
SENATE BILL 6629

State of Washington

66th Legislature

2020 Regular Session

By Senators Conway, Keiser, Kuderer, Hasegawa, Hunt, and Saldaña

Read first time 01/28/20. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to granting interest arbitration to employees of
2 the department of natural resources and the liquor and cannabis
3 board; and amending RCW 41.80.200.

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

5 **Sec. 1.** RCW 41.80.200 and 2019 c 233 s 1 are each amended to
6 read as follows:

7 (1) In order to maintain dedicated and uninterrupted services to
8 the supervision of criminal offenders that are in state correctional
9 facilities and on community supervision, it is the legislature's
10 intent to grant certain employees of the department of corrections
11 interest arbitration rights as an alternative means of settling
12 disputes. It is also the legislature's intent to grant interest
13 arbitration to collectively bargained employees of the department of
14 natural resources and the liquor and cannabis board.

15 (2) This section applies (~~only~~) to (~~employees~~):

16 (a) Employees covered by chapter 41.06 RCW working for the
17 department of corrections, except confidential employees as defined
18 in RCW 41.80.005, members of the Washington management service,
19 internal auditors, and nonsupervisory marine department employees;

20 (b) Employees covered under chapter 43.30 RCW working for the
21 department of natural resources; and

1 (c) Employees covered under chapter 66.08 RCW working for the
2 liquor and cannabis board.

3 (3) Negotiations between the employer and the exclusive
4 bargaining representative of a unit of employees shall be commenced
5 at least five months before submission of the budget to the
6 legislature. If no agreement has been reached sixty days after the
7 commencement of such negotiations then, at any time thereafter,
8 either party may declare that an impasse exists and may submit the
9 dispute to the commission for mediation, with or without the
10 concurrence of the other party. The commission shall appoint a
11 mediator, who shall promptly meet with the representatives of the
12 parties, either jointly or separately, and shall take such other
13 steps as he or she may deem appropriate in order to persuade the
14 parties to resolve their differences and effect an agreement. A
15 mediator, however, does not have a power of compulsion. The mediator
16 may consider only matters that are subject to bargaining under this
17 chapter.

18 (4) If an agreement is not reached following a reasonable period
19 of negotiations and mediation, and the director, upon recommendation
20 of the assigned mediator, finds that the parties remain at impasse,
21 then an arbitrator must be appointed to resolve the dispute. The
22 issues for determination by the arbitrator must be limited to the
23 issues certified by the executive director.

24 (5) Within ten working days after the first Monday in September
25 of every odd-numbered year, the governor or the governor's designee
26 and the bargaining representatives for any bargaining units covered
27 by this section shall attempt to agree on an interest arbitrator to
28 be used if the parties are not successful in negotiating a
29 comprehensive collective bargaining agreement. The parties will
30 select an arbitrator by mutual agreement or by alternatively striking
31 names from a regional list of seven qualified arbitrators provided by
32 the federal mediation and conciliation service.

33 (a) The fees and expenses of the arbitrator, the court reporter,
34 if any, and the cost of the hearing room, if any, will be shared
35 equally between the parties. Each party is responsible for the costs
36 of its attorneys, representatives and witnesses, and all other costs
37 related to the development and presentation of their case.

38 (b) Immediately upon selecting an interest arbitrator, the
39 parties shall cooperate to reserve dates with the arbitrator for a
40 potential hearing between August 1st and September 15th of the

1 following even-numbered year. The parties shall also prepare a
2 schedule of at least five negotiation dates, absent an agreement to
3 the contrary.

4 (c) The parties shall execute a written agreement before December
5 15th of the odd-numbered year setting forth the name of the
6 arbitrator and the dates reserved for bargaining and arbitration.

7 (d) (i) The arbitrator must hold a hearing and provide reasonable
8 notice of the hearing to the parties to the dispute. The hearing must
9 be informal and each party has the opportunity to present evidence
10 and make arguments. The arbitrator may not present the case for a
11 party to the proceedings.

12 (ii) The rules of evidence prevailing in judicial proceedings may
13 be considered, but are not binding, and any oral testimony or
14 documentary evidence or other data deemed relevant by the arbitrator
15 may be received in evidence. A recording of the proceedings must be
16 taken.

17 (iii) The arbitrator may administer oaths, require the attendance
18 of witnesses, and require the production of such books, papers,
19 contracts, agreements, and documents deemed by the arbitrator to be
20 material to a just determination of the issues in dispute. If a
21 person refuses to obey a subpoena issued by the arbitrator, or
22 refuses to be sworn or to make an affirmation to testify, or a
23 witness, party, or attorney for a party is guilty of contempt while
24 in attendance at a hearing, the arbitrator may invoke the
25 jurisdiction of the superior court in the county where the labor
26 dispute exists, and the court may issue an appropriate order. Any
27 failure to obey the order may be punished by the court as a contempt
28 thereof.

29 (6) The arbitrator may consider only matters that are subject to
30 bargaining under RCW 41.80.020(1), and may not consider those
31 subjects listed under RCW 41.80.020 (2) and (3) and 41.80.040.

32 (a) In making its determination, the arbitrator shall take into
33 consideration the following factors:

34 (i) The financial ability of the department of corrections to pay
35 for the compensation and benefit provisions of a collective
36 bargaining agreement;

37 (ii) The constitutional and statutory authority of the employer;

38 (iii) Stipulations of the parties;

39 (iv) Comparison of the wages, hours, and conditions of employment
40 of personnel involved in the proceedings with the wages, hours, and

1 conditions of employment of like personnel of like state government
2 employers of similar size in the western United States;

3 (v) The ability of the department of corrections to retain
4 employees;

5 (vi) The overall compensation presently received by department of
6 corrections employees, including direct wage compensation, vacations,
7 holidays, and other paid excused time, pensions, insurance benefits,
8 and all other direct or indirect monetary benefits received;

9 (vii) Changes in any of the factors listed in this subsection
10 during the pendency of the proceedings; and

11 (viii) Such other factors which are normally or traditionally
12 taken into consideration in the determination of matters that are
13 subject to bargaining under RCW 41.80.020(1).

14 (b) The decision of an arbitrator under this section is subject
15 to RCW 41.80.010(3).

16 (7) During the pendency of the proceedings before the arbitrator,
17 existing wages, hours, and other conditions of employment shall not
18 be changed by action of either party without the consent of the other
19 but a party may so consent without prejudice to his or her rights or
20 position under chapter 41.56 RCW.

21 (8) (a) If the representative of either or both the employees and
22 the state refuses to submit to the procedures set forth in
23 subsections (3), (4), and (5) of this section, the parties, or the
24 commission on its own motion, may invoke the jurisdiction of the
25 superior court for the county in which the labor dispute exists and
26 the court may issue an appropriate order. A failure to obey the order
27 may be punished by the court as a contempt thereof.

28 (b) A decision of the arbitrator is final and binding on the
29 parties, and may be enforced at the instance of either party, the
30 arbitrator, or the commission in the superior court for the county
31 where the dispute arose. However, the decision of the arbitrator is
32 not binding on the legislature and, if the legislature does not
33 approve the funds necessary to implement provisions pertaining to the
34 compensation and fringe benefit provision of an interest arbitration
35 award, the provisions are not binding on the state or department of
36 corrections.

37 (9) Subject to the provisions of this section, the parties shall
38 follow the commission's procedures for interest arbitration.

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