
SENATE BILL 5934

State of Washington

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By Senators Cantu, Deccio, Johnson, Oke, Hochstatter, Schow,
A. Anderson and Moyer

Read first time 02/15/95. Referred to Committee on Labor, Commerce &
Trade.

1 AN ACT Relating to clarifying school days for purposes of
2 educational contracts; amending RCW 41.59.020; reenacting and amending
3 RCW 41.56.030; and declaring an emergency.

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

5 **Sec. 1.** RCW 41.56.030 and 1993 c 398 s 1, 1993 c 397 s 1, and 1993
6 c 379 s 302 are each reenacted and amended to read as follows:

7 As used in this chapter:

8 (1) "Public employer" means any officer, board, commission,
9 council, or other person or body acting on behalf of any public body
10 governed by this chapter, or any subdivision of such public body. For
11 the purposes of this section, the public employer of district court or
12 superior court employees for wage-related matters is the respective
13 county legislative authority, or person or body acting on behalf of the
14 legislative authority, and the public employer for nonwage-related
15 matters is the judge or judge's designee of the respective district
16 court or superior court.

17 (2) "Public employee" means any employee of a public employer
18 except any person (a) elected by popular vote, or (b) appointed to
19 office pursuant to statute, ordinance or resolution for a specified

1 term of office by the executive head or body of the public employer, or
2 (c) whose duties as deputy, administrative assistant or secretary
3 necessarily imply a confidential relationship to the executive head or
4 body of the applicable bargaining unit, or any person elected by
5 popular vote or appointed to office pursuant to statute, ordinance or
6 resolution for a specified term of office by the executive head or body
7 of the public employer, or (d) who is a personal assistant to a
8 district court judge, superior court judge, or court commissioner. For
9 the purpose of (d) of this subsection, no more than one assistant for
10 each judge or commissioner may be excluded from a bargaining unit.

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

14 (4) "Collective bargaining" means the performance of the mutual
15 obligations of the public employer and the exclusive bargaining
16 representative to meet at reasonable times, to confer and negotiate in
17 good faith, and to execute a written agreement with respect to
18 grievance procedures and collective negotiations on personnel matters,
19 including wages, hours and working conditions, which may be peculiar to
20 an appropriate bargaining unit of such public employer, except that by
21 such obligation neither party shall be compelled to agree to a proposal
22 or be required to make a concession unless otherwise provided in this
23 chapter: PROVIDED, That the schedule of days for the school year,
24 including program and instructional hour offerings, that the school
25 district board of directors establishes for students shall be employee
26 work days and shall not be a subject of bargaining: PROVIDED FURTHER,
27 That employee work days beyond those scheduled for student attendance
28 may be a subject of bargaining. In the case of the Washington state
29 patrol, "collective bargaining" shall not include wages and wage-
30 related matters.

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

32 (6) "Executive director" means the executive director of the
33 commission.

34 (7)(a) Until July 1, 1995, "uniformed personnel" means: (i) Law
35 enforcement officers as defined in RCW 41.26.030 of cities with a
36 population of fifteen thousand or more or law enforcement officers
37 employed by the governing body of any county with a population of
38 seventy thousand or more; (ii) fire fighters as that term is defined in
39 RCW 41.26.030; (iii) correctional employees who are uniformed and

1 nonuniformed, commissioned and noncommissioned security personnel
2 employed in a jail as defined in RCW 70.48.020(5), by a county with a
3 population of seventy thousand or more, and who are trained for and
4 charged with the responsibility of controlling and maintaining custody
5 of inmates in the jail and safeguarding inmates from other inmates;
6 (iv) security forces established under RCW 43.52.520; (v) employees of
7 a port district in a county with a population of one million or more
8 whose duties include crash fire rescue or other fire fighting duties;
9 (vi) employees of fire departments of public employers who dispatch
10 exclusively either fire or emergency medical services, or both; or
11 (vii) employees in the several classes of advanced life support
12 technicians, as defined in RCW 18.71.200, who are employed by a public
13 employer.

14 (b) Beginning on July 1, 1995, "uniformed personnel" means: (i)
15 Law enforcement officers as defined in RCW 41.26.030 employed by the
16 governing body of any city or town with a population of seven thousand
17 five hundred or more and law enforcement officers employed by the
18 governing body of any county with a population of thirty-five thousand
19 or more; (ii) correctional employees who are uniformed and
20 nonuniformed, commissioned and noncommissioned security personnel
21 employed in a jail as defined in RCW 70.48.020(5), by a county with a
22 population of seventy thousand or more, and who are trained for and
23 charged with the responsibility of controlling and maintaining custody
24 of inmates in the jail and safeguarding inmates from other inmates;
25 (iii) general authority Washington peace officers as defined in RCW
26 10.93.020 employed by a port district in a county with a population of
27 one million or more; (iv) security forces established under RCW
28 43.52.520; (v) fire fighters as that term is defined in RCW 41.26.030;
29 (vi) employees of a port district in a county with a population of one
30 million or more whose duties include crash fire rescue or other fire
31 fighting duties; (vii) employees of fire departments of public
32 employers who dispatch exclusively either fire or emergency medical
33 services, or both; or (viii) employees in the several classes of
34 advanced life support technicians, as defined in RCW 18.71.200, who are
35 employed by a public employer.

36 (8) "Institution of higher education" means the University of
37 Washington, Washington State University, Central Washington University,
38 Eastern Washington University, Western Washington University, The
39 Evergreen State College, and the various state community colleges.

1 **Sec. 2.** RCW 41.59.020 and 1989 c 11 s 11 are each amended to read
2 as follows:

3 As used in this chapter:

4 (1) The term "employee organization" means any organization, union,
5 association, agency, committee, council, or group of any kind in which
6 employees participate, and which exists for the purpose, in whole or in
7 part, of collective bargaining with employers.

8 (2) The term "collective bargaining" or "bargaining" means the
9 performance of the mutual obligation of the representatives of the
10 employer and the exclusive bargaining representative to meet at
11 reasonable times in light of the time limitations of the budget-making
12 process, and to bargain in good faith in an effort to reach agreement
13 with respect to the wages, hours, and terms and conditions of
14 employment: PROVIDED, That prior law, practice or interpretation shall
15 be neither restrictive, expansive, nor determinative with respect to
16 the scope of bargaining: PROVIDED FURTHER, That the schedule of days
17 for the school year, including program and instructional hour
18 offerings, that the school district board of directors establishes for
19 students shall be employee work days and shall not be a subject of
20 bargaining: PROVIDED FURTHER, That employee work days beyond those
21 scheduled for student attendance may be a subject of bargaining. A
22 written contract incorporating any agreements reached shall be executed
23 if requested by either party. The obligation to bargain does not
24 compel either party to agree to a proposal or to make a concession.

25 In the event of a dispute between an employer and an exclusive
26 bargaining representative over the matters that are terms and
27 conditions of employment, the commission shall decide which item(s) are
28 mandatory subjects for bargaining and which item(s) are nonmandatory.

29 (3) The term "commission" means the public employment relations
30 commission established by RCW 41.58.010.

31 (4) The terms "employee" and "educational employee" means any
32 certificated employee of a school district, except:

33 (a) The chief executive officer of the employer.

34 (b) The chief administrative officers of the employer, which shall
35 mean the superintendent of the district, deputy superintendents,
36 administrative assistants to the superintendent, assistant
37 superintendents, and business manager. Title variation from all
38 positions enumerated in this subsection (b) may be appealed to the

1 commission for determination of inclusion in, or exclusion from, the
2 term "educational employee".

3 (c) Confidential employees, which shall mean:

4 (i) Any person who participates directly on behalf of an employer
5 in the formulation of labor relations policy, the preparation for or
6 conduct of collective bargaining, or the administration of collective
7 bargaining agreements, except that the role of such person is not
8 merely routine or clerical in nature but calls for the consistent
9 exercise of independent judgment; and

10 (ii) Any person who assists and acts in a confidential capacity to
11 such person.

12 (d) Unless included within a bargaining unit pursuant to RCW
13 41.59.080, any supervisor, which means any employee having authority,
14 in the interest of an employer, to hire, assign, promote, transfer,
15 layoff, recall, suspend, discipline, or discharge other employees, or
16 to adjust their grievances, or to recommend effectively such action, if
17 in connection with the foregoing the exercise of such authority is not
18 merely routine or clerical in nature but calls for the consistent
19 exercise of independent judgment, and shall not include any persons
20 solely by reason of their membership on a faculty tenure or other
21 governance committee or body. The term "supervisor" shall include only
22 those employees who perform a preponderance of the above-specified acts
23 of authority.

24 (e) Unless included within a bargaining unit pursuant to RCW
25 41.59.080, principals and assistant principals in school districts.

26 (5) The term "employer" means any school district.

27 (6) The term "exclusive bargaining representative" means any
28 employee organization which has:

29 (a) Been selected or designated pursuant to the provisions of this
30 chapter as the representative of the employees in an appropriate
31 collective bargaining unit; or

32 (b) Prior to January 1, 1976, been recognized under a predecessor
33 statute as the representative of the employees in an appropriate
34 collective bargaining or negotiations unit.

35 (7) The term "person" means one or more individuals, organizations,
36 unions, associations, partnerships, corporations, boards, committees,
37 commissions, agencies, or other entities, or their representatives.

38 (8) The term "nonsupervisory employee" means all educational
39 employees other than principals, assistant principals and supervisors.

1 NEW SECTION. **Sec. 3.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and shall take
8 effect immediately.

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