
SENATE BILL 5481

State of Washington

66th Legislature

2019 Regular Session

By Senators Warnick, Sheldon, Short, Van De Wege, Honeyford, Wagoner, Fortunato, and Holy

Read first time 01/22/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to establishing a coalition of commissioned
2 officers, detectives, and sergeants of the department of fish and
3 wildlife for the purposes of collective bargaining, including
4 interest arbitration; amending RCW 41.56.030; and adding new sections
5 to chapter 41.56 RCW.

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

7 **Sec. 1.** RCW 41.56.030 and 2018 c 253 s 6 are each amended to
8 read as follows:

9 As used in this chapter:

10 (1) "Adult family home provider" means a provider as defined in
11 RCW 70.128.010 who receives payments from the medicaid and state-
12 funded long-term care programs.

13 (2) "Bargaining representative" means any lawful organization
14 which has as one of its primary purposes the representation of
15 employees in their employment relations with employers.

16 (3) "Child care subsidy" means a payment from the state through a
17 child care subsidy program established pursuant to RCW 74.12.340, 45
18 C.F.R. Sec. 98.1 through 98.17, or any successor program.

19 (4) "Collective bargaining" means the performance of the mutual
20 obligations of the public employer and the exclusive bargaining
21 representative to meet at reasonable times, to confer and negotiate

1 in good faith, and to execute a written agreement with respect to
2 grievance procedures and collective negotiations on personnel
3 matters, including wages, hours and working conditions, which may be
4 peculiar to an appropriate bargaining unit of such public employer,
5 except that by such obligation neither party shall be compelled to
6 agree to a proposal or be required to make a concession unless
7 otherwise provided in this chapter.

8 (5) "Commission" means the public employment relations
9 commission.

10 (6) "Executive director" means the executive director of the
11 commission.

12 (7) "Family child care provider" means a person who: (a) Provides
13 regularly scheduled care for a child or children in the home of the
14 provider or in the home of the child or children for periods of less
15 than twenty-four hours or, if necessary due to the nature of the
16 parent's work, for periods equal to or greater than twenty-four
17 hours; (b) receives child care subsidies; and (c) under chapter
18 43.216 RCW, is either licensed by the state or is exempt from
19 licensing.

20 (8) "Individual provider" means an individual provider as defined
21 in RCW 74.39A.240(3) who, solely for the purposes of collective
22 bargaining, is a public employee as provided in RCW 74.39A.270.

23 (9) "Institution of higher education" means the University of
24 Washington, Washington State University, Central Washington
25 University, Eastern Washington University, Western Washington
26 University, The Evergreen State College, and the various state
27 community colleges.

28 (10)(a) "Language access provider" means any independent
29 contractor who provides spoken language interpreter services, whether
30 paid by a broker, language access agency, or the respective
31 department:

32 (i) For department of social and health services appointments,
33 department of children, youth, and families appointments, medicaid
34 enrollee appointments, or who provided these services on or after
35 January 1, 2011, and before June 10, 2012;

36 (ii) For department of labor and industries authorized medical
37 and vocational providers, or who provided these services on or after
38 January 1, 2016, and before July 1, 2018; or

39 (iii) For state agencies, or who provided these services on or
40 after January 1, 2016, and before July 1, 2018.

1 (b) "Language access provider" does not mean a manager or
2 employee of a broker or a language access agency.

3 (11) "Public employee" means any employee of a public employer
4 except any person (a) elected by popular vote, or (b) appointed to
5 office pursuant to statute, ordinance or resolution for a specified
6 term of office as a member of a multimember board, commission, or
7 committee, whether appointed by the executive head or body of the
8 public employer, or (c) whose duties as deputy, administrative
9 assistant or secretary necessarily imply a confidential relationship
10 to (i) the executive head or body of the applicable bargaining unit,
11 or (ii) any person elected by popular vote, or (iii) any person
12 appointed to office pursuant to statute, ordinance or resolution for
13 a specified term of office as a member of a multimember board,
14 commission, or committee, whether appointed by the executive head or
15 body of the public employer, or (d) who is a court commissioner or a
16 court magistrate of superior court, district court, or a department
17 of a district court organized under chapter 3.46 RCW, or (e) who is a
18 personal assistant to a district court judge, superior court judge,
19 or court commissioner. For the purpose of (e) of this subsection, no
20 more than one assistant for each judge or commissioner may be
21 excluded from a bargaining unit.

22 (12) "Public employer" means any officer, board, commission,
23 council, or other person or body acting on behalf of any public body
24 governed by this chapter, or any subdivision of such public body. For
25 the purposes of this section, the public employer of district court
26 or superior court employees for wage-related matters is the
27 respective county legislative authority, or person or body acting on
28 behalf of the legislative authority, and the public employer for
29 nonwage-related matters is the judge or judge's designee of the
30 respective district court or superior court.

31 (13) "Uniformed personnel" means: (a) Law enforcement officers as
32 defined in RCW 41.26.030 employed by the governing body of any city
33 or town with a population of two thousand five hundred or more and
34 law enforcement officers employed by the governing body of any county
35 with a population of ten thousand or more; (b) correctional employees
36 who are uniformed and nonuniformed, commissioned and noncommissioned
37 security personnel employed in a jail as defined in RCW 70.48.020(9),
38 by a county with a population of seventy thousand or more, and who
39 are trained for and charged with the responsibility of controlling
40 and maintaining custody of inmates in the jail and safeguarding

1 inmates from other inmates; (c) general authority Washington peace
2 officers as defined in RCW 10.93.020 employed by a port district in a
3 county with a population of one million or more; (d) security forces
4 established under RCW 43.52.520; (e) firefighters as that term is
5 defined in RCW 41.26.030; (f) employees of a port district in a
6 county with a population of one million or more whose duties include
7 crash fire rescue or other firefighting duties; (g) employees of fire
8 departments of public employers who dispatch exclusively either fire
9 or emergency medical services, or both; (h) employees in the several
10 classes of advanced life support technicians, as defined in RCW
11 18.71.200, who are employed by a public employer; or (i) court
12 marshals of any county who are employed by, trained for, and
13 commissioned by the county sheriff and charged with the
14 responsibility of enforcing laws, protecting and maintaining security
15 in all county-owned or contracted property, and performing any other
16 duties assigned to them by the county sheriff or mandated by judicial
17 order.

18 (14) "Fish and wildlife officer" means a fish and wildlife
19 officer as defined in RCW 77.08.010 who ranks below a captain and
20 includes officers, detectives, and sergeants of the department of
21 fish and wildlife.

22 NEW SECTION. Sec. 2. A new section is added to chapter 41.56
23 RCW to read as follows:

24 (1) In addition to the entities listed in RCW 41.56.020, this
25 chapter applies to the state with respect to fish and wildlife
26 officers except the state may not negotiate any matters relating to
27 retirement benefits or health care benefits or other employee
28 insurance benefits.

29 (2) For the purposes of negotiating wages, wage-related matters,
30 and nonwage matters, the state shall be represented by the governor
31 or the governor's designee who is appointed under RCW 41.80.010, and
32 costs of the negotiations under this section shall be reimbursed as
33 provided in RCW 41.80.140.

34 (3) Fish and wildlife officers shall be excluded from the
35 coalition bargaining for a master agreement of all exclusive
36 bargaining representatives of fewer than five hundred employees under
37 chapter 41.80 RCW.

38 (4) The governor or the governor's designee shall consult with
39 the director of fish and wildlife regarding collective bargaining.

1 (5) The negotiation of provisions pertaining to wages and wage-
2 related matters in a collective bargaining agreement between the
3 state and the bargaining representatives of the fish and wildlife
4 officers is subject to the following:

5 (a) The state's bargaining representative must periodically
6 consult with a subcommittee of the joint committee on employment
7 relations created in RCW 41.80.007 which shall consist of two members
8 with leadership positions in the house of representatives,
9 representing each of the two largest caucuses; the chair and the
10 ranking minority member of the house appropriations committee, or
11 its successor, representing each of the two largest caucuses; two
12 members with leadership positions in the senate, representing each of
13 the two largest caucuses; the chair and ranking minority member of
14 the senate ways and means committee, or its successor, representing
15 each of the two largest caucuses; and one nonvoting member, appointed
16 by the governor, representing the office of financial management; or
17 any such successor committee for the joint committee on employment
18 relations. The subcommittee must be consulted regarding the
19 appropriations necessary to implement these provisions in a
20 collective bargaining agreement and, on completion of negotiations,
21 must be advised on the elements of these provisions.

22 (b) Provisions that are entered into before the legislature
23 approves the funds necessary to implement the provisions are
24 conditioned upon the legislature's subsequent approval of the funds.

25 (6) The governor shall submit a request for funds necessary to
26 implement the wage and wage-related matters in the collective
27 bargaining agreement or for legislation necessary to implement the
28 agreement. Requests for funds necessary to implement the provisions
29 of bargaining agreements may not be submitted to the legislature by
30 the governor unless such requests:

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

34 (b) Have been certified by the director of financial management
35 as being feasible financially for the state or reflects the decision
36 of an arbitration panel reached under RCW 41.56.475.

37 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.56
38 RCW to read as follows:

1 In addition to the classes of employees listed in RCW
2 41.56.030(13), the provisions of RCW 41.56.430, 41.56.440, 41.56.450,
3 41.56.452, 41.56.470, 41.56.480, and 41.56.490 also apply to fish and
4 wildlife officers as provided in this section, subject to the
5 following:

6 (1) Within ten working days after the first Monday in September
7 of every odd-numbered year, the state's bargaining representative and
8 the bargaining representative for the appropriate bargaining unit
9 shall attempt to agree on an interest arbitration panel consisting of
10 three members to be used if the parties are not successful in
11 negotiating a comprehensive collective bargaining agreement. Each
12 party shall name one person to serve as its arbitrator on the
13 arbitration panel. The two members so appointed shall meet within
14 seven days following the appointment of the later appointed member to
15 attempt to choose a third member to act as the neutral chair of the
16 arbitration panel. Upon the failure of the arbitrators to select a
17 neutral chair within seven days, the two appointed members shall use
18 one of the two following options in the appointment of the third
19 member, who shall act as chair of the panel: (a) By mutual consent,
20 the two appointed members may jointly request the commission to, and
21 the commission shall, appoint a third member within two days of such
22 a request. Costs of each party's appointee shall be borne by each
23 party respectively; other costs of the arbitration proceedings shall
24 be borne by the commission; or (b) either party may apply to the
25 commission, the federal mediation and conciliation service, or the
26 American arbitration association to provide a list of five qualified
27 arbitrators from which the neutral chair shall be chosen. Each party
28 shall pay the fees and expenses of its arbitrator, and the fees and
29 expenses of the neutral chair shall be shared equally between the
30 parties. Immediately upon selecting an interest arbitration panel,
31 the parties shall cooperate to reserve dates with the arbitration
32 panel for potential arbitration between August 1st and September 15th
33 of the following even-numbered year. The parties shall also prepare a
34 schedule of at least five negotiation dates for the following year,
35 absent an agreement to the contrary. The parties shall execute a
36 written agreement before November 1st of each odd-numbered year
37 setting forth the names of the members of the arbitration panel and
38 the dates reserved for bargaining and arbitration. This subsection
39 imposes minimum obligations only and is not intended to define or

1 limit a party's full, good faith bargaining obligation under other
2 sections of this chapter.

3 (2) The mediator or arbitration panel may consider only matters
4 that are subject to bargaining under RCW 41.80.020.

5 (3) The decision of an arbitration panel is not binding on the
6 legislature and, if the legislature does not approve the funds
7 necessary to implement provisions pertaining to wages and wage-
8 related matters of an arbitrated collective bargaining agreement, is
9 not binding on the state or the representatives of the department of
10 fish and wildlife.

11 (4) In making its determination, the arbitration panel shall be
12 mindful of the legislative purpose enumerated in RCW 41.56.430 and,
13 as additional standards or guidelines to aid it in reaching a
14 decision, shall take into consideration the following factors:

15 (a) The constitutional and statutory authority of the employer;

16 (b) Stipulations of the parties;

17 (c) Comparison of the hours and conditions of employment of
18 personnel involved in the proceedings with the hours and conditions
19 of employment of like personnel of like employers of similar size in
20 the state of Washington;

21 (d) Changes in any of the foregoing circumstances during the
22 pendency of the proceedings; and

23 (e) Such other factors, not confined to the foregoing, which are
24 normally or traditionally taken into consideration in the
25 determination of matters that are subject to bargaining under RCW
26 41.56.473.

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