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**SUBSTITUTE SENATE BILL 6098**

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**State of Washington 64th Legislature 2015 1st Special Session**

**By** Senate Ways & Means (originally sponsored by Senator Braun)

AN ACT Relating to defining financial feasibility for collective bargaining agreements; amending RCW 41.80.005 and 74.39A.240; and adding a new section to chapter 41.56 RCW.

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

**Sec.**  RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW, except:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Estimate of state financial resources" means the amount of available fiscal resources that exceed projected maintenance levels as those terms are defined in RCW 43.88.055 and as adopted by the economic and revenue forecast council in November as directed in RCW 82.33.060.

(10) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

((~~(10)~~)) (11) "Feasible financially for the state" means the sum of the general fund and related funds cost of the collective bargaining agreements negotiated under the authority of this chapter, RCW 41.56.026, 41.56.028, 41.56.029, 41.56.510, and 74.39A.270 does not exceed the most current estimate of state financial resources for the term of the agreement and for the ensuing biennium. For purposes of this subsection, "related funds" has the same meaning as in RCW 43.88.055.

(12) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

((~~(11)~~)) (13) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

((~~(12)~~)) (14) "Manager" means "manager" as defined in RCW 41.06.022.

((~~(13)~~)) (15) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

((~~(14)~~)) (16) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

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

For the purposes of RCW 41.56.028, 41.56.029, and 41.56.510, the term "financially feasible for the state" and "feasible financially for the state" has the same meaning as feasible financially for the state in RCW 41.80.005.

**Sec.**  RCW 74.39A.240 and 2011 1st sp.s. c 21 s 7 are each amended to read as follows:

The definitions in this section apply throughout RCW 74.39A.030 ((~~and~~)), 74.39A.095 ((~~and~~)), 74.39A.220 through 74.39A.300, and 41.56.026 unless the context clearly requires otherwise.

(1) "Consumer" means a person to whom an individual provider provides any such services.

(2) "Department" means the department of social and health services.

(3) "Feasible financially for the state" has the same meaning as in RCW 41.80.005.

(4) "Individual provider" means a person, including a personal aide, who has contracted with the department to provide personal care or respite care services to functionally disabled persons under the medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and support to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270.

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