

SHB 1575 - H AMD 352
By Representative Hoff

NOT ADOPTED 03/11/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24
4 RCW to read as follows:

5 (1) The legislature finds and declares application of this
6 section to pending claims and actions clarifies existing state law
7 rather than changes it. Public employees who paid agency or fair
8 share fees as a condition of public employment in accordance with
9 state law and supreme court precedent before June 27, 2018, had no
10 legitimate expectation of receiving that money under any available
11 cause of action. Public employers and employee organizations who
12 relied on, and abided by, state law and supreme court precedent in
13 deducting and accepting those fees were not liable to refund them.
14 Agency or fair share fees paid for collective bargaining
15 representation that employee organizations were obligated by state
16 law to provide to public employees. Application of this section to
17 pending claims will preserve, rather than interfere with, important
18 reliance interests.

19 (2) Public employers and an employee organization, or any of
20 their employees or agents, are not liable for, and have a complete
21 defense to, any claims or actions under the law of this state for
22 requiring, deducting, receiving, or retaining agency or fair share
23 fees from public employees, and current or former public employees do
24 not have standing to pursue these claims or actions, if the fees were
25 permitted at the time under the laws of this state then in force and
26 paid, through payroll deduction or otherwise, before June 27, 2018.

27 (a) This section applies to all claims and actions pending on the
28 effective date of this section, and to claims and actions filed on or
29 after the effective date of this section.

30 (b) This section may not be interpreted to infer that any relief
31 made unavailable by this section would otherwise be available.

1 (3) This section is necessary to provide certainty to public
2 employers and employee organizations that relied on state law, and to
3 avoid disruption of public employee labor relations, after the
4 supreme court's decision in *Janus v. American Federation of State,*
5 *County, and Municipal Employees, Council 31* (2018) 138 S.Ct. 2448.

6 (4) For purposes of this section:

7 (a) "Employee organization" means any organization that
8 functioned as an exclusive collective bargaining representative for
9 public employees under any statute, ordinance, regulation, or other
10 state or local law, and any labor organization with which it was
11 affiliated.

12 (b) "Public employer" means any public employer including, but
13 not limited to, the state, a court, a city, a county, a city and
14 county, a school district, a community college district, an
15 institution of higher education and its board or regents, a transit
16 district, any public authority, any public agency, any other
17 political subdivision or public corporation, or any other entity
18 considered a public employer for purposes of the labor relations
19 statutes of Washington.

20 **Sec. 2.** RCW 28B.52.020 and 1991 c 238 s 146 are each amended to
21 read as follows:

22 As used in this chapter:

23 (1) "Employee organization" means any organization which includes
24 as members the academic employees of a college district and which has
25 as one of its purposes the representation of the employees in their
26 employment relations with the college district.

27 (2) "Academic employee" means any teacher, counselor, librarian,
28 or department head, who is employed by any college district, whether
29 full or part time, with the exception of the chief administrative
30 officer of, and any administrator in, each college district.

31 (3) "Administrator" means any person employed either full or part
32 time by the college district and who performs administrative
33 functions as at least fifty percent or more of his or her
34 assignments, and has responsibilities to hire, dismiss, or discipline
35 other employees. Administrators shall not be members of the
36 bargaining unit unless a majority of such administrators and a
37 majority of the bargaining unit elect by secret ballot for such
38 inclusion pursuant to rules as adopted in accordance with RCW
39 28B.52.080.

1 (4) "Commission" means the public employment relations
2 commission.

3 (5) "Unfair labor practice" means any unfair labor practice
4 listed in RCW 28B.52.073.

5 (~~("Union security provision" means a provision in a~~
6 ~~collective bargaining agreement under which some or all employees in~~
7 ~~the bargaining unit may be required, as a condition of continued~~
8 ~~employment on or after the thirtieth day following the beginning of~~
9 ~~such employment or the effective date of the provision, whichever is~~
10 ~~later, to become a member of the exclusive bargaining representative~~
11 ~~or pay an agency fee equal to the periodic dues and initiation fees~~
12 ~~uniformly required as a condition of acquiring or retaining~~
13 ~~membership in the exclusive bargaining representative.~~

14 (~~7~~)) "Exclusive bargaining representative" means any employee
15 organization which has:

16 (a) Been certified or recognized under this chapter as the
17 representative of the employees in an appropriate collective
18 bargaining unit; or

19 (b) Before July 26, 1987, been certified or recognized under a
20 predecessor statute as the representative of the employees in a
21 bargaining unit which continues to be appropriate under this chapter.

22 (~~(8)~~) (7) "Collective bargaining" and "bargaining" mean the
23 performance of the mutual obligation of the representatives of the
24 employer and the exclusive bargaining representative to meet at
25 reasonable times to bargain in good faith in an effort to reach
26 agreement with respect to wages, hours, and other terms and
27 conditions of employment, such as procedures related to nonretention,
28 dismissal, denial of tenure, and reduction in force. Prior law,
29 practice, or interpretation shall be neither restrictive, expansive,
30 nor determinative with respect to the scope of bargaining. A written
31 contract incorporating any agreements reached shall be executed if
32 requested by either party. The obligation to bargain does not compel
33 either party to agree to a proposal or to make a concession.

34 In the event of a dispute between an employer and an exclusive
35 bargaining representative over the matters that are terms and
36 conditions of employment, the commission shall decide which items are
37 mandatory subjects for bargaining.

38 **Sec. 3.** RCW 28B.52.030 and 1991 c 238 s 147 are each amended to
39 read as follows:

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

5 **Sec. 4.** RCW 28B.52.025 and 1987 c 314 s 5 are each amended to
6 read as follows:

7 Employees have the right to self-organization, to form, join, or
8 assist employee organizations, to bargain collectively through
9 representatives of their own choosing, and also have the right to
10 refrain from any or all of these activities (~~(except to the extent~~
11 ~~that employees may be required to make payments to an exclusive~~
12 ~~bargaining representative or charitable organization under a union~~
13 ~~security provision authorized in this chapter)~~).

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.52
15 RCW to read as follows:

16 (1)(a) An employee's written, electronic, or recorded voice
17 authorization to have the employer deduct membership dues from the
18 employee's salary must be made by the employee to the employer. If
19 the employer receives an authorization of deductions, the employer
20 shall as soon as practicable forward a copy to the exclusive
21 bargaining representative.

22 (b) Upon receiving the employee's authorization, the employer
23 shall deduct from the employee's salary membership dues and remit the
24 amounts to the exclusive bargaining representative.

25 (c) The employee's authorization remains in effect until
26 expressly revoked by the employee in accordance with the terms and
27 conditions of the authorization.

28 (2)(a) An employee's request to revoke authorization for payroll
29 deductions must be in writing and submitted by the employee to the
30 employer.

31 (b) After the employer receives an employee's deduction
32 authorization revocation, the employer shall end the deduction
33 effective on the first payroll after receipt of the revocation.

34 **Sec. 6.** RCW 28B.52.045 and 2018 c 247 s 1 are each amended to
35 read as follows:

36 (1) (~~(a) A collective bargaining agreement may include union~~
37 ~~security provisions, but not a closed shop.~~

1 ~~(b))~~ Upon ~~((written))~~ authorization of an employee within the
2 bargaining unit and after the certification or recognition of the
3 bargaining unit's exclusive bargaining representative, the employer
4 must deduct from the payments to the employee the monthly amount of
5 dues as certified by the secretary of the exclusive bargaining
6 representative and must transmit the same to the treasurer of the
7 exclusive bargaining representative.

8 ~~((e))~~ (2) If the employer and the exclusive bargaining
9 representative of a bargaining unit enter into a collective
10 bargaining agreement that(~~+~~

11 ~~(i) Includes a union security provision authorized under (a) of~~
12 ~~this subsection, the employer must enforce the agreement by deducting~~
13 ~~from the payments to bargaining unit members the dues required for~~
14 ~~membership in the exclusive bargaining representative, or, for~~
15 ~~nonmembers thereof, a fee equivalent to the dues; or~~

16 ~~(ii))~~ includes requirements for deductions of other payments
17 ~~((other than the deduction under (c)(i) of this subsection)),~~ the
18 employer must make such deductions upon ~~((written))~~ authorization of
19 the employee.

20 ~~((2) An employee who is covered by a union security provision~~
21 ~~and who asserts a right of nonassociation based on bona fide~~
22 ~~religious tenets or teachings of a church or religious body of which~~
23 ~~such employee is a member shall pay to a nonreligious charity or~~
24 ~~other charitable organization an amount of money equivalent to the~~
25 ~~periodic dues and initiation fees uniformly required as a condition~~
26 ~~of acquiring or retaining membership in the exclusive bargaining~~
27 ~~representative. The charity shall be agreed upon by the employee and~~
28 ~~the employee organization to which such employee would otherwise pay~~
29 ~~the dues and fees. The employee shall furnish written proof that such~~
30 ~~payments have been made. If the employee and the employee~~
31 ~~organization do not reach agreement on such matter, the commission~~
32 ~~shall designate the charitable organization.))~~

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

35 (1) The commission, after hearing upon reasonable notice, shall
36 decide in each application for certification as an exclusive
37 bargaining representative, the unit appropriate for the purpose of
38 collective bargaining. In determining, modifying, or combining the
39 bargaining unit, the commission shall consider the duties, skills,

1 and working conditions of the public employees; the history of
2 collective bargaining by the public employees and their bargaining
3 representatives; the extent of organization among the public
4 employees; and the desire of the public employees. The commission
5 shall determine the bargaining representative by: (a) Examination of
6 organization membership rolls; (b) comparison of signatures on
7 organization bargaining authorization cards, as provided under
8 section 8 of this act; or (c) conducting an election specifically
9 therefor.

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

12 (a) Appropriate bargaining units existing on July 24, 2005, may
13 not be divided into more than one unit without the agreement of the
14 public employer and the certified bargaining representative of the
15 unit; and

16 (b) In making bargaining unit determinations under this section,
17 the commission must consider, in addition to the factors listed in
18 subsection (1) of this section, the avoidance of excessive
19 fragmentation.

20 NEW SECTION. **Sec. 8.** A new section is added to chapter 41.56
21 RCW to read as follows:

22 (1) Except as provided under subsection (2) of this section, if
23 only one employee organization is seeking certification as the
24 exclusive bargaining representative of a bargaining unit for which
25 there is no incumbent exclusive bargaining representative, the
26 commission may determine the question concerning representation by
27 conducting a cross-check comparing the employee organization's
28 membership records or bargaining authorization cards against the
29 employment records of the employer. A determination through a cross-
30 check process may be made upon a showing of interest submitted in
31 support of the exclusive bargaining representative by more than fifty
32 percent of the employees. The commission may adopt rules to implement
33 this section.

34 (2) This section does not apply to those employees under RCW
35 41.56.026, 41.56.028, 41.56.029, and 41.56.510.

36 **Sec. 9.** RCW 41.56.110 and 2018 c 247 s 2 are each amended to
37 read as follows:

1 (1) Upon the (~~written~~) authorization of an employee within the
2 bargaining unit and after the certification or recognition of the
3 bargaining unit's exclusive bargaining representative, the employer
4 shall deduct from the payments to the employee the monthly amount of
5 dues as certified by the secretary of the exclusive bargaining
6 representative and shall transmit the same to the treasurer of the
7 exclusive bargaining representative.

8 (2) (a) An employee's written, electronic, or recorded voice
9 authorization to have the employer deduct membership dues from the
10 employee's salary must be made by the employee to the employer. If
11 the employer receives an authorization of deductions, the employer
12 shall as soon as practicable forward a copy to the exclusive
13 bargaining representative.

14 (b) Upon receiving the employee's authorization, the employer
15 shall deduct from the employee's salary membership dues and remit the
16 amounts to the exclusive bargaining representative.

17 (c) The employee's authorization remains in effect until
18 expressly revoked by the employee in accordance with the terms and
19 conditions of the authorization.

20 (3) (a) An employee's request to revoke authorization for payroll
21 deductions must be in writing and submitted by the employee to the
22 employer.

23 (b) After the employer receives an employee's deduction
24 authorization revocation, the employer shall end the deduction
25 effective on the first payroll after receipt of the revocation.

26 (4) If the employer and the exclusive bargaining representative
27 of a bargaining unit enter into a collective bargaining agreement
28 that (~~÷~~

29 ~~(a) Includes a union security provision authorized under RCW~~
30 ~~41.56.122, the employer must enforce the agreement by deducting from~~
31 ~~the payments to bargaining unit members the dues required for~~
32 ~~membership in the exclusive bargaining representative, or, for~~
33 ~~nonmembers thereof, a fee equivalent to the dues; or~~

34 ~~(b))~~ includes requirements for deductions of other payments
35 ((other than the deduction under (a) of this subsection)), the
36 employer must make such deductions upon ((written)) authorization of
37 the employee.

38 **Sec. 10.** RCW 41.56.113 and 2018 c 278 s 29 are each amended to
39 read as follows:

1 (1) This subsection (1) applies only if the state makes the
2 payments directly to a provider.

3 (a) Upon the (~~written~~) authorization of an individual provider
4 who contracts with the department of social and health services, a
5 family child care provider, an adult family home provider, or a
6 language access provider within the bargaining unit and after the
7 certification or recognition of the bargaining unit's exclusive
8 bargaining representative, the state as payor, but not as the
9 employer, shall, subject to (c) of this subsection, deduct from the
10 payments to an individual provider who contracts with the department
11 of social and health services, a family child care provider, an adult
12 family home provider, or a language access provider the monthly
13 amount of dues as certified by the secretary of the exclusive
14 bargaining representative and shall transmit the same to the
15 treasurer of the exclusive bargaining representative.

16 (b) (i) An employee's written, electronic, or recorded voice
17 authorization to have the employer deduct membership dues from the
18 employee's salary must be made by the employee to the employer. If
19 the employer receives an authorization of deductions, the employer
20 shall as soon as practicable forward a copy to the exclusive
21 bargaining representative.

22 (ii) Upon receiving the employee's authorization, the employer
23 shall deduct from the employee's salary membership dues and remit the
24 amounts to the exclusive bargaining representative.

25 (iii) The employee's authorization remains in effect until
26 expressly revoked by the employee in accordance with the terms and
27 conditions of the authorization.

28 (iv) An employee's request to revoke authorization for payroll
29 deductions must be in writing and submitted by the employee to the
30 employer.

31 (v) After the employer receives an employee's deduction
32 authorization revocation, the employer shall end the deduction
33 effective on the first payroll after receipt of the revocation.

34 (vi) If the governor and the exclusive bargaining representative
35 of a bargaining unit of individual providers who contract with the
36 department of social and health services, family child care
37 providers, adult family home providers, or language access providers
38 enter into a collective bargaining agreement that(÷

39 ~~(i) Includes a union security provision authorized in RCW~~
40 ~~41.56.122, the state as payor, but not as the employer, shall,~~

1 ~~subject to (c) of this subsection, enforce the agreement by deducting~~
2 ~~from the payments to bargaining unit members the dues required for~~
3 ~~membership in the exclusive bargaining representative, or, for~~
4 ~~nonmembers thereof, a fee equivalent to the dues; or~~

5 ~~(ii))~~ includes requirements for deductions of other payments
6 ~~((other than the deduction under (b)(i) of this subsection)),~~ the
7 state, as payor, but not as the employer, shall, subject to (c) of
8 this subsection, make such deductions upon ~~((written))~~ authorization
9 of the individual provider, family child care provider, adult family
10 home provider, or language access provider.

11 (c)(i) The initial additional costs to the state in making
12 deductions from the payments to individual providers, family child
13 care providers, adult family home providers, and language access
14 providers under this section shall be negotiated, agreed upon in
15 advance, and reimbursed to the state by the exclusive bargaining
16 representative.

17 (ii) The allocation of ongoing additional costs to the state in
18 making deductions from the payments to individual providers, family
19 child care providers, adult family home providers, or language access
20 providers under this section shall be an appropriate subject of
21 collective bargaining between the exclusive bargaining representative
22 and the governor unless prohibited by another statute. If no
23 collective bargaining agreement containing a provision allocating the
24 ongoing additional cost is entered into between the exclusive
25 bargaining representative and the governor, or if the legislature
26 does not approve funding for the collective bargaining agreement as
27 provided in RCW 74.39A.300, 41.56.028, 41.56.029, or 41.56.510, as
28 applicable, the ongoing additional costs to the state in making
29 deductions from the payments to individual providers, family child
30 care providers, adult family home providers, or language access
31 providers under this section shall be negotiated, agreed upon in
32 advance, and reimbursed to the state by the exclusive bargaining
33 representative.

34 ~~((d) The governor and the exclusive bargaining representative of~~
35 ~~a bargaining unit of family child care providers may not enter into a~~
36 ~~collective bargaining agreement that contains a union security~~
37 ~~provision unless the agreement contains a process, to be administered~~
38 ~~by the exclusive bargaining representative of a bargaining unit of~~
39 ~~family child care providers, for hardship dispensation for license-~~

1 ~~exempt family child care providers who are also temporary assistance~~
2 ~~for needy families recipients or WorkFirst participants.))~~

3 (2) This subsection (2) applies only if the state does not make
4 the payments directly to a language access provider. ~~((a))~~ Upon the
5 ~~((written))~~ authorization of a language access provider within the
6 bargaining unit and after the certification or recognition of the
7 bargaining unit's exclusive bargaining representative, the state
8 shall require through its contracts with third parties that:

9 ~~((i))~~ (a) The monthly amount of dues as certified by the
10 secretary of the exclusive bargaining representative be deducted from
11 the payments to the language access provider and transmitted to the
12 treasurer of the exclusive bargaining representative; and

13 ~~((ii))~~ (b) A record showing that dues have been deducted as
14 specified in (a) ~~((i))~~ of this subsection be provided to the state.

15 ~~((b) If the governor and the exclusive bargaining representative~~
16 ~~of the bargaining unit of language access providers enter into a~~
17 ~~collective bargaining agreement that includes a union security~~
18 ~~provision authorized in RCW 41.56.122, the state shall enforce the~~
19 ~~agreement by requiring through its contracts with third parties that:~~

20 ~~(i) The monthly amount of dues required for membership in the~~
21 ~~exclusive bargaining representative as certified by the secretary of~~
22 ~~the exclusive bargaining representative, or, for nonmembers thereof,~~
23 ~~a fee equivalent to the dues, be deducted from the payments to the~~
24 ~~language access provider and transmitted to the treasurer of the~~
25 ~~exclusive bargaining representative; and~~

26 ~~(ii) A record showing that dues or fees have been deducted as~~
27 ~~specified in (a) (i) of this subsection be provided to the state.))~~

28 (3) This subsection (3) applies only to individual providers who
29 contract with the department of social and health services. ~~((If the~~
30 ~~governor and the exclusive bargaining representative of a bargaining~~
31 ~~unit of individual providers enter into a collective bargaining~~
32 ~~agreement that meets the requirements in subsection (1) (b) (i) or (ii)~~
33 ~~of this section, and the state as payor, but not as the employer,~~
34 ~~contracts with a third-party entity to perform its obligations as set~~
35 ~~forth in those subsections, and that third-party contracts with the~~
36 ~~exclusive bargaining representative to perform voluntary deductions~~
37 ~~for individual providers, the exclusive bargaining representative may~~
38 ~~direct the third-party to make the deductions required by the~~
39 ~~collective bargaining agreement, at the expense of the exclusive~~
40 ~~bargaining representative, so long as such deductions by the~~

1 ~~exclusive bargaining representative do not conflict with any federal~~
2 ~~or state law.))~~ The exclusive bargaining representative of individual
3 providers may designate a third-party entity to act as the individual
4 provider's agent in receiving payments from the state to the
5 individual provider, so long as the individual provider has entered
6 into an agency agreement with a third-party entity for the purposes
7 of deducting and remitting voluntary payments to the exclusive
8 bargaining representative. A third-party entity that receives such
9 payments is responsible for making and remitting deductions
10 authorized by the individual provider. The costs of such deductions
11 must be paid by the exclusive bargaining representative.

12 **Sec. 11.** RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each
13 amended to read as follows:

14 A collective bargaining agreement may(~~+~~

15 ~~(1) Contain union security provisions: PROVIDED, That nothing in~~
16 ~~this section shall authorize a closed shop provision: PROVIDED~~
17 ~~FURTHER, That agreements involving union security provisions must~~
18 ~~safeguard the right of nonassociation of public employees based on~~
19 ~~bona fide religious tenets or teachings of a church or religious body~~
20 ~~of which such public employee is a member. Such public employee shall~~
21 ~~pay an amount of money equivalent to regular union dues and~~
22 ~~initiation fee to a nonreligious charity or to another charitable~~
23 ~~organization mutually agreed upon by the public employee affected and~~
24 ~~the bargaining representative to which such public employee would~~
25 ~~otherwise pay the dues and initiation fee. The public employee shall~~
26 ~~furnish written proof that such payment has been made. If the public~~
27 ~~employee and the bargaining representative do not reach agreement on~~
28 ~~such matter, the commission shall designate the charitable~~
29 ~~organization. When there is a conflict between any collective~~
30 ~~bargaining agreement reached by a public employer and a bargaining~~
31 ~~representative on a union security provision and any charter,~~
32 ~~ordinance, rule, or regulation adopted by the public employer or its~~
33 ~~agents, including but not limited to, a civil service commission, the~~
34 ~~terms of the collective bargaining agreement shall prevail.~~

35 ~~(2))~~ provide for binding arbitration of a labor dispute arising
36 from the application or the interpretation of the matters contained
37 in a collective bargaining agreement.

1 **Sec. 12.** RCW 41.59.060 and 2018 c 247 s 3 are each amended to
2 read as follows:

3 (1) Employees shall have the right to self-organization, to form,
4 join, or assist employee organizations, to bargain collectively
5 through representatives of their own choosing, and shall also have
6 the right to refrain from any or all of such activities (~~except to~~
7 ~~the extent that employees may be required to pay a fee to any~~
8 ~~employee organization under an agency shop agreement authorized in~~
9 ~~this chapter~~)).

10 (2) (a) Upon (~~written~~) authorization of an employee within the
11 bargaining unit and after the certification or recognition of the
12 bargaining unit's exclusive bargaining representative, the employer
13 must deduct from the payments to the employee the monthly amount of
14 dues as certified by the secretary of the exclusive bargaining
15 representative and must transmit the same to the treasurer of the
16 exclusive bargaining representative.

17 (b) An employee's written, electronic, or recorded voice
18 authorization to have the employer deduct membership dues from the
19 employee's salary must be made by the employee to the employer. If
20 the employer receives an authorization of deductions, the employer
21 shall as soon as practicable forward a copy to the exclusive
22 bargaining representative.

23 (c) Upon receiving the employee's authorization, the employer
24 shall deduct from the employee's salary membership dues and remit the
25 amounts to the exclusive bargaining representative.

26 (d) The employee's authorization remains in effect until
27 expressly revoked by the employee in accordance with the terms and
28 conditions of the authorization.

29 (e) An employee's request to revoke authorization for payroll
30 deductions must be in writing and submitted by the employee to the
31 employer.

32 (f) After the employer receives confirmation from the exclusive
33 bargaining representative that the employee has revoked authorization
34 for deductions, the employer shall end the deduction effective on the
35 first payroll after receipt of the confirmation.

36 (3) If the employer and the exclusive bargaining representative
37 of a bargaining unit enter into a collective bargaining agreement
38 that (÷

39 ~~(i) Includes a union security provision authorized under RCW~~
40 ~~41.59.100, the employer must enforce the agreement by deducting from~~

1 ~~the payments to bargaining unit members the dues required for~~
2 ~~membership in the exclusive bargaining representative, or, for~~
3 ~~nonmembers thereof, a fee equivalent to the dues; or~~

4 ~~(ii))~~ includes requirements for deductions of other payments
5 ~~((other than the deduction under (b)(i) of this subsection)),~~ the
6 employer must make such deductions upon ~~((written))~~ authorization of
7 the employee.

8 **Sec. 13.** RCW 41.76.020 and 2002 c 356 s 7 are each amended to
9 read as follows:

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

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

14 (2) If there is a valid collective bargaining agreement in
15 effect, no question concerning representation may be raised except
16 during the period not more than ninety nor less than sixty days prior
17 to the expiration date of the agreement: PROVIDED, That in the event
18 a valid collective bargaining agreement, together with any renewals
19 or extensions thereof, has been or will be in existence for more than
20 three years, then a question concerning representation may be raised
21 not more than ninety nor less than sixty days prior to the third
22 anniversary date or any subsequent anniversary date of the agreement;
23 and if the exclusive bargaining representative is removed as the
24 result of such procedure, the collective bargaining agreement shall
25 be deemed to be terminated as of the date of the certification or the
26 anniversary date following the filing of the petition, whichever is
27 later.

28 (3) An employee organization seeking certification as exclusive
29 bargaining representative of a bargaining unit, or faculty members
30 seeking decertification of their exclusive bargaining representative,
31 must make a confidential showing to the commission of credible
32 evidence demonstrating that at least thirty percent of the faculty in
33 the bargaining unit are in support of the petition. The petition must
34 indicate the name, address, and telephone number of any employee
35 organization known to claim an interest in the bargaining unit.

36 (4) A petition filed by an employer must be supported by credible
37 evidence demonstrating the good faith basis on which the employer
38 claims the existence of a question concerning the representation of
39 its faculty.

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

7 (6) The commission shall determine any question concerning
8 representation by conducting a secret ballot election among the
9 faculty members in the bargaining unit, except under the following
10 circumstances:

11 (a) If only one employee organization is seeking certification as
12 exclusive bargaining representative of a bargaining unit for which
13 there is no incumbent exclusive bargaining representative, the
14 commission may(~~(, upon the concurrence of the employer and the~~
15 ~~employee organization,)) determine the question concerning
16 representation by conducting a cross-check comparing the employee
17 organization's membership records or bargaining authorization cards
18 against the employment records of the employer. A determination
19 through a cross-check process may be made upon a showing of interest
20 submitted in support of the exclusive bargaining representative by
21 more than fifty percent of the employees; or~~

22 (b) If the commission determines that a serious unfair labor
23 practice has been committed which interfered with the election
24 process and precludes the holding of a fair election, the commission
25 may determine the question concerning representation by conducting a
26 cross-check comparing the employee organization's membership records
27 or bargaining authorization cards against the employment records of
28 the employer.

29 (c) The commission may adopt rules to implement this subsection
30 (6).

31 (7) The representation election ballot must contain a choice for
32 each employee organization qualifying under subsection (3) or (5) of
33 this section, together with a choice for no representation. The
34 representation election shall be determined by the majority of the
35 valid ballots cast. If there are three or more choices on the ballot
36 and none of the three or more choices receives a majority of the
37 valid ballots cast, a runoff election shall be conducted between the
38 two choices receiving the highest and second highest numbers of
39 votes.

1 (8) The commission shall certify as the exclusive bargaining
2 representative the employee organization that has been determined to
3 represent a majority of faculty members in a bargaining unit.

4 **Sec. 14.** RCW 41.76.045 and 2018 c 247 s 4 are each amended to
5 read as follows:

6 (1) (a) ~~((A collective bargaining agreement may include union
7 security provisions, but not a closed shop.~~

8 ~~(b))~~ Upon ~~((written))~~ authorization of an employee within the
9 bargaining unit and after the certification or recognition of the
10 bargaining unit's exclusive bargaining representative, the employer
11 must deduct from the payments to the employee the monthly amount of
12 dues as certified by the secretary of the exclusive bargaining
13 representative and must transmit the same to the treasurer of the
14 exclusive bargaining representative.

15 ~~((e))~~ (b) An employee's written, electronic, or recorded voice
16 authorization to have the employer deduct membership dues from the
17 employee's salary must be made by the employee to the employer. If
18 the employer receives an authorization of deductions, the employer
19 shall as soon as practicable forward a copy to the exclusive
20 bargaining representative.

21 (c) Upon receiving the employee's authorization, the employer
22 shall deduct from the employee's salary membership dues and remit the
23 amounts to the exclusive bargaining representative.

24 (d) The employee's authorization remains in effect until
25 expressly revoked by the employee in accordance with the terms and
26 conditions of the authorization.

27 (e) An employee's request to revoke authorization for payroll
28 deductions must be in writing and submitted by the employee to the
29 employer.

30 (f) After the employer receives an employee's deduction
31 authorization, the employer shall end the deduction effective on the
32 first payroll after receipt of the revocation.

33 (2) If the employer and the exclusive bargaining representative
34 of a bargaining unit enter into a collective bargaining agreement
35 that ~~((÷~~

36 ~~(i) Includes a union security provision authorized under (a) of~~
37 ~~this subsection, the employer must enforce the agreement by deducting~~
38 ~~from the payments to bargaining unit members the dues required for~~

1 membership in the exclusive bargaining representative, or, for
2 nonmembers thereof, a fee equivalent to the dues; or

3 ~~(ii))~~ includes requirements for deductions of other payments
4 ~~((other than the deduction under (c)(i) of this subsection)),~~ the
5 employer must make such deductions upon ~~((written))~~ authorization of
6 the employee.

7 ~~((2) A faculty member who is covered by a union security
8 provision and who asserts a right of nonassociation based on bona
9 fide religious tenets or teachings of a church or religious body of
10 which such faculty member is a member shall pay to a nonreligious
11 charity or other charitable organization an amount of money
12 equivalent to the periodic dues and initiation fees uniformly
13 required as a condition of acquiring or retaining membership in the
14 exclusive bargaining representative. The charity shall be agreed upon
15 by the faculty member and the employee organization to which such
16 faculty member would otherwise pay the dues and fees. The faculty
17 member shall furnish written proof that such payments have been made.
18 If the faculty member and the employee organization do not reach
19 agreement on such matter, the dispute shall be submitted to the
20 commission for determination.))~~

21 **Sec. 15.** RCW 41.80.050 and 2002 c 354 s 306 are each amended to
22 read as follows:

23 Except as may be specifically limited by this chapter, employees
24 shall have the right to self-organization, to form, join, or assist
25 employee organizations, and to bargain collectively through
26 representatives of their own choosing for the purpose of collective
27 bargaining free from interference, restraint, or coercion. Employees
28 shall also have the right to refrain from any or all such activities
29 ~~((except to the extent that they may be required to pay a fee to an
30 exclusive bargaining representative under a union security provision
31 authorized by this chapter))~~.

32 NEW SECTION. **Sec. 16.** A new section is added to chapter 41.80
33 RCW to read as follows:

34 If only one employee organization is seeking certification as
35 exclusive bargaining representative of a bargaining unit for which
36 there is no incumbent exclusive bargaining representative, the
37 commission may determine the question concerning representation by
38 conducting a cross-check comparing the employee organization's

1 membership records or bargaining authorization cards against the
2 employment records of the employer. A determination through a cross-
3 check process may be made upon a showing of interest submitted in
4 support of the exclusive bargaining representative by more than fifty
5 percent of the employees. The commission may adopt rules to implement
6 this section.

7 **Sec. 17.** RCW 41.80.080 and 2002 c 354 s 309 are each amended to
8 read as follows:

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

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

24 (2)(a) If an employee organization has been certified as the
25 exclusive bargaining representative of the employees of a bargaining
26 unit, the employee organization may act for and negotiate master
27 collective bargaining agreements that will include within the
28 coverage of the agreement all employees in the bargaining unit as
29 provided in RCW 41.80.010(2)(a). However, if a master collective
30 bargaining agreement is in effect for the exclusive bargaining
31 representative, it shall apply to the bargaining unit for which the
32 certification has been issued. Nothing in this section requires the
33 parties to engage in new negotiations during the term of that
34 agreement.

35 (b) This subsection (2) does not apply to exclusive bargaining
36 representatives who represent employees of institutions of higher
37 education.

38 (3) The certified exclusive bargaining representative shall be
39 responsible for representing the interests of all the employees in

1 the bargaining unit. This section shall not be construed to limit an
2 exclusive representative's right to exercise its discretion to refuse
3 to process grievances of employees that are unmeritorious.

4 (4) No question concerning representation may be raised if:

5 (a) Fewer than twelve months have elapsed since the last
6 certification or election; or

7 (b) A valid collective bargaining agreement exists covering the
8 unit, except for that period of no more than one hundred twenty
9 calendar days nor less than ninety calendar days before the
10 expiration of the contract.

11 **Sec. 18.** RCW 41.80.100 and 2018 c 247 s 5 are each amended to
12 read as follows:

13 ~~(1) ((A collective bargaining agreement may contain a union
14 security provision requiring as a condition of employment the
15 payment, no later than the thirtieth day following the beginning of
16 employment or July 1, 2004, whichever is later, of an agency shop fee
17 to the employee organization that is the exclusive bargaining
18 representative for the bargaining unit in which the employee is
19 employed. The amount of the fee shall be equal to the amount required
20 to become a member in good standing of the employee organization.
21 Each employee organization shall establish a procedure by which any
22 employee so requesting may pay a representation fee no greater than
23 the part of the membership fee that represents a pro rata share of
24 expenditures for purposes germane to the collective bargaining
25 process, to contract administration, or to pursuing matters affecting
26 wages, hours, and other conditions of employment.~~

27 ~~(2) An employee who is covered by a union security provision and
28 who asserts a right of nonassociation based on bona fide religious
29 tenets, or teachings of a church or religious body of which the
30 employee is a member, shall, as a condition of employment, make
31 payments to the employee organization, for purposes within the
32 program of the employee organization as designated by the employee
33 that would be in harmony with his or her individual conscience. The
34 amount of the payments shall be equal to the periodic dues and fees
35 uniformly required as a condition of acquiring or retaining
36 membership in the employee organization minus any included monthly
37 premiums for insurance programs sponsored by the employee
38 organization. The employee shall not be a member of the employee~~

1 ~~organization but is entitled to all the representation rights of a~~
2 ~~member of the employee organization.~~

3 ~~(3)(a))~~ Upon ~~((written))~~ authorization of an employee within the
4 bargaining unit and after the certification or recognition of the
5 bargaining unit's exclusive bargaining representative, the employer
6 must deduct from the payments to the employee the monthly amount of
7 dues as certified by the secretary of the exclusive bargaining
8 representative and must transmit the same to the treasurer of the
9 exclusive bargaining representative.

10 ~~((b))~~ (2)(a) If the employer and the exclusive bargaining
11 representative of a bargaining unit enter into a collective
12 bargaining agreement that ~~((:~~

13 ~~(i) Includes a union security provision authorized under~~
14 ~~subsection (1) of this section, the employer must enforce the~~
15 ~~agreement by deducting from the payments to bargaining unit members~~
16 ~~the dues required for membership in the exclusive bargaining~~
17 ~~representative, or, for nonmembers thereof, a fee equivalent to the~~
18 ~~dues; or~~

19 ~~(ii))~~ includes requirements for deductions of other payments
20 ~~((other than the deduction under (b)(i) of this subsection)),~~ the
21 employer must make such deductions upon ~~((written))~~ authorization of
22 the employee.

23 ~~((4) Employee organizations that before July 1, 2004, were~~
24 ~~entitled to the benefits of this section shall continue to be~~
25 ~~entitled to these benefits.))~~ (b) An employee's written, electronic,
26 or recorded voice authorization to have the employer deduct
27 membership dues from the employee's salary must be made by the
28 employee to the employer. If the employer receives an authorization
29 of deductions, the employer shall as soon as practicable forward a
30 copy to the exclusive bargaining representative.

31 (c) Upon receiving the employee's authorization, the employer
32 shall deduct from the employee's salary membership dues and remit the
33 amounts to the exclusive bargaining representative.

34 (d) The employee's authorization remains in effect until
35 expressly revoked by the employee in accordance with the terms and
36 conditions of the authorization.

37 (e) An employee's request to revoke authorization for payroll
38 deductions must be in writing and submitted by the employee to the
39 employer.

1 (f) After the employer receives an employee's deduction
2 authorization revocation, the employer shall end the deduction
3 effective on the first payroll after receipt of the revocation.

4 (g) The employer shall rely on information provided by the
5 exclusive bargaining representative regarding the authorization and
6 revocation of deductions.

7 **Sec. 19.** RCW 47.64.090 and 2011 1st sp.s. c 16 s 25 are each
8 amended to read as follows:

9 (1) Except as provided in RCW 47.60.656 and subsections (2) and
10 (4) of this section, or as provided in RCW 36.54.130 and subsection
11 (3) of this section, if any party assumes the operation and
12 maintenance of any ferry or ferry system by rent, lease, or charter
13 from the department of transportation, such party shall assume and be
14 bound by all the provisions herein and any agreement or contract for
15 such operation of any ferry or ferry system entered into by the
16 department shall provide that the wages to be paid, hours of
17 employment, working conditions, and seniority rights of employees
18 will be established by the commission in accordance with the terms
19 and provisions of this chapter and it shall further provide that all
20 labor disputes shall be adjudicated in accordance with chapter 47.64
21 RCW.

22 (2) If a public transportation benefit area meeting the
23 requirements of RCW 36.57A.200 has voter approval to operate
24 passenger-only ferry service, it may enter into an agreement with
25 Washington State Ferries to rent, lease, or purchase passenger-only
26 vessels, related equipment, or terminal space for purposes of loading
27 and unloading the passenger-only ferry. Charges for the vessels,
28 equipment, and space must be fair market value taking into account
29 the public benefit derived from the ferry service. A benefit area or
30 subcontractor of that benefit area that qualifies under this
31 subsection is not subject to the restrictions of subsection (1) of
32 this section, but is subject to:

33 (a) The terms of those collective bargaining agreements that it
34 or its subcontractors negotiate with the exclusive bargaining
35 representatives of its or its subcontractors' employees under chapter
36 41.56 RCW or the National Labor Relations Act, as applicable;

37 (b) Unless otherwise prohibited by federal or state law, a
38 requirement that the benefit area and any contract with its
39 subcontractors, give preferential hiring to former employees of the

1 department of transportation who separated from employment with the
2 department because of termination of the ferry service by the state
3 of Washington; and

4 (c) Unless otherwise prohibited by federal or state law, a
5 requirement that the benefit area and any contract with its
6 subcontractors, on any questions concerning representation of
7 employees for collective bargaining purposes, may be determined by
8 conducting a cross-check comparing an employee organization's
9 membership records or bargaining authorization cards against the
10 employment records of the employer. A determination through a cross-
11 check process may be made upon a showing of interest submitted in
12 support of the exclusive bargaining representative by more than fifty
13 percent of the employees.

14 (3) If a ferry district is formed under RCW 36.54.110 to operate
15 passenger-only ferry service, it may enter into an agreement with
16 Washington State Ferries to rent, lease, or purchase vessels, related
17 equipment, or terminal space for purposes of loading and unloading
18 the ferry. Charges for the vessels, equipment, and space must be fair
19 market value taking into account the public benefit derived from the
20 ferry service. A ferry district or subcontractor of that district
21 that qualifies under this subsection is not subject to the
22 restrictions of subsection (1) of this section, but is subject to:

23 (a) The terms of those collective bargaining agreements that it
24 or its subcontractors negotiate with the exclusive bargaining
25 representatives of its or its subcontractors' employees under chapter
26 41.56 RCW or the national labor relations act, as applicable;

27 (b) Unless otherwise prohibited by federal or state law, a
28 requirement that the ferry district and any contract with its
29 subcontractors, give preferential hiring to former employees of the
30 department of transportation who separated from employment with the
31 department because of termination of the ferry service by the state
32 of Washington; and

33 (c) Unless otherwise prohibited by federal or state law, a
34 requirement that the ferry district and any contract with its
35 subcontractors, on any questions concerning representation of
36 employees for collective bargaining purposes, may be determined by
37 conducting a cross-check comparing an employee organization's
38 membership records or bargaining authorization cards against the
39 employment records of the employer.

1 (4) The department of transportation shall make its terminal,
2 dock, and pier space available to private operators of passenger-only
3 ferries if the space can be made available without limiting the
4 operation of car ferries operated by the department. These private
5 operators are not bound by the provisions of subsection (1) of this
6 section. Charges for the equipment and space must be fair market
7 value taking into account the public benefit derived from the
8 passenger-only ferry service.

9 **Sec. 20.** RCW 47.64.160 and 1983 c 15 s 7 are each amended to
10 read as follows:

11 (1) A collective bargaining agreement may include ((union
12 security provisions including an agency shop, but not a union or
13 closed shop. If an agency shop provision is agreed to,)) a provision
14 for members of the bargaining unit to authorize the deduction of
15 membership dues from their salary, and the employer shall enforce it
16 by deducting from the salary payments to members of the bargaining
17 unit the dues required of membership ((in the bargaining
18 representative, or, for nonmembers thereof, a fee equivalent to such
19 dues. All union security provisions shall safeguard the right of
20 nonassociation of employees based on bona fide religious tenets or
21 teachings of a church or religious body of which such employee is a
22 member. Such employee shall pay an amount of money equivalent to
23 regular dues and fees to a nonreligious charity or to another
24 charitable organization mutually agreed upon by the employee affected
25 and the bargaining representative to which such employee would
26 otherwise pay the dues and fees. The employee shall furnish written
27 proof that such payment has been made. If the employee and the
28 bargaining representative do not reach agreement on such matter, the
29 commission shall designate the charitable organization)). An
30 employee's written, electronic, or recorded voice authorization to
31 have the employer deduct membership dues from the employee's salary
32 must be made by the employee to the employer. If the employer
33 receives an authorization of deductions, the employer shall as soon
34 as practicable forward a copy to the exclusive bargaining
35 representative.

36 (2) (a) Upon receiving the employee's authorization, the employer
37 shall deduct from the employee's salary membership dues and remit the
38 amounts to the exclusive bargaining representative.

1 (b) The employee's authorization remains in effect until
2 expressly revoked by the employee in accordance with the terms and
3 conditions of the authorization.

4 (c) An employee's request to revoke authorization for payroll
5 deductions must be in writing and submitted by the employee to the
6 employer.

7 (d) After the employer receives an employee's deduction
8 authorization revocation, the employer shall end the deduction
9 effective on the first payroll after receipt of the revocation.

10 NEW SECTION. Sec. 21. A new section is added to chapter 49.39
11 RCW to read as follows:

12 If only one employee organization is seeking certification as
13 exclusive bargaining representative of a bargaining unit for which
14 there is no incumbent exclusive bargaining representative, the
15 commission may determine the question concerning representation by
16 conducting a cross-check comparing the employee organization's
17 membership records or bargaining authorization cards against the
18 employment records of the employer. A determination through a cross-
19 check process may be made upon a showing of interest submitted in
20 support of the exclusive bargaining representative by more than fifty
21 percent of the employees. The commission may adopt rules to implement
22 this section.

23 **Sec. 22.** RCW 49.39.080 and 2018 c 247 s 6 are each amended to
24 read as follows:

25 (1) Upon the (~~written~~) authorization of an employee within the
26 bargaining unit and after the certification or recognition of the
27 bargaining unit's exclusive bargaining representative, the employer
28 must deduct from the payments to the employee the monthly amount of
29 dues as certified by the secretary of the exclusive bargaining
30 representative and must transmit the same to the treasurer of the
31 exclusive bargaining representative.

32 (2)(a) An employee's written, electronic, or recorded voice
33 authorization to have the employer deduct membership dues from the
34 employee's salary must be made by the employee to the employer. If
35 the employer receives an authorization of deductions, the employer
36 shall as soon as practicable forward a copy to the exclusive
37 bargaining representative.

1 (b) Upon receiving the employee's authorization, the employer
2 shall deduct from the employee's salary membership dues and remit the
3 amounts to the exclusive bargaining representative.

4 (c) The employee's authorization remains in effect until
5 expressly revoked by the employee in accordance with the terms and
6 conditions of the authorization.

7 (d) An employee's request to revoke authorization for payroll
8 deductions must be in writing and submitted by the employee to the
9 employer.

10 (e) After the employer receives an employee's deduction
11 authorization revocation, the employer shall end the deduction
12 effective on the first payroll after receipt of the revocation.

13 (3) If the employer and the exclusive bargaining representative
14 of a bargaining unit enter into a collective bargaining agreement
15 that ((÷

16 ~~(a) Includes a union security provision authorized under RCW~~
17 ~~49.39.090, the employer must enforce the agreement by deducting from~~
18 ~~the payments to bargaining unit members the dues required for~~
19 ~~membership in the exclusive bargaining representative, or, for~~
20 ~~nonmembers thereof, a fee equivalent to the dues; or~~

21 ~~(b))~~ includes requirements for deductions of other payments
22 ~~((other than the deduction under (a) of this subsection)), the~~
23 ~~employer must make such deductions upon ((written)) authorization of~~
24 ~~the employee.~~

25 **Sec. 23.** RCW 49.39.090 and 2010 c 6 s 10 are each amended to
26 read as follows:

27 A collective bargaining agreement may((÷

28 ~~(1) Contain union security provisions. However, nothing in this~~
29 ~~section authorizes a closed shop provision. Agreements involving~~
30 ~~union security provisions must safeguard the right of nonassociation~~
31 ~~of employees based on bona fide religious tenets or teachings of a~~
32 ~~church or religious body of which the symphony musician is a member.~~
33 ~~The symphony musician must pay an amount of money equivalent to~~
34 ~~regular union dues and initiation fee to a nonreligious charity or to~~
35 ~~another charitable organization mutually agreed upon by the symphony~~
36 ~~musician affected and the bargaining representative to which the~~
37 ~~symphony musician would otherwise pay the dues and initiation fee.~~
38 ~~The symphony musician must furnish written proof that the payment has~~
39 ~~been made. If the symphony musician and the bargaining representative~~

1 ~~do not reach agreement on this matter, the commission must designate~~
2 ~~the charitable organization;~~

3 (2)) provide for binding arbitration of a labor dispute arising
4 from the application or the interpretation of the matters contained
5 in a collective bargaining agreement.

6 **Sec. 24.** RCW 53.18.050 and 1967 c 101 s 5 are each amended to
7 read as follows:

8 A labor agreement signed by a port district may contain:

9 (1) Provisions that the employee organization chosen by a
10 majority of the employees in a grouping or unit will be recognized as
11 the representative of all employees in the classification included in
12 such grouping or unit;

13 (2) Maintenance of membership provisions including dues (~~check-~~
14 ~~off~~) cross-check arrangements as provided in section 8 of this act;
15 and

16 (3) Provisions providing for binding arbitration, the expenses
17 being equally borne by the parties, in matters of contract
18 interpretation and the settlement of jurisdictional disputes.

19 NEW SECTION. **Sec. 25.** RCW 41.59.100 (Union security provisions—
20 Scope—Agency shop provision, collection of dues or fees) and 1975 1st
21 ex.s. c 288 s 11 are each repealed.

22 NEW SECTION. **Sec. 26.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected."

26 Correct the title

EFFECT: Requires dues deduction authorizations and revocations to
be made to the employer rather than the exclusive bargaining
representative.

--- END ---