise of the rights guaranteed by this chapter. This subsection
35 (1)(f)(i) does not prohibit communications mutually agreed to by the
36 employer and an exclusive bargaining representative already certified
37 under this chapter; or

38 (ii) Funds external organizations or external legal counsel to
39 influence employees seeking to exercise the rights guaranteed by this

1 chapter. This subsection (1)(f)(ii) does not prohibit an employer
2 from hiring external legal counsel to negotiate a collective
3 bargaining agreement with an exclusive bargaining representative, but
4 the legal counsel must also maintain neutrality.

5 (2) It shall be an unfair labor practice for an employee
6 organization:

7 (a) To restrain or coerce (i) employees in the exercise of the
8 rights guaranteed in RCW 41.59.060: PROVIDED, That this ((paragraph))
9 subsection (2)(a) shall not impair the right of an employee
10 organization to prescribe its own rules with respect to the
11 acquisition or retention of membership therein; or (ii) an employer
12 in the selection of his or her representatives for the purposes of
13 collective bargaining or the adjustment of grievances;

14 (b) To cause or attempt to cause an employer to discriminate
15 against an employee in violation of subsection (1)(c) of this
16 section;

17 (c) To refuse to bargain collectively with an employer, provided
18 it is the representative of its employees subject to RCW 41.59.090.

19 (3) Except for an unfair labor practice under subsection (1)(f)
20 of this section, the expressing of any views, argument, or opinion,
21 or the dissemination thereof to the public, whether in written,
22 printed, graphic, or visual form, shall not constitute or be evidence
23 of an unfair labor practice under any of the provisions of this
24 chapter, if such expression contains no threat of reprisal or force
25 or promise of benefit.

26 **Sec. 7.** RCW 41.76.050 and 2002 c 356 s 13 are each amended to
27 read as follows:

28 (1) It is an unfair labor practice for an employer to:

29 (a) Interfere with, restrain, or coerce faculty members in the
30 exercise of the rights guaranteed by this chapter;

31 (b) Dominate or interfere with the formation or administration of
32 any employee organization or contribute financial or other support to
33 it: PROVIDED, That subject to rules adopted by the commission, an
34 employer is not prohibited from permitting faculty members to confer
35 with it or its representatives or agents during working hours without
36 loss of time or pay;

37 (c) Encourage or discourage membership in any employee
38 organization by discrimination in regard to hire, tenure of
39 employment, or any term or condition of employment;

1 (d) Discharge or discriminate otherwise against a faculty member
2 because that faculty member has filed charges or given testimony
3 under this chapter;

4 (e) Refuse to bargain collectively with the exclusive bargaining
5 representative of its faculty;

6 (f) Not maintain neutrality in practices, policies, and activity
7 with regard to employees seeking to exercise rights guaranteed by
8 this chapter. For the purposes of this subsection (1)(f), examples of
9 when an employer does not maintain neutrality are if it:

10 (i) Unless otherwise required by this chapter, distributes
11 literature, letters, emails, or postings to employees regarding the
12 exercise of the rights guaranteed by this chapter. This subsection
13 (1)(f)(i) does not prohibit communications mutually agreed to by the
14 employer and an exclusive bargaining representative already certified
15 under this chapter; or

16 (ii) Funds external organizations or external legal counsel to
17 influence employees seeking to exercise the rights guaranteed by this
18 chapter. This subsection (1)(f)(ii) does not prohibit an employer
19 from hiring external legal counsel to negotiate a collective
20 bargaining agreement with an exclusive bargaining representative, but
21 the legal counsel must also maintain neutrality.

22 (2) It is an unfair labor practice for an employee organization
23 to:

24 (a) Restrain or coerce a faculty member in the exercise of the
25 rights guaranteed by this chapter: PROVIDED, That this subsection
26 does not impair the rights of (i) an employee organization to
27 prescribe its own rules with respect to the acquisition or retention
28 of membership in the employee organization or (ii) to the rights of
29 an employer in the selection of its representatives for the purpose
30 of bargaining or the adjustment of grievances;

31 (b) Cause or attempt to cause an employer to discriminate against
32 a faculty member in violation of subsection (1)(c) of this section;

33 (c) Discriminate against a faculty member because that faculty
34 member has filed charges or given testimony under this chapter;

35 (d) Refuse to bargain collectively with an employer.

36 (3) Except for an unfair labor practice under subsection (1)(f)
37 of this section, the expressing of any view, arguments, or opinion,
38 or the dissemination thereof to the public, whether in written,
39 printed, graphic, or visual form, shall not constitute or be evidence

1 of an unfair labor practice under this chapter, if such expression
2 contains no threat of reprisal or force or promise of benefit.

3 **Sec. 8.** RCW 41.80.110 and 2002 c 354 s 312 are each amended to
4 read as follows:

5 (1) It is an unfair labor practice for an employer:

6 (a) To interfere with, restrain, or coerce employees in the
7 exercise of the rights guaranteed by this chapter;

8 (b) To dominate or interfere with the formation or administration
9 of any employee organization or contribute financial or other support
10 to it: PROVIDED, That subject to rules adopted by the commission, an
11 employer shall not be prohibited from permitting employees to confer
12 with it or its representatives or agents during working hours without
13 loss of time or pay;

14 (c) To encourage or discourage membership in any employee
15 organization by discrimination in regard to hire, tenure of
16 employment, or any term or condition of employment;

17 (d) To discharge or discriminate otherwise against an employee
18 because that employee has filed charges or given testimony under this
19 chapter;

20 (e) To refuse to bargain collectively with the representatives of
21 its employees;

22 (f) To not maintain neutrality in practices, policies, and
23 activity with regard to employees seeking to exercise rights
24 guaranteed by this chapter. For the purposes of this subsection
25 (1)(f), examples of when an employer does not maintain neutrality are
26 if it:

27 (i) Unless otherwise required by this chapter, distributes
28 literature, letters, emails, or postings to employees regarding the
29 exercise of the rights guaranteed by this chapter. This subsection
30 (1)(f)(i) does not prohibit communications mutually agreed to by the
31 employer and an exclusive bargaining representative already certified
32 under this chapter; or

33 (ii) Funds external organizations or external legal counsel to
34 influence employees seeking to exercise the rights guaranteed by this
35 chapter. This subsection (1)(f)(ii) does not prohibit an employer
36 from hiring external legal counsel to negotiate a collective
37 bargaining agreement with an exclusive bargaining representative, but
38 the legal counsel must also maintain neutrality.

39 (2) It is an unfair labor practice for an employee organization:

1 (a) To restrain or coerce an employee in the exercise of the
2 rights guaranteed by this chapter: PROVIDED, That this subsection
3 shall not impair the right of an employee organization to prescribe
4 its own rules with respect to the acquisition or retention of
5 membership in the employee organization or to an employer in the
6 selection of its representatives for the purpose of bargaining or the
7 adjustment of grievances;

8 (b) To cause or attempt to cause an employer to discriminate
9 against an employee in violation of subsection (1)(c) of this
10 section;

11 (c) To discriminate against an employee because that employee has
12 filed charges or given testimony under this chapter;

13 (d) To refuse to bargain collectively with an employer.

14 (3) Except for an unfair labor practice under subsection (1)(f)
15 of this section, the expressing of any views, arguments, or opinion,
16 or the dissemination thereof to the public, whether in written,
17 printed, graphic, or visual form, shall not constitute or be evidence
18 of an unfair labor practice under this chapter, if such expression
19 contains no threat of reprisal or force or promise of benefit.

20 **Sec. 9.** RCW 47.64.130 and 2011 1st sp.s. c 16 s 19 are each
21 amended to read as follows:

22 (1) It is an unfair labor practice for the employer or its
23 representatives:

24 (a) To interfere with, restrain, or coerce employees in the
25 exercise of the rights guaranteed by this chapter;

26 (b) To dominate or interfere with the formation or administration
27 of any employee organization or contribute financial or other support
28 to it. However, subject to rules made by the public employment
29 relations commission pursuant to RCW 41.58.050, an employer shall not
30 be prohibited from permitting employees to confer with it or its
31 representatives or agents during working hours without loss of time
32 or pay;

33 (c) To encourage or discourage membership in any employee
34 organization by discrimination in regard to hiring, tenure of
35 employment, or any term or condition of employment, but nothing
36 contained in this subsection prevents an employer from requiring, as
37 a condition of continued employment, payment of periodic dues and
38 fees uniformly required to an exclusive bargaining representative
39 pursuant to RCW 47.64.160. However, nothing prohibits the employer

1 from agreeing to obtain employees by referral from a lawful hiring
2 hall operated by or participated in by a labor organization;

3 (d) To discharge or otherwise discriminate against an employee
4 because he or she has filed charges or given testimony under this
5 chapter;

6 (e) To refuse to bargain collectively with the representatives of
7 its employees;

8 (f) To not maintain neutrality in practices, policies, and
9 activity with regard to employees seeking to exercise rights
10 guaranteed by this chapter. For the purposes of this subsection
11 (1)(f), examples of when an employer does not maintain neutrality are
12 if it:

13 (i) Unless otherwise required by this chapter, distributes
14 literature, letters, emails, or postings to employees regarding the
15 exercise of the rights guaranteed by this chapter. This subsection
16 (1)(f)(i) does not prohibit communications mutually agreed to by the
17 employer and an exclusive bargaining representative already certified
18 under this chapter; or

19 (ii) Funds external organizations or external legal counsel to
20 influence employees seeking to exercise the rights guaranteed by this
21 chapter. This subsection (1)(f)(ii) does not prohibit an employer
22 from hiring external legal counsel to negotiate a collective
23 bargaining agreement with an exclusive bargaining representative, but
24 the legal counsel must also maintain neutrality.

25 (2) It is an unfair labor practice for an employee organization:

26 (a) To restrain or coerce (i) employees in the exercise of the
27 rights guaranteed by this chapter. However, this subsection does not
28 impair the right of an employee organization to prescribe its own
29 rules with respect to the acquisition or retention of membership
30 therein, or (ii) an employer in the selection of his or her
31 representatives for the purposes of collective bargaining or the
32 adjustment of grievances;

33 (b) To cause or attempt to cause an employer to discriminate
34 against an employee in violation of subsection (1)(c) of this
35 section;

36 (c) To refuse to bargain collectively with an employer.

37 (3) Except for an unfair labor practice under subsection (1)(f)
38 of this section, the expression of any view, argument, or opinion, or
39 the dissemination thereof to the public, whether in written, printed,
40 graphic, or visual form, shall not constitute or be evidence of an

1 unfair labor practice under any of the provisions of this chapter, if
2 the expression contains no threat of reprisal or force or promise of
3 benefit.

4 **Sec. 10.** RCW 49.39.120 and 2010 c 6 s 13 are each amended to
5 read as follows:

6 It is an unfair labor practice for an employer:

7 (1) To interfere with, restrain, or coerce symphony musicians in
8 the exercise of their rights guaranteed by this chapter;

9 (2) To control, dominate, or interfere with a bargaining
10 representative;

11 (3) To discriminate against a symphony musician who has filed an
12 unfair labor practice charge or who has given testimony under this
13 chapter;

14 (4) To refuse to engage in collective bargaining;

15 (5) To not maintain neutrality in practices, policies, and
16 activity with regard to employees seeking to exercise rights
17 guaranteed by this chapter. For the purposes of this subsection (5),
18 examples of when an employer does not maintain neutrality are if it:

19 (a) Unless otherwise required by this chapter, distributes
20 literature, letters, emails, or postings to employees regarding the
21 exercise of the rights guaranteed by this chapter. This subsection
22 (5)(a) does not prohibit communications mutually agreed to by the
23 employer and an exclusive bargaining representative already certified
24 under this chapter; or

25 (b) Funds external organizations or external legal counsel to
26 influence employees seeking to exercise the rights guaranteed by this
27 chapter. This subsection (5)(b) does not prohibit an employer from
28 hiring external legal counsel to negotiate a collective bargaining
29 agreement with an exclusive bargaining representative, but the legal
30 counsel must also maintain neutrality.

31 **Sec. 11.** RCW 49.66.040 and 1972 ex.s. c 156 s 4 are each amended
32 to read as follows:

33 It shall be deemed an unfair labor practice, and unlawful, for
34 any health care activity to:

35 (1) Interfere with, restrain or coerce employees in any manner in
36 the exercise of their right of self-organization: PROVIDED, That,
37 except for an unfair labor practice under subsection (5) of this
38 section, the expressing of any views, argument, or opinion, or the

1 dissemination thereof, whether in written, printed, graphic or visual
2 form, shall not constitute or be evidence of an unfair labor practice
3 under any of the provisions of this chapter, if such expression
4 contains no threat of reprisal or force or promise of benefit;

5 (2) Initiate, create, dominate, contribute to or interfere with
6 the formation or administration of any employee organization having
7 bargaining as one of its functions;

8 (3) Discriminate in regard to hire, terms, or conditions of
9 employment in order to discourage membership in any employee
10 organization having collective bargaining as one of its functions;

11 (4) Refuse to meet and bargain in good faith with the duly
12 designated representatives of an appropriate bargaining unit of
13 employees; and it shall be a requirement of good faith bargaining
14 that the parties be willing to reduce to writing, and have their
15 representatives sign, any agreement arrived at through negotiation
16 and discussion;

17 (5) Not maintain neutrality in practices, policies, and activity
18 with regard to employees seeking to exercise rights guaranteed by
19 this chapter. For the purposes of this subsection (5), examples of
20 when an employer does not maintain neutrality are if it:

21 (a) Unless otherwise required by this chapter, distributes
22 literature, letters, emails, or postings to employees regarding the
23 exercise of the rights guaranteed by this chapter. This subsection
24 (5)(a) does not prohibit communications mutually agreed to by the
25 employer and an exclusive bargaining representative already certified
26 under this chapter; or

27 (b) Funds external organizations or external legal counsel to
28 influence employees seeking to exercise the rights guaranteed by this
29 chapter. This subsection (5)(b) does not prohibit an employer from
30 hiring external legal counsel to negotiate a collective bargaining
31 agreement with an exclusive bargaining representative, but the legal
32 counsel must also maintain neutrality.

--- END ---