
SUBSTITUTE SENATE BILL 6410

State of Washington

64th Legislature

2016 Regular Session

By Senate Commerce & Labor (originally sponsored by Senators Hewitt and Warnick)

READ FIRST TIME 02/04/16.

1 AN ACT Relating to requiring periodic certification elections for
2 labor unions representing public employees; and amending RCW
3 41.56.060, 41.56.070, 41.80.070, 41.80.080, 28B.52.030, 41.76.020,
4 41.59.070, and 47.64.135.

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

6 **Sec. 1.** RCW 41.56.060 and 2005 c 232 s 1 are each amended to
7 read as follows:

8 (1) The commission, after hearing upon reasonable notice, shall
9 decide in each application for certification as an exclusive
10 bargaining representative, the unit appropriate for the purpose of
11 collective bargaining. In determining, modifying, or combining the
12 bargaining unit, the commission shall consider the duties, skills,
13 and working conditions of the public employees; the history of
14 collective bargaining by the public employees and their bargaining
15 representatives; the extent of organization among the public
16 employees; and the desire of the public employees. The commission
17 ((shall)) must determine the bargaining representative by((~~:(a)~~
18 ~~Examination of organization membership rolls; (b) comparison of~~
19 ~~signatures on organization bargaining authorization cards; or (c))~~)
20 conducting an election specifically therefor.

1 (2) For classified employees of school districts and educational
2 service districts:

3 (a) Appropriate bargaining units existing on July 24, 2005, may
4 not be divided into more than one unit without the agreement of the
5 public employer and the certified bargaining representative of the
6 unit; and

7 (b) In making bargaining unit determinations under this section,
8 the commission must consider, in addition to the factors listed in
9 subsection (1) of this section, the avoidance of excessive
10 fragmentation.

11 **Sec. 2.** RCW 41.56.070 and 2012 c 117 s 83 are each amended to
12 read as follows:

13 ~~((In the event the commission elects to conduct an election to
14 ascertain the exclusive bargaining representative, and))~~ (1) Upon the
15 request of a prospective bargaining representative showing written
16 proof of at least thirty percent representation of the public
17 employees within the unit, the commission shall hold an election by
18 secret ballot to determine the issue. The ballot shall contain the
19 name of such bargaining representative and of any other bargaining
20 representative showing written proof of at least ten percent
21 representation of the public employees within the unit, together with
22 a choice ~~((for any public employee to designate that he or she does
23 not desire to be represented by any bargaining agent))~~ of no union
24 representation. Where more than one organization is on the ballot and
25 neither of the three or more choices receives a majority vote of the
26 public employees within the bargaining unit, a run-off election shall
27 be held. The run-off ballot shall contain the two choices which
28 received the largest and second-largest number of votes. No question
29 concerning representation may be raised within one year of ~~((a
30 certification or))~~ an attempted certification or successful
31 decertification. ~~((Where there is a valid collective bargaining
32 agreement in effect, no question of representation may be raised
33 except during the period not more than ninety nor less than sixty
34 days prior to the expiration date of the agreement.))~~ Any agreement
35 ~~((which))~~ that contains a provision for automatic renewal or
36 extension of the agreement ~~((shall not be))~~ is not a valid agreement;
37 nor ~~((shall))~~ is any agreement ~~((be))~~ valid if it provides for a term
38 of existence for more than three years, except that any agreement
39 entered into between school districts, cities, counties, or municipal

1 corporations, and their respective employees, may provide for a term
2 of existence of up to six years.

3 (2) Once a bargaining representative has been certified by the
4 commission to represent a bargaining unit, the commission must
5 conduct periodic secret ballot elections for the members of the unit
6 to determine the bargaining representative, subject to the following
7 conditions:

8 (a) For the bargaining units of adult family home providers,
9 family child care providers, individual providers, and language
10 access providers, the commission must conduct an election to
11 determine the bargaining representative during every other even-
12 numbered year, beginning in 2018. For bargaining units of classified
13 employees of school districts, educational service districts, or
14 institutions of higher education that are education providers under
15 chapter 28A.193 RCW, the commission must conduct an election to
16 determine the bargaining representative during every other even-
17 numbered year, beginning in 2018. For all other bargaining units
18 covered by this chapter, the commission must conduct an election to
19 determine the bargaining representative during every other odd-
20 numbered year, beginning in 2017;

21 (b) The existing bargaining representative must be on the ballot
22 automatically and a choice of no union representation must also be on
23 the ballot automatically. Any other bargaining representative may
24 appear on the ballot by providing the commission with proof of
25 interest from at least ten percent of the bargaining unit;

26 (c) The commission must certify the bargaining representative
27 that receives a majority of the votes cast by members of the
28 bargaining unit. If a bargaining representative other than the
29 incumbent exclusive bargaining representative is certified, the then
30 existing collective bargaining agreement may be terminated by the new
31 bargaining representative sixty days after its certification or, by
32 agreement of the public employer, at any time. If a majority of votes
33 cast by members of the bargaining unit are for no union
34 representation, then the incumbent bargaining representative loses
35 its certification and the agreement is deemed to be terminated at its
36 expiration date or third anniversary date, whichever is sooner; and

37 (d) The commission has rule-making authority to provide for the
38 regular timing and conduct of elections in accordance with this
39 section.

1 **Sec. 3.** RCW 41.80.070 and 2002 c 354 s 308 are each amended to
2 read as follows:

3 (1) A bargaining unit of employees covered by this chapter
4 existing on June 13, 2002, shall be considered an appropriate unit,
5 unless the unit does not meet the requirements of (a) and (b) of this
6 subsection. The commission, after hearing upon reasonable notice to
7 all interested parties, shall decide, in each application for
8 certification as an exclusive bargaining representative, the unit
9 appropriate for certification. In determining the new units or
10 modifications of existing units, the commission shall consider: The
11 duties, skills, and working conditions of the employees; the history
12 of collective bargaining; the extent of organization among the
13 employees; the desires of the employees; and the avoidance of
14 excessive fragmentation. However, a unit is not appropriate if it
15 includes:

16 (a) Both supervisors and nonsupervisory employees. A unit that
17 includes only supervisors may be considered appropriate if a majority
18 of the supervisory employees indicates by vote that they desire to be
19 included in such a unit; or

20 (b) More than one institution of higher education. For the
21 purposes of this section, any branch or regional campus of an
22 institution of higher education is part of that institution of higher
23 education.

24 (2) ~~((The exclusive bargaining representatives certified to
25 represent the bargaining units existing on June 13, 2002, shall
26 continue as the exclusive bargaining representative without the
27 necessity of an election.~~

28 (3)) If a single employee organization is the exclusive
29 bargaining representative for two or more units, upon petition by the
30 employee organization, the units may be consolidated into a single
31 larger unit if the commission considers the larger unit to be
32 appropriate. If consolidation is appropriate, the commission shall
33 certify the employee organization as the exclusive bargaining
34 representative of the new unit.

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

37 (1) The commission shall determine all questions pertaining to
38 representation and shall administer all elections and be responsible
39 for the processing and adjudication of all disputes that arise as a

1 consequence of elections. The commission shall adopt rules that
2 provide for at least the following:

3 (a) Secret balloting;

4 (b) Consulting with employee organizations;

5 (c) Access to lists of employees, job classification, work
6 locations, and home mailing addresses;

7 (d) Absentee voting;

8 (e) Procedures for the greatest possible participation in voting;

9 (f) Campaigning on the employer's property during working hours;

10 and

11 (g) Election observers.

12 (2)(a) If an employee organization has been certified as the
13 exclusive bargaining representative of the employees of a bargaining
14 unit, the employee organization may act for and negotiate master
15 collective bargaining agreements that will include within the
16 coverage of the agreement all employees in the bargaining unit as
17 provided in RCW 41.80.010(2)(a). However, if a master collective
18 bargaining agreement is in effect for the exclusive bargaining
19 representative, it shall apply to the bargaining unit for which the
20 certification has been issued. Nothing in this section requires the
21 parties to engage in new negotiations during the term of that
22 agreement.

23 (b) This subsection (2) does not apply to exclusive bargaining
24 representatives who represent employees of institutions of higher
25 education.

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

31 (4) No question concerning representation may be raised if(~~+~~
32 ~~(a)~~) fewer than twelve months have elapsed since the last
33 (~~certification or election~~) attempted certification or successful
34 decertification(~~+~~~~or~~

35 ~~(b) A valid collective bargaining agreement exists covering the~~
36 ~~unit, except for that period of no more than one hundred twenty~~
37 ~~calendar days nor less than ninety calendar days before the~~
38 ~~expiration of the contract)).~~

39 (5) Once an employee organization has been certified by the
40 commission as the exclusive bargaining representative of a bargaining

1 unit, the commission must conduct periodic secret ballot elections
2 for the members of the unit to determine the exclusive bargaining
3 representative, subject to the following conditions:

4 (a) An election to determine the bargaining representative must
5 be conducted during every other even-numbered year, beginning in
6 2018;

7 (b) The existing exclusive bargaining representative must be on
8 the ballot automatically and a choice of no union representation must
9 also be on the ballot automatically. Any other employee organization
10 may appear on the ballot by providing the commission with proof of
11 interest from at least ten percent of the bargaining unit; and

12 (c) The commission must certify as the exclusive bargaining
13 representative the employee organization that receives a majority of
14 the votes cast by members of the bargaining unit. If an employee
15 organization other than the incumbent exclusive bargaining
16 representative is certified, the then existing collective bargaining
17 agreement may be terminated by the new exclusive bargaining
18 representative sixty days after its certification or, by agreement of
19 the employer, at any time. If a majority of votes cast by members of
20 the bargaining unit are for no union representation, then the
21 incumbent employee organization loses its certification as the
22 exclusive bargaining representative and the agreement is deemed to be
23 terminated at its expiration date or third anniversary date,
24 whichever is sooner.

25 (d) The commission has rule-making authority to provide for the
26 regular timing and conduct of elections in accordance with this
27 section.

28 **Sec. 5.** RCW 28B.52.030 and 1991 c 238 s 147 are each amended to
29 read as follows:

30 (1) Representatives of an employee organization, which
31 organization (~~shall~~) has by secret ballot (~~have~~) won a majority
32 in an election to represent the academic employees within its college
33 district, (~~shall have~~) has the right to bargain as defined in RCW
34 28B.52.020(8).

35 (2) No question concerning representation may be raised within
36 one year of an attempted certification or successful decertification.

37 (3) Once an employee organization has been certified by the
38 commission as the exclusive bargaining representative of a bargaining
39 unit, the commission must conduct periodic secret ballot elections

1 for the members of the unit to determine the exclusive bargaining
2 representative, subject to the following conditions:

3 (a) An election to determine the bargaining representative must
4 be conducted during every other even-numbered year, beginning in
5 2018;

6 (b) The existing exclusive bargaining representative must be on
7 the ballot automatically and a choice of no union representation must
8 also be on the ballot automatically. Any other employee organization
9 may appear on the ballot by providing the commission with proof of
10 interest from at least ten percent of the bargaining unit;

11 (c) The commission must certify as the exclusive bargaining
12 representative the employee organization that receives a majority of
13 the votes cast by members of the bargaining unit. If an employee
14 organization other than the incumbent exclusive bargaining
15 representative is certified, the then existing collective bargaining
16 agreement may be terminated by the new exclusive bargaining
17 representative sixty days after its certification or, by agreement
18 with the employer, at any time. If a majority of votes cast by
19 members of the bargaining unit are for no union representation, then
20 the incumbent employee organization loses its certification as the
21 exclusive bargaining representative and the agreement is deemed to be
22 terminated at its expiration date or third anniversary date,
23 whichever is sooner; and

24 (d) The commission has rule-making authority to provide for the
25 regular timing and conduct of elections in accordance with this
26 section.

27 **Sec. 6.** RCW 41.76.020 and 2002 c 356 s 7 are each amended to
28 read as follows:

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

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

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

1 ~~not more than ninety nor less than sixty days prior to the third~~
2 ~~anniversary date or any subsequent anniversary date of the agreement;~~
3 ~~and if the exclusive bargaining representative is removed as the~~
4 ~~result of such procedure, the collective bargaining agreement shall~~
5 ~~be deemed to be terminated as of the date of the certification or the~~
6 ~~anniversary date following the filing of the petition, whichever is~~
7 ~~later.~~

8 ~~(3))~~ within one year following an attempted certification or
9 successful decertification.

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

18 ~~((4))~~ (3) A petition filed by an employer must be supported by
19 credible evidence demonstrating the good faith basis on which the
20 employer claims the existence of a question concerning the
21 representation of its faculty.

22 ~~((5))~~ (4) Any employee organization ~~((which))~~ that makes a
23 confidential showing to the commission of credible evidence
24 demonstrating that it has the support of at least ten percent of the
25 faculty in the bargaining unit involved is entitled to intervene in
26 proceedings under this section and to have its name listed as a
27 choice on the ballot in an election conducted by the commission.

28 ~~((6))~~ (5) The commission shall determine any question
29 concerning representation by conducting a secret ballot election
30 among the faculty members in the bargaining unit ~~((, except under the~~
31 ~~following circumstances:~~

32 ~~(a) If only one employee organization is seeking certification as~~
33 ~~exclusive bargaining representative of a bargaining unit for which~~
34 ~~there is no incumbent exclusive bargaining representative, the~~
35 ~~commission may, upon the concurrence of the employer and the employee~~
36 ~~organization, determine the question concerning representation by~~
37 ~~conducting a cross-check comparing the employee organization's~~
38 ~~membership records or bargaining authorization cards against the~~
39 ~~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~~
3 ~~process and precludes the holding of a fair election, the commission~~
4 ~~may determine the question concerning representation by conducting a~~
5 ~~cross-check comparing the employee organization's membership records~~
6 ~~or bargaining authorization cards against the employment records of~~
7 ~~the employer)).~~

8 ~~((7))~~ (6) The representation election ballot must contain a
9 choice for each employee organization qualifying under subsection
10 ~~((3) or (5))~~ (2) or (4) of this section, together with a choice for
11 no union representation. The representation election shall be
12 determined by the majority of the valid ballots cast. If there are
13 three or more choices on the ballot and none of the three or more
14 choices receives a majority of the valid ballots cast, a runoff
15 election shall be conducted between the two choices receiving the
16 highest and second highest numbers of votes.

17 ~~((8))~~ (7) The commission shall certify as the exclusive
18 bargaining representative the employee organization that has been
19 determined to represent a majority of faculty members in a bargaining
20 unit.

21 (8) Once an employee organization has been certified by the
22 commission as the exclusive bargaining representative of a bargaining
23 unit, the commission must conduct periodic secret ballot elections
24 for the members of the unit to determine the exclusive bargaining
25 representative, subject to the following conditions:

26 (a) An election to determine the bargaining representative must
27 be conducted during every other even-numbered year, beginning in
28 2018;

29 (b) The existing exclusive bargaining representative must be on
30 the ballot automatically and a choice of no union representation must
31 also be on the ballot automatically. Any other employee organization
32 may appear on the ballot by providing the commission with proof of
33 interest from at least ten percent of the bargaining unit;

34 (c) The commission must certify as the exclusive bargaining
35 representative the employee organization that receives a majority of
36 the votes cast by members of the bargaining unit. If an employee
37 organization other than the incumbent exclusive bargaining
38 representative is certified, the then existing collective bargaining
39 agreement may be terminated by the new exclusive bargaining
40 representative sixty days after its certification or, by agreement

1 with the employer, at any time. If a majority of votes cast by
2 members of the bargaining unit are for no union representation, then
3 the incumbent employee organization loses its certification as the
4 exclusive bargaining representative and the agreement is deemed to be
5 terminated at its expiration date or third anniversary date,
6 whichever is sooner; and

7 (d) The commission has rule-making authority to provide for the
8 regular timing and conduct of elections in accordance with this
9 section.

10 **Sec. 7.** RCW 41.59.070 and 1975 1st ex.s. c 288 s 8 are each
11 amended to read as follows:

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

24 (2) The commission (~~shall~~) must determine the exclusive
25 representative by conducting an election by secret ballot(~~(, except~~
26 ~~under the following circumstances:~~

27 ~~(a) In instances where a serious unfair labor practice has been~~
28 ~~committed which interfered with the election process and precluded~~
29 ~~the holding of a fair election, the commission shall determine the~~
30 ~~exclusive bargaining representative by an examination of organization~~
31 ~~membership rolls or a comparison of signatures on organization~~
32 ~~bargaining authorization cards.~~

33 ~~(b) In instances where there is then in effect a lawful written~~
34 ~~collective bargaining agreement between the employer and another~~
35 ~~employee organization covering any employees included in the unit~~
36 ~~described in the request for recognition, the request for recognition~~
37 ~~shall not be entertained unless it shall be filed within the time~~
38 ~~limits prescribed in subsection (3) of this section for~~
39 ~~decertification or a new recognition election.~~

1 ~~(c) In instances where within the previous twelve months another~~
2 ~~employee organization has been lawfully recognized or certified as~~
3 ~~the exclusive bargaining representative of any employees included in~~
4 ~~the unit described in the request for recognition, the request for~~
5 ~~recognition shall not be entertained.~~

6 ~~(d) In instances where the commission has within the previous~~
7 ~~twelve months conducted a secret ballot election involving any~~
8 ~~employees included in the unit described in the request for~~
9 ~~recognition in which a majority of the valid ballots cast chose not~~
10 ~~to be represented by any employee organization, the request for~~
11 ~~recognition shall not be entertained).~~

12 (3) Whenever the commission conducts an election to ascertain the
13 exclusive bargaining representative, the ballot shall contain the
14 name of the proposed bargaining representative and of any other
15 bargaining representative showing written proof of at least ten
16 percent representation of the educational employees within the unit,
17 together with a choice ~~((for any educational employee to designate~~
18 ~~that he or she does not desire to be represented by any bargaining~~
19 ~~agent)) of no union representation. Where more than one organization
20 is on the ballot and neither of the three or more choices receives a
21 majority of the valid ballots cast by the educational employees
22 within the bargaining unit, a run-off election shall be held. The
23 run-off ballot shall contain the two choices which receive the
24 largest and second largest number of votes. No question concerning
25 representation may be raised within one year of ~~((a certification~~
26 ~~or)) an attempted certification or successful decertification.~~
27 ~~((Where there is a valid collective bargaining agreement in effect,~~
28 ~~no question of representation may be raised except during the period~~
29 ~~not more than ninety nor less than sixty days prior to the expiration~~
30 ~~date of the agreement. In the event that a valid collective~~
31 ~~bargaining agreement, together with any renewals or extensions~~
32 ~~thereof, has been or will be in existence for three years, then the~~
33 ~~question of representation may be raised not more than ninety nor~~
34 ~~less than sixty days prior to the third anniversary date of the~~
35 ~~agreement or any renewals or extensions thereof as long as such~~
36 ~~renewals and extensions do not exceed three years; and if the~~
37 ~~exclusive bargaining representative is removed as a result of such~~
38 ~~procedure, the then existing collective bargaining agreement shall be~~
39 ~~terminable by the new exclusive bargaining representative so selected~~
40 ~~within sixty days after its certification or terminated on its~~~~

1 ~~expiration date, whichever is sooner, or if no exclusive bargaining~~
2 ~~representative is so selected, then the agreement shall be deemed to~~
3 ~~be terminated at its expiration date or as of such third anniversary~~
4 ~~date, whichever is sooner.~~

5 ~~(4) Within the time limits prescribed in subsection (3) of this~~
6 ~~section, a petition may be filed signed by at least thirty percent of~~
7 ~~the employees of a collective bargaining unit, then represented by an~~
8 ~~exclusive bargaining representative, alleging that a majority of the~~
9 ~~employees in that unit do not wish to be represented by an employee~~
10 ~~organization, requesting that the exclusive bargaining representative~~
11 ~~be decertified, and indicating the name, address and telephone number~~
12 ~~of the exclusive bargaining representative and any other interested~~
13 ~~employee organization, if known. Upon the verification of the~~
14 ~~signatures on the petition, the commission shall conduct an election~~
15 ~~by secret ballot as prescribed by subsection (3) of this section.)~~

16 (4) Once an employee organization has been certified by the
17 commission as the exclusive bargaining representative of a collective
18 bargaining unit, the commission must conduct periodic secret ballot
19 elections for the members of the unit to determine the exclusive
20 bargaining representative, subject to the following conditions:

21 (a) An election to determine the bargaining representative must
22 be conducted during every other even-numbered year, beginning in
23 2018;

24 (b) The existing exclusive bargaining representative must be on
25 the ballot automatically and a choice of no union representation must
26 also be on the ballot automatically. Any other employee organization
27 may appear on the ballot by providing the commission with proof of
28 interest from at least ten percent of the bargaining unit;

29 (c) The commission must certify as the exclusive bargaining
30 representative the employee organization that receives a majority of
31 the votes cast by members of the bargaining unit. If an employee
32 organization other than the incumbent exclusive bargaining
33 representative is certified, the then existing collective bargaining
34 agreement may be terminated by the new exclusive bargaining
35 representative sixty days after its certification or, by agreement
36 with the employer, at any time. If a majority of votes cast by
37 members of the bargaining unit are for no union representation, then
38 the incumbent employee organization loses its certification as the
39 exclusive bargaining representative and the agreement is deemed to be

1 terminated at its expiration date or third anniversary date,
2 whichever is sooner; and

3 (d) The commission has rule-making authority to provide for the
4 regular timing and conduct of elections in accordance with this
5 section.

6 **Sec. 8.** RCW 47.64.135 and 2011 1st sp.s. c 16 s 27 are each
7 amended to read as follows:

8 (1) The commission shall determine all questions pertaining to
9 representation and shall administer all elections and be responsible
10 for the processing and adjudication of all disputes that arise as a
11 consequence of elections. The commission shall adopt rules that
12 provide for at least the following:

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

22 (2) If an employee organization has been certified as the
23 exclusive bargaining representative of the employees of a bargaining
24 unit, the employee organization may act for and negotiate master
25 collective bargaining agreements that will include within the
26 coverage of the agreement all employees in the bargaining unit.

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

32 (4) No question concerning representation may be raised ((if:
33 ~~(a) Fewer than twelve months have elapsed since the last~~
34 ~~certification or election; or~~
35 ~~(b) A valid collective bargaining agreement exists covering the~~
36 ~~unit, except for that period of no more than one hundred twenty~~
37 ~~calendar days and no less than ninety calendar days before the~~
38 ~~expiration of the contract)) within one year of an attempted
39 certification or successful decertification.~~

1 (5) Once a ferry employee organization has been certified by the
2 commission as the collective bargaining representative of a
3 collective bargaining unit, the commission must conduct periodic
4 secret ballot elections for the members of the unit to determine the
5 collective bargaining representative, subject to the following
6 conditions:

7 (a) An election to determine the collective bargaining
8 representative must be conducted during every other even-numbered
9 year, beginning in 2018;

10 (b) The existing collective bargaining representative must be on
11 the ballot automatically and a choice of no union representation must
12 also be on the ballot automatically. Any other ferry employee
13 organization may appear on the ballot by providing the commission
14 with proof of interest from at least ten percent of the bargaining
15 unit;

16 (c) The commission must certify as the collective bargaining
17 representative the ferry employee organization that receives a
18 majority of the votes cast by members of the bargaining unit. If a
19 ferry employee organization other than the incumbent collective
20 bargaining representative is certified, the then existing collective
21 bargaining agreement may be terminated by the new exclusive
22 bargaining representative sixty days after its certification or, by
23 agreement with the employer, at any time. If a majority of votes cast
24 by members of the bargaining unit are for no union representation,
25 then the incumbent employee organization loses its certification as
26 the exclusive bargaining representative and the agreement is deemed
27 to be terminated at its expiration date or third anniversary date,
28 whichever is sooner; and

29 (d) The commission has rule-making authority to provide for the
30 regular timing and conduct of elections in accordance with this
31 section.

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