
SENATE BILL 6506

State of Washington 63rd Legislature 2014 Regular Session

By Senators Conway, Hasegawa, Keiser, Darneille, Chase, and Kline

Read first time 01/30/14. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to enhancing the safety of employees working for
2 western state hospital and eastern state hospital through collective
3 bargaining and binding interest arbitration; amending RCW 41.80.020;
4 and adding new sections to chapter 41.56 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.56 RCW
7 to read as follows:

8 (1) In addition to the entities listed in RCW 41.56.020, this
9 chapter applies to the state with respect to employees working for
10 western state hospital and eastern state hospital.

11 (2) This chapter governs the collective bargaining relationship
12 between the state and employees working for western state hospital and
13 eastern state hospital, except as follows:

14 (a) The state shall be represented by the governor or the
15 governor's designee who is appointed under chapter 41.80 RCW, and costs
16 of the negotiations under this section shall be reimbursed as provided
17 in RCW 41.80.140.

18 (b)(i) The following bargaining units of employees working for
19 western state hospital and eastern state hospital shall be considered

1 appropriate units under this chapter as of the effective date of this
2 section, but there may be proceedings concerning certification and unit
3 clarification under this chapter thereafter:

4 (A) All nonsupervisory classified employees of the state working
5 for western state hospital in the psychiatric treatment and recovery
6 center, the habilitative mental health unit, and at eastern state
7 hospital in the adult psychiatric unit, forensic services unit, and
8 geropsychiatric unit, excluding persons exempt from the coverage of
9 chapter 41.06 RCW, employees in the Washington management service,
10 confidential employees, supervisors, institutions employees in
11 historically excluded groups that have not been modified by subsequent
12 orders of the public employment relations commission, and all other
13 employees of the state;

14 (B) All supervisory classified employees of the state working for
15 western state hospital in the psychiatric treatment and recovery
16 center, the habilitative mental health unit, and at eastern state
17 hospital in the adult psychiatric unit, forensic services unit, and
18 geropsychiatric unit, excluding persons exempt from the coverage of
19 chapter 41.06 RCW, employees in the Washington management services,
20 confidential employees, nonsupervisory employees, institutions
21 employees in historically excluded groups that have not been modified
22 by subsequent orders, and all other employees of the state.

23 (ii) This act does not preclude either party from seeking to
24 clarify the scope of any bargaining unit pursuant to RCW 41.56.060.

25 (c) The exclusive bargaining representatives recognized under
26 chapter 41.80 RCW as representing the bargaining units of employees
27 working for western state hospital and eastern state hospital shall be
28 the exclusive bargaining representatives recognized under this chapter
29 as representing the bargaining units of employees working for western
30 state hospital and eastern state hospital without the necessity of an
31 election as of the effective date of this section, but there may be
32 proceedings concerning representation under this chapter thereafter.

33 (d) If an exclusive bargaining representative represents more than
34 one bargaining unit, the exclusive bargaining representative shall
35 negotiate with the governor or the governor's designee one master
36 collective bargaining agreement on behalf of all the employees in
37 bargaining units that the exclusive bargaining representative
38 represents.

1 (e) Notwithstanding the definition of "collective bargaining" in
2 RCW 41.56.030(4), the scope of collective bargaining for employees
3 working for western state hospital and eastern state hospital: (i)
4 Includes terms and conditions of employment relevant to employee
5 safety, such as staffing levels with a direct relationship to employee
6 workload and safety; (ii) excludes matters pertaining to management
7 rights established in RCW 41.80.040, such as the employer's budget, the
8 size of the agency workforce, and the right to direct and supervise
9 employees; and (iii) is otherwise the same as the scope of collective
10 bargaining described in RCW 41.80.020.

11 (f) The governor or the governor's designee and one coalition of
12 all the exclusive bargaining representatives subject to this section
13 and chapter 41.80 RCW shall conduct negotiations regarding the number
14 of names to be certified for vacancies, promotional preferences, and
15 the dollar amount expended on behalf of each employee for health care
16 benefits as described in RCW 41.80.020.

17 (3) The governor or the governor's designee shall periodically
18 consult with the joint committee on employment relations created in RCW
19 41.80.010(5) regarding appropriations necessary to implement the
20 compensation and fringe benefit provisions in a collective bargaining
21 agreement and, upon completion of negotiations, advise the committee on
22 the elements of the agreement and on any legislation necessary to
23 implement the agreement.

24 (4) The governor shall submit a request for funds necessary to
25 implement the compensation and fringe benefit provisions in the
26 collective bargaining agreement or for legislation necessary to
27 implement the agreement. Requests for funds necessary to implement the
28 compensation and fringe benefit provisions of bargaining agreements
29 shall not be submitted to the legislature by the governor unless such
30 requests:

31 (a) Have been submitted to the director of financial management by
32 October 1st before the legislative session at which the requests are to
33 be considered; and

34 (b) Have been certified by the director of financial management as
35 being feasible financially for the state or reflects the decision of an
36 arbitration panel reached under section 2 of this act.

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

3 In addition to the classes of employees listed in RCW
4 41.56.030(13), the provisions of RCW 41.56.430 through 41.56.452 and
5 41.56.470, 41.56.480, and 41.56.490 also apply to the employees of the
6 state working for western state hospital and eastern state hospital as
7 provided in this section, subject to the following:

8 (1) Within ten working days after the first Monday in September of
9 every odd-numbered year, the governor or the governor's designee and
10 the bargaining representative for the appropriate bargaining unit shall
11 attempt to agree on an interest arbitration panel consisting of three
12 members to be used if the parties are not successful in negotiating a
13 comprehensive collective bargaining agreement. Each party shall name
14 one person to serve as its arbitrator on the arbitration panel. The
15 two members so appointed shall meet within seven days following the
16 appointment of the later appointed member to attempt to choose a third
17 member to act as the neutral chair of the arbitration panel. Upon the
18 failure of the arbitrators to select a neutral chair within seven days,
19 the two appointed members shall use one of the two following options in
20 the appointment of the third member, who shall act as chair of the
21 panel: (a) By mutual consent, the two appointed members may jointly
22 request the commission to, and the commission shall, appoint a third
23 member within two days of such a request. Costs of each party's
24 appointee shall be borne by each party respectively; other costs of the
25 arbitration proceedings shall be borne by the commission; or (b) either
26 party may apply to the commission, the federal mediation and
27 conciliation service, or the American arbitration association to
28 provide a list of five qualified arbitrators from which the neutral
29 chair shall be chosen. Each party shall pay the fees and expenses of
30 its arbitrator, and the fees and expenses of the neutral chair shall be
31 shared equally between the parties. Immediately upon selecting an
32 interest arbitration panel, the parties shall cooperate to reserve
33 dates with the arbitration panel for potential arbitration between
34 August 1st and September 15th of the following even-numbered year. The
35 parties shall also prepare a schedule of at least five negotiation
36 dates for the following year, absent an agreement to the contrary. The
37 parties shall execute a written agreement before November 1st of each
38 odd-numbered year setting forth the names of the members of the

1 arbitration panel and the dates reserved for bargaining and
2 arbitration. This subsection imposes minimum obligations only and is
3 not intended to define or limit a party's full, good faith bargaining
4 obligation under other sections of this chapter.

5 (2) The mediator or arbitration panel may consider only matters
6 that are subject to bargaining under section 1(2)(e)(i) of this act,
7 and may not consider matters that are subject to bargaining under
8 section 1(2)(e)(iii) of this act, the number of names to be certified
9 for vacancies, promotional preferences, and the dollar amount expended
10 on behalf of each employee for health care benefits.

11 (3) The decision of an arbitration panel is not binding on the
12 legislature and, if the legislature does not approve the funds
13 necessary to implement the compensation and fringe benefit provisions
14 in an arbitrated collective bargaining agreement, is not binding on the
15 state or western state hospital and eastern state hospital.

16 (4) In making its determination, the arbitration panel shall be
17 mindful of the legislative purpose enumerated in RCW 41.56.430 and, as
18 additional standards or guidelines to aid it in reaching a decision,
19 shall take into consideration the following factors:

20 (a) The financial ability of the department to pay for the
21 provisions of a collective bargaining agreement;

22 (b) The constitutional and statutory authority of the employer;

23 (c) Stipulations of the parties;

24 (d) Comparison of the terms and conditions of employment relevant
25 to employee safety of personnel involved in the proceedings with the
26 terms and conditions of employment relevant to employee safety of like
27 personnel of like employers of similar size on the west coast of the
28 United States;

29 (e) Changes in any of the factors listed in this subsection during
30 the pendency of the proceedings; and

31 (f) Such other factors, not confined to those listed in this
32 subsection, which are normally or traditionally taken into
33 consideration in the determination of matters that are subject to
34 bargaining under section 1(2)(e)(i) of this act and mediation or
35 arbitration under this section.

36 **Sec. 3.** RCW 41.80.020 and 2013 2nd sp.s. c 4 s 972 are each
37 amended to read as follows:

1 (1) Except as otherwise provided in this chapter, the matters
2 subject to bargaining include wages, hours, and other terms and
3 conditions of employment, and the negotiation of any question arising
4 under a collective bargaining agreement.

5 (2) The employer is not required to bargain over matters pertaining
6 to:

7 (a) Health care benefits or other employee insurance benefits,
8 except as required in subsection (3) of this section;

9 (b) Any retirement system or retirement benefit; or

10 (c) Rules of the human resources director, the director of
11 enterprise services, or the Washington personnel resources board
12 adopted under RCW 41.06.157.

13 (3) Matters subject to bargaining include the number of names to be
14 certified for vacancies, promotional preferences, and the dollar amount
15 expended on behalf of each employee for health care benefits. However,
16 except as provided otherwise in this subsection for institutions of
17 higher education, negotiations regarding the number of names to be
18 certified for vacancies, promotional preferences, and the dollar amount
19 expended on behalf of each employee for health care benefits shall be
20 conducted between the employer and one coalition of all the exclusive
21 bargaining representatives subject to this chapter and all the
22 exclusive bargaining representatives subject to section 1 of this act.

23 The exclusive bargaining representatives for employees that are subject
24 to chapter 47.64 RCW shall bargain the dollar amount expended on behalf
25 of each employee for health care benefits with the employer as part of
26 the coalition under this subsection. Any such provision agreed to by
27 the employer and the coalition shall be included in all master
28 collective bargaining agreements negotiated by the parties. For
29 institutions of higher education, promotional preferences and the
30 number of names to be certified for vacancies shall be bargained under
31 the provisions of RCW 41.80.010(4). For agreements covering the
32 2013-2015 fiscal biennium, any agreement between the employer and the
33 coalition regarding the dollar amount expended on behalf of each
34 employee for health care benefits is a separate agreement and shall not
35 be included in the master collective bargaining agreements negotiated
36 by the parties.

37 (4) The employer and the exclusive bargaining representative shall
38 not agree to any proposal that would prevent the implementation of

1 approved affirmative action plans or that would be inconsistent with
2 the comparable worth agreement that provided the basis for the salary
3 changes implemented beginning with the 1983-1985 biennium to achieve
4 comparable worth.

5 (5) The employer and the exclusive bargaining representative shall
6 not bargain over matters pertaining to management rights established in
7 RCW 41.80.040.

8 (6) Except as otherwise provided in this chapter, if a conflict
9 exists between an executive order, administrative rule, or agency
10 policy relating to wages, hours, and terms and conditions of employment
11 and a collective bargaining agreement negotiated under this chapter,
12 the collective bargaining agreement shall prevail. A provision of a
13 collective bargaining agreement that conflicts with the terms of a
14 statute is invalid and unenforceable.

15 (7) This section does not prohibit bargaining that affects
16 contracts authorized by RCW 41.06.142.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.56 RCW
18 to read as follows:

19 (1) Collective bargaining negotiations between the state and
20 bargaining units of employees working for western state hospital and
21 eastern state hospital under this chapter shall commence no later than
22 July 1, 2014. A collective bargaining agreement between the state and
23 any bargaining unit of employees working for western state hospital and
24 eastern state hospital entered into under this chapter shall not be
25 effective prior to July 1, 2015.

26 (2) Any collective bargaining agreement between the state and any
27 bargaining unit of employees working for western state hospital and
28 eastern state hospital entered into under chapter 41.80 RCW before July
29 1, 2014, that expires after July 1, 2014, shall, unless a superseding
30 agreement complying with this chapter is negotiated by the parties,
31 remain in full force during its duration, but the agreement may not be
32 renewed or extended beyond July 1, 2015, or until superseded by a
33 collective bargaining agreement entered into under this chapter,
34 whichever is later.

35 (3) The duration of any collective bargaining agreement between the
36 state and bargaining units of employees working for western state

1 hospital and eastern state hospital under this chapter shall not exceed
2 one fiscal biennium.

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