
ENGROSSED SUBSTITUTE HOUSE BILL 1913

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Human Services (originally sponsored by Representatives Hargrove, Grant and Neher).

Read first time February 25, 1991.

1 AN ACT Relating to department of corrections' employees employed at
2 prisons and other custodial institutions; amending RCW 41.56.475 and
3 41.56.030; adding a new section to chapter 41.56 RCW; and adding a new
4 section to chapter 41.06 RCW.

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

6 **Sec. 1.** RCW 41.56.475 and 1988 c 110 s 2 are each amended to read
7 as follows:

8 In addition to the classes of employees listed in RCW 41.56.030(7),
9 the provisions of RCW 41.56.430, 41.56.440, and 41.56.490 also apply to
10 Washington state patrol officers appointed under RCW 43.43.020 and to
11 all correctional officers up to and including the rank of lieutenant
12 and nonmanagerial support staff employed by the division of prisons of
13 the department of corrections as provided in this section, subject to
14 the following:

15 (1) The mediator shall not consider wages and wage-related matters.

1 (2) The services of the mediator, including any per diem expenses,
2 shall be provided by the commission without cost to the parties.
3 Nothing in this section shall be construed to prohibit the public
4 employer and a bargaining representative from agreeing to substitute at
5 their own expense some other mediator or mediation procedure.

6 (3) If the public employer and a bargaining representative are
7 unable to reach an agreement in mediation, either party, by written
8 notice to the other party and to the commission, may request that the
9 matters in dispute be submitted to a fact-finder for recommendations.
10 If the executive director, upon the recommendation of the mediator,
11 finds that the parties remain at an impasse after a reasonable period
12 of negotiations, the executive director shall initiate fact-finding
13 proceedings.

14 (a) The executive director shall provide the parties with a list of
15 five persons qualified to serve as the neutral fact-finder. The
16 parties shall without delay attempt to agree upon a fact-finder from
17 the list provided by the commission or to agree upon some other person
18 as a fact-finder. Upon the failure of the parties to agree upon a
19 fact-finder within seven days after the issuance of the list, the
20 commission shall, upon the request of either party, appoint a fact-
21 finder. The commission shall not appoint as fact-finder the same
22 person who acted as mediator in the dispute.

23 (b) The fact-finder shall promptly establish a date, time, and
24 place to meet with the representatives of the parties and shall provide
25 reasonable notice of the meeting to the parties to the dispute. The
26 requirements of chapter 34.05 RCW shall not apply to fact-finding
27 proceedings. The fact-finder shall make inquiries and investigations,
28 hold hearings, and take such other steps as he or she deems
29 appropriate. The fact-finder may issue subpoenas requiring the
30 attendance and testimony of witnesses and the production of evidence.

1 (c) The fact-finder shall, within thirty days following the
2 conclusion of the hearing, make written findings of fact and written
3 recommendations to the parties as to how their dispute should be
4 resolved. A copy shall be delivered or mailed to each of the parties
5 to the dispute. A copy shall be filed with the commission. The
6 findings and recommendations of the fact-finder are advisory only.

7 (d) The findings and recommendations of the fact-finder shall be
8 held in confidence among the fact-finder, the public employer, the
9 bargaining representative, and the commission for seven calendar days
10 following their issuance, to permit the public employer and the
11 bargaining representative to study the recommendations. No later than
12 seven calendar days following the issuance of the recommendations of
13 the fact-finder, each party shall notify the commission and the other
14 party whether it accepts or rejects, in whole or in part, the
15 recommendations of the fact-finder. If the parties remain in
16 disagreement following the expiration of the seven-day period, the
17 findings and recommendations of the fact-finder may be made public.

18 (e) The fees and expenses of the fact-finder shall be paid by the
19 parties to the dispute, in equal amounts. All other costs of the
20 proceeding shall be paid by the party incurring those costs. Nothing
21 in this section prohibits an employer and an exclusive bargaining
22 representative from agreeing to substitute, at their own expense, some
23 other impasse procedure or from agreeing to some other allocation of
24 the costs of fact-finding between them.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.56 RCW
26 to read as follows:

27 In addition to the entities listed in RCW 41.56.020, this chapter
28 shall apply to the state of Washington with respect to all correctional
29 officers up to and including the rank of lieutenant and nonmanagerial

1 support staff employed by the division of prisons of the department of
2 corrections. The department of corrections shall be considered a
3 public employer of correctional officers up to and including the rank
4 of lieutenant and nonmanagerial support staff employed by the division
5 of prisons for purposes of the application of this chapter.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.06 RCW
7 to read as follows:

8 The provisions of RCW 41.06.340 and 41.06.150 (11), (12), (13), and
9 (14) shall not apply to correctional officers up to and including the
10 rank of lieutenant and nonmanagerial support staff employed by the
11 division of prisons of the department of corrections.

12 **Sec. 4.** RCW 41.56.030 and 1989 c 275 s 2 are each amended to read
13 as follows:

14 As used in this chapter:

15 (1) "Public employer" means any officer, board, commission,
16 council, or other person or body acting on behalf of any public body
17 governed by this chapter as designated by RCW 41.56.020, or any
18 subdivision of such public body. For the purposes of this section, the
19 public employer of district court employees for wage-related matters is
20 the respective county legislative authority, or person or body acting
21 on behalf of the legislative authority, and the public employer for
22 nonwage-related matters is the judge or judge's designee of the
23 respective district court.

24 (2) "Public employee" means any employee of a public employer
25 except any person (a) elected by popular vote, or (b) appointed to
26 office pursuant to statute, ordinance or resolution for a specified
27 term of office by the executive head or body of the public employer, or
28 (c) whose duties as deputy, administrative assistant or secretary

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

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

12 (4) "Collective bargaining" means the performance of the mutual
13 obligations of the public employer and the exclusive bargaining
14 representative to meet at reasonable times, to confer and negotiate in
15 good faith, and to execute a written agreement with respect to
16 grievance procedures and collective negotiations on personnel matters,
17 including wages, hours and working conditions, which may be peculiar to
18 an appropriate bargaining unit of such public employer, except that by
19 such obligation neither party shall be compelled to agree to a proposal
20 or be required to make a concession unless otherwise provided in this
21 chapter. In the case of the Washington state patrol and the employees
22 covered under section 2 of this act, "collective bargaining" shall not
23 include wages and wage-related matters.

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

25 (6) "Executive director" means the executive director of the
26 commission.

27 (7) "Uniformed personnel" means (a) law enforcement officers as
28 defined in RCW 41.26.030 as now or hereafter amended, of cities with a
29 population of fifteen thousand or more or law enforcement officers
30 employed by the governing body of any county of the second class or

1 larger, or (b) fire fighters as that term is defined in RCW 41.26.030,
2 as now or hereafter amended.