

SSB 5623 - S AMD 226

By Senator Ericksen

NOT CONSIDERED 12/23/2019

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 (1) Representatives of an employee organization, which
2 organization shall by secret ballot have won a majority in an
3 election to represent the academic employees within its college
4 district, shall have the right to bargain ((as defined in RCW
5 28B.52.020(8)).

6 (2) No question concerning representation may be raised within
7 one year of an attempted certification or successful decertification.

8 (3) Once an employee organization has been certified by the
9 commission as the exclusive bargaining representative of a bargaining
10 unit, the commission must conduct periodic secret ballot elections
11 for the members of the unit to determine the exclusive bargaining
12 representative, subject to the following conditions:

13 (a) An election to determine the bargaining representative must
14 be conducted during every other even-numbered year, beginning in
15 2020;

16 (b) The existing exclusive bargaining representative must be on
17 the ballot automatically and a choice of no union representation must
18 also be on the ballot automatically. Any other employee organization
19 may appear on the ballot by providing the commission with proof of
20 interest from at least ten percent of the bargaining unit; and

21 (c) The commission must certify as the exclusive bargaining
22 representative the employee organization that receives a majority of
23 the votes cast by members of the bargaining unit. If an employee
24 organization other than the incumbent exclusive bargaining
25 representative is certified, the then existing collective bargaining
26 agreement may be terminated by the new exclusive bargaining
27 representative sixty days after its certification or, by agreement
28 with the employer, at any time. If a majority of votes cast by
29 members of the bargaining unit are for no union representation, then
30 the incumbent employee organization loses its certification as the
31 exclusive bargaining representative and the agreement is deemed to be
32 terminated at its expiration date or third anniversary date,
33 whichever is sooner.

34 (4) The commission may adopt rules that provide for the regular
35 timing and conduct of elections in accordance with this section.

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

38 Employees have the right to self-organization, to form, join, or
39 assist employee organizations, to bargain collectively through

1 representatives of their own choosing, and also have the right to
2 refrain from any or all of these activities (~~except to the extent~~
3 ~~that employees may be required to make payments to an exclusive~~
4 ~~bargaining representative or charitable organization under a union~~
5 ~~security provision authorized in this chapter~~)).

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

8 (1)(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 exclusive
11 bargaining representative. If the employer receives a request for
12 authorization of deductions, the employer shall as soon as
13 practicable forward the request to the exclusive bargaining
14 representative.

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

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

22 (2)(a) An employee's request to revoke authorization for payroll
23 deductions must be in writing and submitted by the employee to the
24 exclusive bargaining representative in accordance with the terms and
25 conditions of the authorization.

26 (b) After the employer receives confirmation from the exclusive
27 bargaining representative that the employee has revoked authorization
28 for deductions, the employer shall end the deduction effective on the
29 first payroll after receipt of the confirmation.

30 (3) The employer shall rely on information provided by the
31 exclusive bargaining representative regarding the authorization and
32 revocation of deductions.

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

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

37 ~~(b))~~) Upon ((written)) authorization of an employee within the
38 bargaining unit and after the certification ((or recognition)) of the

1 bargaining unit's exclusive bargaining representative, the employer
2 must deduct from the payments to the employee the monthly amount of
3 dues as certified by the secretary of the exclusive bargaining
4 representative and must transmit the same to the treasurer of the
5 exclusive bargaining representative.

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

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

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

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

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

33 (1) The commission, after hearing upon reasonable notice, shall
34 decide in each application for certification as an exclusive
35 bargaining representative, the unit appropriate for the purpose of
36 collective bargaining. In determining, modifying, or combining the
37 bargaining unit, the commission shall consider the duties, skills,
38 and working conditions of the public employees; the history of
39 collective bargaining by the public employees and their bargaining

1 representatives; the extent of organization among the public
2 employees; and the desire of the public employees. The commission
3 shall determine the bargaining representative by(~~(a) Examination~~
4 ~~of organization membership rolls; (b) comparison of signatures on~~
5 ~~organization bargaining authorization cards; or (c))~~) conducting an
6 election specifically therefor.

7 (2) For classified employees of school districts and educational
8 service districts:

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

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

17 **Sec. 8.** RCW 41.56.070 and 2012 c 117 s 83 are each amended to
18 read as follows:

19 (~~In the event the commission elects to conduct an election to~~
20 ~~ascertain the exclusive bargaining representative, and)) (1) Upon the
21 request of a prospective bargaining representative showing written
22 proof of at least thirty percent representation of the public
23 employees within the unit, the commission shall hold an election by
24 secret ballot to determine the issue. The ballot shall contain the
25 name of such bargaining representative and of any other bargaining
26 representative showing written proof of at least ten percent
27 representation of the public employees within the unit, together with
28 a choice (~~for any public employee to designate that he or she does~~
29 ~~not desire to be represented by any bargaining agent)) of no union
30 representation. Where more than one organization is on the ballot and
31 neither of the three or more choices receives a majority vote of the
32 public employees within the bargaining unit, a runoff election shall
33 be held. The runoff ballot shall contain the two choices which
34 received the largest and second-largest number of votes. No question
35 concerning representation may be raised within one year of (~~a~~
36 ~~certification or~~) an attempted certification or successful
37 decertification. (~~Where there is a valid collective bargaining~~
38 ~~agreement in effect, no question of representation may be raised~~
39 ~~except during the period not more than ninety nor less than sixty~~~~~~

1 ~~days prior to the expiration date of the agreement.))~~ Any agreement
2 ~~((which))~~ that contains a provision for automatic renewal or
3 extension of the agreement ~~((shall not be))~~ is not a valid agreement;
4 nor ~~((shall))~~ is any agreement ~~((be))~~ valid if it provides for a term
5 of existence for more than three years, except that any agreement
6 entered into between school districts, cities, counties, or municipal
7 corporations, and their respective employees, may provide for a term
8 of existence of up to six years.

9 (2) Once a bargaining representative has been certified by the
10 commission to represent a bargaining unit, the commission must
11 conduct periodic secret ballot elections for the members of the unit
12 to determine the bargaining representative, subject to the following
13 conditions:

14 (a) For the bargaining units of adult family home providers,
15 family child care providers, individual providers, and language
16 access providers, the commission must conduct an election to
17 determine the bargaining representative during every other even-
18 numbered year, beginning in 2020. For bargaining units of classified
19 employees of school districts, educational service districts, or
20 institutions of higher education that are education providers under
21 chapter 28A.193 RCW, the commission must conduct an election to
22 determine the bargaining representative during every other even-
23 numbered year, beginning in 2020. For all other bargaining units
24 covered by this chapter, the commission must conduct an election to
25 determine the bargaining representative during every other odd-
26 numbered year, beginning in 2021;

27 (b) The existing bargaining representative must be on the ballot
28 automatically and a choice of no union representation must also be on
29 the ballot automatically. Any other bargaining representative may
30 appear on the ballot by providing the commission with proof of
31 interest from at least ten percent of the bargaining unit; and

32 (c) The commission must certify the bargaining representative
33 that receives a majority of the votes cast by members of the
34 bargaining unit. If a bargaining representative other than the
35 incumbent exclusive bargaining representative is certified, the then
36 existing collective bargaining agreement may be terminated by the new
37 bargaining representative sixty days after its certification or, by
38 agreement of the public employer, at any time. If a majority of votes
39 cast by members of the bargaining unit are for no union
40 representation, then the incumbent bargaining representative loses

1 its certification and the agreement is deemed to be terminated at its
2 expiration date or third anniversary date, whichever is sooner.

3 (3) The commission may adopt rules that provide for the regular
4 timing and conduct of elections in accordance with this section.

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

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

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

21 (b) Upon receiving notice of the employee's authorization from
22 the exclusive bargaining representative, the employer shall deduct
23 from the employee's salary membership dues and remit the amounts to
24 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 (3)(a) An employee's request to revoke authorization for payroll
29 deductions must be in writing and submitted by the employee to the
30 exclusive bargaining representative in accordance with the terms and
31 conditions of the authorization.

32 (b) 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 (4) The employer shall rely on information provided by the
37 exclusive bargaining representative regarding the authorization and
38 revocation of deductions.

1 (5) If the employer and the exclusive bargaining representative
2 of a bargaining unit enter into a collective bargaining agreement
3 that(~~÷~~

4 ~~(a) Includes a union security provision authorized under RCW~~
5 ~~41.56.122, the employer must enforce the agreement by deducting from~~
6 ~~the payments to bargaining unit members the dues required for~~
7 ~~membership in the exclusive bargaining representative, or, for~~
8 ~~nonmembers thereof, a fee equivalent to the dues; or~~

9 ~~(b))~~ includes requirements for deductions of other payments
10 (~~other than the deduction under (a) of this subsection~~), the
11 employer must make such deductions upon (~~written~~) authorization of
12 the employee.

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

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

17 (a) Upon the (~~written~~) authorization of an individual provider
18 who contracts with the department of social and health services, a
19 family child care provider, an adult family home provider, or a
20 language access provider within the bargaining unit and after the
21 certification (~~or recognition~~) of the bargaining unit's exclusive
22 bargaining representative, the state as payor, but not as the
23 employer, shall, subject to (c) of this subsection, deduct from the
24 payments to an individual provider who contracts with the department
25 of social and health services, a family child care provider, an adult
26 family home provider, or a language access provider the monthly
27 amount of dues as certified by the secretary of the exclusive
28 bargaining representative and shall transmit the same to the
29 treasurer of the exclusive bargaining representative.

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

37 **(ii) Upon receiving notice of the employee's authorization from**
38 **the exclusive bargaining representative, the employer shall deduct**

1 from the employee's salary membership dues and remit the amounts to
2 the exclusive bargaining representative.

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

6 (iv) An employee's request to revoke authorization for payroll
7 deductions must be in writing and submitted by the employee to the
8 exclusive bargaining representative in accordance with the terms and
9 conditions of the authorization.

10 (v) After the employer receives confirmation from the exclusive
11 bargaining representative that the employee has revoked authorization
12 for deductions, the employer shall end the deduction effective on the
13 first payroll after receipt of the confirmation.

14 (vi) The employer shall rely on information provided by the
15 exclusive bargaining representative regarding the authorization and
16 revocation of deductions.

17 (vii) If the governor and the exclusive bargaining representative
18 of a bargaining unit of individual providers who contract with the
19 department of social and health services, family child care
20 providers, adult family home providers, or language access providers
21 enter into a collective bargaining agreement that (:

22 ~~(i) Includes a union security provision authorized in RCW~~
23 ~~41.56.122, the state as payor, but not as the employer, shall,~~
24 ~~subject to (c) of this subsection, enforce the agreement by deducting~~
25 ~~from the payments to bargaining unit members the dues required for~~
26 ~~membership in the exclusive bargaining representative, or, for~~
27 ~~nonmembers thereof, a fee equivalent to the dues; or~~

28 ~~(ii))~~ includes requirements for deductions of other payments
29 ~~((other than the deduction under (b)(i) of this subsection)),~~ the
30 state, as payor, but not as the employer, shall, subject to (c) of
31 this subsection, make such deductions upon ~~((written))~~ authorization
32 of the individual provider, family child care provider, adult family
33 home provider, or language access provider.

34 (c)(i) The initial additional costs to the state in making
35 deductions from the payments to individual providers, family child
36 care providers, adult family home providers, and language access
37 providers under this section shall be negotiated, agreed upon in
38 advance, and reimbursed to the state by the exclusive bargaining
39 representative.

1 (ii) The allocation of ongoing additional costs to the state in
2 making deductions from the payments to individual providers, family
3 child care providers, adult family home providers, or language access
4 providers under this section shall be an appropriate subject of
5 collective bargaining between the exclusive bargaining representative
6 and the governor unless prohibited by another statute. If no
7 collective bargaining agreement containing a provision allocating the
8 ongoing additional cost is entered into between the exclusive
9 bargaining representative and the governor, or if the legislature
10 does not approve funding for the collective bargaining agreement as
11 provided in RCW 74.39A.300, 41.56.028, 41.56.029, or 41.56.510, as
12 applicable, the ongoing additional costs to the state in making
13 deductions from the payments to individual providers, family child
14 care providers, adult family home providers, or language access
15 providers under this section shall be negotiated, agreed upon in
16 advance, and reimbursed to the state by the exclusive bargaining
17 representative.

18 ~~((d) The governor and the exclusive bargaining representative of
19 a bargaining unit of family child care providers may not enter into a
20 collective bargaining agreement that contains a union security
21 provision unless the agreement contains a process, to be administered
22 by the exclusive bargaining representative of a bargaining unit of
23 family child care providers, for hardship dispensation for license-
24 exempt family child care providers who are also temporary assistance
25 for needy families recipients or WorkFirst participants.))~~

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

32 ~~((i))~~ (a) The monthly amount of dues as certified by the
33 secretary of the exclusive bargaining representative be deducted from
34 the payments to the language access provider and transmitted to the
35 treasurer of the exclusive bargaining representative; and

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

38 ~~((b) If the governor and the exclusive bargaining representative
39 of the bargaining unit of language access providers enter into a
40 collective bargaining agreement that includes a union security~~

1 provision authorized in RCW 41.56.122, the state shall enforce the
2 agreement by requiring through its contracts with third parties that:

3 (i) ~~The monthly amount of dues required for membership in the~~
4 ~~exclusive bargaining representative as certified by the secretary of~~
5 ~~the exclusive bargaining representative, or, for nonmembers thereof,~~
6 ~~a fee equivalent to the dues, be deducted from the payments to the~~
7 ~~language access provider and transmitted to the treasurer of the~~
8 ~~exclusive bargaining representative; and~~

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

11 (3) This subsection (3) applies only to individual providers who
12 contract with the department of social and health services. ~~((If the~~
13 ~~governor and the exclusive bargaining representative of a bargaining~~
14 ~~unit of individual providers enter into a collective bargaining~~
15 ~~agreement that meets the requirements in subsection (1) (b) (i) or (ii)~~
16 ~~of this section, and the state as payor, but not as the employer,~~
17 ~~contracts with a third-party entity to perform its obligations as set~~
18 ~~forth in those subsections, and that third-party contracts with the~~
19 ~~exclusive bargaining representative to perform voluntary deductions~~
20 ~~for individual providers, the exclusive bargaining representative may~~
21 ~~direct the third-party to make the deductions required by the~~
22 ~~collective bargaining agreement, at the expense of the exclusive~~
23 ~~bargaining representative, so long as such deductions by the~~
24 ~~exclusive bargaining representative do not conflict with any federal~~
25 ~~or state law.)) The exclusive bargaining representative of individual
26 providers may designate a third-party entity to act as the individual
27 provider's agent in receiving payments from the state to the
28 individual provider, so long as the individual provider has entered
29 into an agency agreement with a third-party entity for the purposes
30 of deducting and remitting voluntary payments to the exclusive
31 bargaining representative. A third-party entity that receives such
32 payments is responsible for making and remitting deductions
33 authorized by the individual provider. The costs of such deductions
34 must be paid by the exclusive bargaining representative.~~

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

37 A collective bargaining agreement may(⇄

38 (1) ~~Contain union security provisions: PROVIDED, That nothing in~~
39 ~~this section shall authorize a closed shop provision: PROVIDED~~

1 ~~FURTHER, That agreements involving union security provisions must~~
2 ~~safeguard the right of nonassociation of public employees based on~~
3 ~~bona fide religious tenets or teachings of a church or religious body~~
4 ~~of which such public employee is a member. Such public employee shall~~
5 ~~pay an amount of money equivalent to regular union dues and~~
6 ~~initiation fee to a nonreligious charity or to another charitable~~
7 ~~organization mutually agreed upon by the public employee affected and~~
8 ~~the bargaining representative to which such public employee would~~
9 ~~otherwise pay the dues and initiation fee. The public employee shall~~
10 ~~furnish written proof that such payment has been made. If the public~~
11 ~~employee and the bargaining representative do not reach agreement on~~
12 ~~such matter, the commission shall designate the charitable~~
13 ~~organization. When there is a conflict between any collective~~
14 ~~bargaining agreement reached by a public employer and a bargaining~~
15 ~~representative on a union security provision and any charter,~~
16 ~~ordinance, rule, or regulation adopted by the public employer or its~~
17 ~~agents, including but not limited to, a civil service commission, the~~
18 ~~terms of the collective bargaining agreement shall prevail.~~

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

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

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

31 (2) (a) Upon ~~((written))~~ authorization of an employee within the
32 bargaining unit and after the certification ~~((or recognition))~~ of the
33 bargaining unit's exclusive bargaining representative, the employer
34 must deduct from the payments to the employee the monthly amount of
35 dues as certified by the secretary of the exclusive bargaining
36 representative and must transmit the same to the treasurer of the
37 exclusive bargaining representative.

38 (b) An employee's written, electronic, or recorded voice
39 authorization to have the employer deduct membership dues from the

1 employee's salary must be made by the employee to the exclusive
2 bargaining representative. If the employer receives a request for
3 authorization of deductions, the employer shall as soon as
4 practicable forward the request to the exclusive bargaining
5 representative.

6 (c) Upon receiving notice of the employee's authorization from
7 the exclusive bargaining representative, the employer shall deduct
8 from the employee's salary membership dues and remit the amounts to
9 the exclusive bargaining representative.

10 (d) The employee's authorization remains in effect until
11 expressly revoked by the employee in accordance with the terms and
12 conditions of the authorization.

13 (e) An employee's request to revoke authorization for payroll
14 deductions must be in writing and submitted by the employee to the
15 exclusive bargaining representative in accordance with the terms and
16 conditions of the authorization.

17 (f) After the employer receives confirmation from the exclusive
18 bargaining representative that the employee has revoked authorization
19 for deductions, the employer shall end the deduction effective on the
20 first payroll after receipt of the confirmation.

21 (g) The employer shall rely on information provided by the
22 exclusive bargaining representative regarding the authorization and
23 revocation of deductions.

24 (3) If the employer and the exclusive bargaining representative
25 of a bargaining unit enter into a collective bargaining agreement
26 that ((÷

27 ~~(i) Includes a union security provision authorized under RCW~~
28 ~~41.59.100, the employer must enforce the agreement by deducting from~~
29 ~~the payments to bargaining unit members the dues required for~~
30 ~~membership in the exclusive bargaining representative, or, for~~
31 ~~nonmembers thereof, a fee equivalent to the dues; or~~

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

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

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

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

3 ~~(2) If there is a valid collective bargaining agreement in~~
4 ~~effect, no question concerning representation may be raised except~~
5 ~~during the period not more than ninety nor less than sixty days prior~~
6 ~~to the expiration date of the agreement: PROVIDED, That in the event~~
7 ~~a valid collective bargaining agreement, together with any renewals~~
8 ~~or extensions thereof, has been or will be in existence for more than~~
9 ~~three years, then a question concerning representation may be raised~~
10 ~~not more than ninety nor less than sixty days prior to the third~~
11 ~~anniversary date or any subsequent anniversary date of the agreement;~~
12 ~~and if the exclusive bargaining representative is removed as the~~
13 ~~result of such procedure, the collective bargaining agreement shall~~
14 ~~be deemed to be terminated as of the date of the certification or the~~
15 ~~anniversary date following the filing of the petition, whichever is~~
16 ~~later.~~

17 ~~(3))~~ an attempted certification or successful decertification.

18 (2) An employee organization seeking certification as exclusive
19 bargaining representative of a bargaining unit, or faculty members
20 seeking decertification of their exclusive bargaining representative,
21 must make a confidential showing to the commission of credible
22 evidence demonstrating that at least thirty percent of the faculty in
23 the bargaining unit are in support of the petition. The petition must
24 indicate the name, address, and telephone number of any employee
25 organization known to claim an interest in the bargaining unit.

26 ~~((4))~~ (3) A petition filed by an employer must be supported by
27 credible evidence demonstrating the good faith basis on which the
28 employer claims the existence of a question concerning the
29 representation of its faculty.

30 ~~((5))~~ (4) Any employee organization which makes a confidential
31 showing to the commission of credible evidence demonstrating that it
32 has the support of at least ten percent of the faculty in the
33 bargaining unit involved is entitled to intervene in proceedings
34 under this section and to have its name listed as a choice on the
35 ballot in an election conducted by the commission.

36 ~~((6))~~ (5) The commission shall determine any question
37 concerning representation by conducting a secret ballot election
38 among the faculty members in the bargaining unit (~~, except under the~~
39 ~~following circumstances:~~

1 ~~(a) If only one employee organization is seeking certification as~~
2 ~~exclusive bargaining representative of a bargaining unit for which~~
3 ~~there is no incumbent exclusive bargaining representative, the~~
4 ~~commission may, upon the concurrence of the employer and the employee~~
5 ~~organization, determine the question concerning representation by~~
6 ~~conducting a cross-check comparing the employee organization's~~
7 ~~membership records or bargaining authorization cards against the~~
8 ~~employment records of the employer; or~~

9 ~~(b) If the commission determines that a serious unfair labor~~
10 ~~practice has been committed which interfered with the election~~
11 ~~process and precludes the holding of a fair election, the commission~~
12 ~~may determine the question concerning representation by conducting a~~
13 ~~cross-check comparing the employee organization's membership records~~
14 ~~or bargaining authorization cards against the employment records of~~
15 ~~the employer.~~

16 ~~(7))~~.

17 (6) The representation election ballot must contain a choice for
18 each employee organization qualifying under subsection ~~((3) or (5))~~
19 (2) or (4) of this section, together with a choice for no
20 representation. The representation election shall be determined by
21 the majority of the valid ballots cast. If there are three or more
22 choices on the ballot and none of the three or more choices receives
23 a majority of the valid ballots cast, a runoff election shall be
24 conducted between the two choices receiving the highest and second
25 highest numbers of votes.

26 ~~((8))~~ (7) The commission shall certify as the exclusive
27 bargaining representative the employee organization that has been
28 determined to represent a majority of faculty members in a bargaining
29 unit.

30 (8) Once an employee organization has been certified by the
31 commission as the exclusive bargaining representative of a bargaining
32 unit, the commission must conduct periodic secret ballot elections
33 for the members of the unit to determine the exclusive bargaining
34 representative, subject to the following conditions:

35 (a) An election to determine the bargaining representative must
36 be conducted during every other even-numbered year, beginning in
37 2020;

38 (b) The existing exclusive bargaining representative must be on
39 the ballot automatically and a choice of no union representation must
40 also be on the ballot automatically. Any other employee organization

1 may appear on the ballot by providing the commission with proof of
2 interest from at least ten percent of the bargaining unit; and

3 (c) The commission must certify as the exclusive bargaining
4 representative the employee organization that receives a majority of
5 the votes cast by members of the bargaining unit. If an employee
6 organization other than the incumbent exclusive bargaining
7 representative is certified, the then existing collective bargaining
8 agreement may be terminated by the new exclusive bargaining
9 representative sixty days after its certification or, by agreement
10 with the employer, at any time. If a majority of votes cast by
11 members of the bargaining unit are for no union representation, then
12 the incumbent employee organization loses its certification as the
13 exclusive bargaining representative and the agreement is deemed to be
14 terminated at its expiration date or third anniversary date,
15 whichever is sooner.

16 (9) The commission may adopt rules that provide for the regular
17 timing and conduct of elections in accordance with this section.

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

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

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

29 ~~((e))~~ (b) An employee's written, electronic, or recorded voice
30 authorization to have the employer deduct membership dues from the
31 employee's salary must be made by the employee to the exclusive
32 bargaining representative. If the employer receives a request for
33 authorization of deductions, the employer shall as soon as
34 practicable forward the request to the exclusive bargaining
35 representative.

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

1 (d) 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 (e) An employee's request to revoke authorization for payroll
5 deductions must be in writing and submitted by the employee to the
6 exclusive bargaining representative in accordance with the terms and
7 conditions of the authorization.

8 (f) After the employer receives confirmation from the exclusive
9 bargaining representative that the employee has revoked authorization
10 for deductions, the employer shall end the deduction effective on the
11 first payroll after receipt of the confirmation.

12 (g) The employer shall rely on information provided by the
13 exclusive bargaining representative regarding the authorization and
14 revocation of deductions.

15 (2) If the employer and the exclusive bargaining representative
16 of a bargaining unit enter into a collective bargaining agreement
17 that (:

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

23 ~~(ii)) includes requirements for deductions of other payments~~
24 ~~((other than the deduction under (c)(i) of this subsection)), the~~
25 ~~employer must make such deductions upon ((written)) authorization of~~
26 ~~the employee.~~

27 ~~((2) A faculty member who is covered by a union security~~
28 ~~provision and who asserts a right of nonassociation based on bona~~
29 ~~fide religious tenets or teachings of a church or religious body of~~
30 ~~which such faculty member is a member shall pay to a nonreligious~~
31 ~~charity or other charitable organization an amount of money~~
32 ~~equivalent to the periodic dues and initiation fees uniformly~~
33 ~~required as a condition of acquiring or retaining membership in the~~
34 ~~exclusive bargaining representative. The charity shall be agreed upon~~
35 ~~by the faculty member and the employee organization to which such~~
36 ~~faculty member would otherwise pay the dues and fees. The faculty~~
37 ~~member shall furnish written proof that such payments have been made.~~
38 ~~If the faculty member and the employee organization do not reach~~
39 ~~agreement on such matter, the dispute shall be submitted to the~~
40 ~~commission for determination.))~~

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

3 Except as may be specifically limited by this chapter, employees
4 shall have the right to self-organization, to form, join, or assist
5 employee organizations, and to bargain collectively through
6 representatives of their own choosing for the purpose of collective
7 bargaining free from interference, restraint, or coercion. Employees
8 shall also have the right to refrain from any or all such activities
9 (~~except to the extent that they may be required to pay a fee to an~~
10 ~~exclusive bargaining representative under a union security provision~~
11 ~~authorized by this chapter~~)).

12 **Sec. 16.** RCW 41.80.070 and 2002 c 354 s 308 are each amended to
13 read as follows:

14 (1) A bargaining unit of employees covered by this chapter
15 existing on June 13, 2002, shall be considered an appropriate unit,
16 unless the unit does not meet the requirements of (a) and (b) of this
17 subsection. The commission, after hearing upon reasonable notice to
18 all interested parties, shall decide, in each application for
19 certification as an exclusive bargaining representative, the unit
20 appropriate for certification. In determining the new units or
21 modifications of existing units, the commission shall consider: The
22 duties, skills, and working conditions of the employees; the history
23 of collective bargaining; the extent of organization among the
24 employees; the desires of the employees; and the avoidance of
25 excessive fragmentation. However, a unit is not appropriate if it
26 includes:

27 (a) Both supervisors and nonsupervisory employees. A unit that
28 includes only supervisors may be considered appropriate if a majority
29 of the supervisory employees indicates by vote that they desire to be
30 included in such a unit; or

31 (b) More than one institution of higher education. For the
32 purposes of this section, any branch or regional campus of an
33 institution of higher education is part of that institution of higher
34 education.

35 (2) (~~The exclusive bargaining representatives certified to~~
36 ~~represent the bargaining units existing on June 13, 2002, shall~~
37 ~~continue as the exclusive bargaining representative without the~~
38 ~~necessity of an election.~~

1 ~~(3))~~) If a single employee organization is the exclusive
2 bargaining representative for two or more units, upon petition by the
3 employee organization, the units may be consolidated into a single
4 larger unit if the commission considers the larger unit to be
5 appropriate. If consolidation is appropriate, the commission shall
6 certify the employee organization as the exclusive bargaining
7 representative of the new unit.

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

10 (1) The commission shall determine all questions pertaining to
11 representation and shall administer all elections and be responsible
12 for the processing and adjudication of all disputes that arise as a
13 consequence of elections. The commission shall adopt rules that
14 provide for at 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)) attempted certification or successful
11 decertification.~~

12 (5) Once an employee organization has been certified by the
13 commission as the exclusive bargaining representative of a bargaining
14 unit, the commission must conduct periodic secret ballot elections
15 for the members of the unit to determine the exclusive bargaining
16 representative, subject to the following conditions:

17 (a) An election to determine the bargaining representative must
18 be conducted during every other even-numbered year, beginning in
19 2020;

20 (b) The existing exclusive bargaining representative must be on
21 the ballot automatically and a choice of no union representation must
22 also be on the ballot automatically. Any other employee organization
23 may appear on the ballot by providing the commission with proof of
24 interest from at least ten percent of the bargaining unit; and

25 (c) The commission must certify as the exclusive bargaining
26 representative the employee organization that receives a majority of
27 the votes cast by members of the bargaining unit. If an employee
28 organization other than the incumbent exclusive bargaining
29 representative is certified, the then existing collective bargaining
30 agreement may be terminated by the new exclusive bargaining
31 representative sixty days after its certification or, by agreement of
32 the employer, at any time. If a majority of votes cast by members of
33 the bargaining unit are for no union representation, then the
34 incumbent employee organization loses its certification as the
35 exclusive bargaining representative and the agreement is deemed to be
36 terminated at its expiration date or third anniversary date,
37 whichever is sooner.

38 (6) The commission may adopt rules that provide for the regular
39 timing and conduct of elections in accordance with this section.

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

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

17 ~~(2) An employee who is covered by a union security provision and~~
18 ~~who asserts a right of nonassociation based on bona fide religious~~
19 ~~tenets, or teachings of a church or religious body of which the~~
20 ~~employee is a member, shall, as a condition of employment, make~~
21 ~~payments to the employee organization, for purposes within the~~
22 ~~program of the employee organization as designated by the employee~~
23 ~~that would be in harmony with his or her individual conscience. The~~
24 ~~amount of the payments shall be equal to the periodic dues and fees~~
25 ~~uniformly required as a condition of acquiring or retaining~~
26 ~~membership in the employee organization minus any included monthly~~
27 ~~premiums for insurance programs sponsored by the employee~~
28 ~~organization. The employee shall not be a member of the employee~~
29 ~~organization but is entitled to all the representation rights of a~~
30 ~~member of the employee organization.~~

31 ~~(3)(a))~~ Upon ~~((written))~~ authorization of an employee within the
32 bargaining unit and after the certification ~~((or recognition))~~ of the
33 bargaining unit's exclusive bargaining representative, the employer
34 must deduct from the payments to the employee the monthly amount of
35 dues as certified by the secretary of the exclusive bargaining
36 representative and must transmit the same to the treasurer of the
37 exclusive bargaining representative.

38 ~~((b))~~ (2)(a) If the employer and the exclusive bargaining
39 representative of a bargaining unit enter into a collective
40 bargaining agreement that(~~(÷~~

1 ~~(i) Includes a union security provision authorized under~~
2 ~~subsection (1) of this section, the employer must enforce the~~
3 ~~agreement by deducting from the payments to bargaining unit members~~
4 ~~the dues required for membership in the exclusive bargaining~~
5 ~~representative, or, for nonmembers thereof, a fee equivalent to the~~
6 ~~dues; or~~

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

11 ~~((4) Employee organizations that before July 1, 2004, were~~
12 ~~entitled to the benefits of this section shall continue to be~~
13 ~~entitled to these benefits.))~~ (b) An employee's written, electronic,
14 or recorded voice authorization to have the employer deduct
15 membership dues from the employee's salary must be made by the
16 employee to the exclusive bargaining representative. If the employer
17 receives a request for authorization of deductions, the employer
18 shall as soon as practicable forward the request to the exclusive
19 bargaining representative.

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

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

26 (e) An employee's request to revoke authorization for payroll
27 deductions must be in writing and submitted by the employee to the
28 exclusive bargaining representative in accordance with the terms and
29 conditions of the authorization.

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

34 (g) The employer shall rely on information provided by the
35 exclusive bargaining representative regarding the authorization and
36 revocation of deductions.

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

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

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

25 (a) The terms of those collective bargaining agreements that it
26 or its subcontractors negotiate with the exclusive bargaining
27 representatives of its or its subcontractors' employees under chapter
28 41.56 RCW or the National Labor Relations Act, as applicable; and

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

35 ~~(c) Unless otherwise prohibited by federal or state law, a~~
36 ~~requirement that the benefit area and any contract with its~~
37 ~~subcontractors, on any questions concerning representation of~~
38 ~~employees for collective bargaining purposes, may be determined by~~
39 ~~conducting a cross-check comparing an employee organization's~~

1 ~~membership records or bargaining authorization cards against the~~
2 ~~employment records of the employer)).~~

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

12 (a) The terms of those collective bargaining agreements that it
13 or its subcontractors negotiate with the exclusive bargaining
14 representatives of its or its subcontractors' employees under chapter
15 41.56 RCW or the national labor relations act, as applicable; and

16 (b) Unless otherwise prohibited by federal or state law, a
17 requirement that the ferry district and any contract with its
18 subcontractors, give preferential hiring to former employees of the
19 department of transportation who separated from employment with the
20 department because of termination of the ferry service by the state
21 of Washington(~~;~~ and

22 ~~(c) Unless otherwise prohibited by federal or state law, a~~
23 ~~requirement that the ferry district and any contract with its~~
24 ~~subcontractors, on any questions concerning representation of~~
25 ~~employees for collective bargaining purposes, may be determined by~~
26 ~~conducting a cross-check comparing an employee organization's~~
27 ~~membership records or bargaining authorization cards against the~~
28 ~~employment records of the employer)).~~

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

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

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

26 (2) (a) Upon receiving notice of the employee's authorization from
27 the exclusive bargaining representative, the employer shall deduct
28 from the employee's salary membership dues and remit the amounts to
29 the exclusive bargaining representative.

30 (b) The employee's authorization remains in effect until
31 expressly revoked by the employee in accordance with the terms and
32 conditions of the authorization.

33 (c) An employee's request to revoke authorization for payroll
34 deductions must be in writing and submitted by the employee to the
35 exclusive bargaining representative in accordance with the terms and
36 conditions of the authorization.

37 (d) After the employer receives confirmation from the exclusive
38 bargaining representative that the employee has revoked authorization
39 for deductions, the employer shall end the deduction effective on the
40 first payroll after receipt of the confirmation.

1 (e) The employer shall rely on information provided by the
2 exclusive bargaining representative regarding the authorization and
3 revocation of deductions.

4 **Sec. 21.** RCW 49.39.080 and 2018 c 247 s 6 are each amended to
5 read as follows:

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

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

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

24 (c) 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 (d) An employee's request to revoke authorization for payroll
28 deductions must be in writing and submitted by the employee to the
29 exclusive bargaining representative in accordance with the terms and
30 conditions of the authorization.

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

35 (f) The employer shall rely on information provided by the
36 exclusive bargaining representative regarding the authorization and
37 revocation of deductions.

1 (3) If the employer and the exclusive bargaining representative
2 of a bargaining unit enter into a collective bargaining agreement
3 that(~~(~~

4 ~~(a) Includes a union security provision authorized under RCW~~
5 ~~49.39.090, the employer must enforce the agreement by deducting from~~
6 ~~the payments to bargaining unit members the dues required for~~
7 ~~membership in the exclusive bargaining representative, or, for~~
8 ~~nonmembers thereof, a fee equivalent to the dues; or~~

9 ~~(b))~~ includes requirements for deductions of other payments
10 (~~other than the deduction under (a) of this subsection~~), the
11 employer must make such deductions upon (~~written~~) authorization of
12 the employee.

13 **Sec. 22.** RCW 49.39.090 and 2010 c 6 s 10 are each amended to
14 read as follows:

15 A collective bargaining agreement may(~~(~~

16 ~~(1) Contain union security provisions. However, nothing in this~~
17 ~~section authorizes a closed shop provision. Agreements involving~~
18 ~~union security provisions must safeguard the right of nonassociation~~
19 ~~of employees based on bona fide religious tenets or teachings of a~~
20 ~~church or religious body of which the symphony musician is a member.~~
21 ~~The symphony musician must pay an amount of money equivalent to~~
22 ~~regular union dues and initiation fee to a nonreligious charity or to~~
23 ~~another charitable organization mutually agreed upon by the symphony~~
24 ~~musician affected and the bargaining representative to which the~~
25 ~~symphony musician would otherwise pay the dues and initiation fee.~~
26 ~~The symphony musician must furnish written proof that the payment has~~
27 ~~been made. If the symphony musician and the bargaining representative~~
28 ~~do not reach agreement on this matter, the commission must designate~~
29 ~~the charitable organization;~~

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

33 **Sec. 23.** RCW 41.59.070 and 1975 1st ex.s. c 288 s 8 are each
34 amended to read as follows:

35 (1) Any employee organization may file a request with the
36 commission for (~~recognition~~) certification as the exclusive
37 representative. Such request shall allege that a majority of the
38 employees in an appropriate collective bargaining unit wish to be

1 represented for the purpose of collective bargaining by such
2 organization, shall describe the grouping of jobs or positions which
3 constitute the unit claimed to be appropriate, shall be supported by
4 credible evidence demonstrating that at least thirty percent of the
5 employees in the appropriate unit desire the organization requesting
6 (~~recognition~~) certification as their exclusive representative, and
7 shall indicate the name, address, and telephone number of any other
8 interested employee organization, if known to the requesting
9 organization.

10 (2) The commission shall determine the exclusive representative
11 by conducting an election by secret ballot (~~, except under the~~
12 ~~following circumstances:~~

13 ~~(a) In instances where a serious unfair labor practice has been~~
14 ~~committed which interfered with the election process and precluded~~
15 ~~the holding of a fair election, the commission shall determine the~~
16 ~~exclusive bargaining representative by an examination of organization~~
17 ~~membership rolls or a comparison of signatures on organization~~
18 ~~bargaining authorization cards.~~

19 ~~(b) In instances where there is then in effect a lawful written~~
20 ~~collective bargaining agreement between the employer and another~~
21 ~~employee organization covering any employees included in the unit~~
22 ~~described in the request for recognition, the request for recognition~~
23 ~~shall not be entertained unless it shall be filed within the time~~
24 ~~limits prescribed in subsection (3) of this section for~~
25 ~~decertification or a new recognition election.~~

26 ~~(c) In instances where within the previous twelve months another~~
27 ~~employee organization has been lawfully recognized or certified as~~
28 ~~the exclusive bargaining representative of any employees included in~~
29 ~~the unit described in the request for recognition, the request for~~
30 ~~recognition shall not be entertained.~~

31 ~~(d) In instances where the commission has within the previous~~
32 ~~twelve months conducted a secret ballot election involving any~~
33 ~~employees included in the unit described in the request for~~
34 ~~recognition in which a majority of the valid ballots cast chose not~~
35 ~~to be represented by any employee organization, the request for~~
36 ~~recognition shall not be entertained).~~

37 (3) Whenever the commission conducts an election to ascertain the
38 exclusive bargaining representative, the ballot shall contain the
39 name of the proposed bargaining representative and of any other
40 bargaining representative showing written proof of at least ten

1 percent representation of the educational employees within the unit,
2 together with a choice (~~for any educational employee to designate~~
3 ~~that he or she does not desire to be represented by any bargaining~~
4 ~~agent~~) of no union representation. Where more than one organization
5 is on the ballot and neither of the three or more choices receives a
6 majority of the valid ballots cast by the educational employees
7 within the bargaining unit, a runoff election shall be held. The
8 runoff ballot shall contain the two choices which receive the largest
9 and second largest number of votes. No question concerning
10 representation may be raised within one year of (~~a certification~~
11 ~~or~~) an attempted certification or successful decertification.
12 (~~Where there is a valid collective bargaining agreement in effect,~~
13 ~~no question of representation may be raised except during the period~~
14 ~~not more than ninety nor less than sixty days prior to the expiration~~
15 ~~date of the agreement. In the event that a valid collective~~
16 ~~bargaining agreement, together with any renewals or extensions~~
17 ~~thereof, has been or will be in existence for three years, then the~~
18 ~~question of representation may be raised not more than ninety nor~~
19 ~~less than sixty days prior to the third anniversary date of the~~
20 ~~agreement or any renewals or extensions thereof as long as such~~
21 ~~renewals and extensions do not exceed three years; and if the~~
22 ~~exclusive bargaining representative is removed as a result of such~~
23 ~~procedure, the then existing collective bargaining agreement shall be~~
24 ~~terminable by the new exclusive bargaining representative so selected~~
25 ~~within sixty days after its certification or terminated on its~~
26 ~~expiration date, whichever is sooner, or if no exclusive bargaining~~
27 ~~representative is so selected, then the agreement shall be deemed to~~
28 ~~be terminated at its expiration date or as of such third anniversary~~
29 ~~date, whichever is sooner.~~

30 (4) ~~Within the time limits prescribed in subsection (3) of this~~
31 ~~section, a petition may be filed signed by at least thirty percent of~~
32 ~~the employees of a collective bargaining unit, then represented by an~~
33 ~~exclusive bargaining representative, alleging that a majority of the~~
34 ~~employees in that unit do not wish to be represented by an employee~~
35 ~~organization, requesting that the exclusive bargaining representative~~
36 ~~be decertified, and indicating the name, address and telephone number~~
37 ~~of the exclusive bargaining representative and any other interested~~
38 ~~employee organization, if known. Upon the verification of the~~
39 ~~signatures on the petition, the commission shall conduct an election~~
40 ~~by secret ballot as prescribed by subsection (3) of this section.)~~

1 (4) Once an employee organization has been certified by the
2 commission as the exclusive bargaining representative of a collective
3 bargaining unit, the commission must conduct periodic secret ballot
4 elections for the members of the unit to determine the exclusive
5 bargaining representative, subject to the following conditions:

6 (a) An election to determine the bargaining representative must
7 be conducted during every other even-numbered year, beginning in
8 2020;

9 (b) The existing exclusive bargaining representative must be on
10 the ballot automatically and a choice of no union representation must
11 also be on the ballot automatically. Any other employee organization
12 may appear on the ballot by providing the commission with proof of
13 interest from at least ten percent of the bargaining unit; and

14 (c) The commission must certify as the exclusive bargaining
15 representative the employee organization that receives a majority of
16 the votes cast by members of the bargaining unit. If an employee
17 organization other than the incumbent exclusive bargaining
18 representative is certified, the then existing collective bargaining
19 agreement may be terminated by the new exclusive bargaining
20 representative sixty days after its certification or, by agreement
21 with the employer, at any time. If a majority of votes cast by
22 members of the bargaining unit are for no union representation, then
23 the incumbent employee organization loses its certification as the
24 exclusive bargaining representative and the agreement is deemed to be
25 terminated at its expiration date or third anniversary date,
26 whichever is sooner.

27 (5) The commission may adopt rules that to provide for the
28 regular timing and conduct of elections in accordance with this
29 section.

30 **Sec. 24.** RCW 47.64.011 and 2011 1st sp.s. c 16 s 24 are each
31 amended to read as follows:

32 As used in this chapter, unless the context otherwise requires,
33 the definitions in this section shall apply.

34 (1) "Collective bargaining representative" means the persons
35 designated by the governor and employee organizations to be the
36 exclusive representatives during collective bargaining negotiations.

37 (2) "Commission" means the public employment relations commission
38 created in RCW 41.58.010.

1 (3) "Department of transportation" means the department as
2 defined in RCW 47.01.021.

3 (4) "Employer" means the state of Washington.

4 (5) "Executive director" means the executive director of the
5 commission.

6 (6) "Ferry employee" means any employee of the marine
7 transportation division of the department of transportation who is a
8 member of a collective bargaining unit represented by a ferry
9 employee organization and does not include an exempt employee
10 pursuant to RCW 41.06.079.

11 (7) "Ferry employee organization" means any labor organization
12 (~~(recognized)~~) certified to represent a collective bargaining unit of
13 ferry employees.

14 (8) "Lockout" means the refusal of the employer to furnish work
15 to ferry employees in an effort to get ferry employee organizations
16 to make concessions during collective bargaining, grievance, or other
17 labor relation negotiations. Curtailment of employment of ferry
18 employees due to lack of work resulting from a strike or work
19 stoppage shall not be considered a lockout.

20 (9) "Office of financial management" means the office as created
21 in RCW 43.41.050.

22 (10) "Strike or work stoppage" means a ferry employee's refusal,
23 in concerted action with others, to report to duty, or his or her
24 willful absence from his or her position, or his or her stoppage or
25 slowdown of work, or his or her abstinence in whole or in part from
26 the full, faithful, and proper performance of the duties of
27 employment, for the purpose of inducing, influencing, or coercing a
28 change in conditions, compensation, rights, privileges, or
29 obligations of his, her, or any other ferry employee's employment. A
30 refusal, in good faith, to work under conditions which pose an
31 endangerment to the health and safety of ferry employees or the
32 public, as determined by the master of the vessel, shall not be
33 considered a strike for the purposes of this chapter.

34 **Sec. 25.** RCW 47.64.135 and 2011 1st sp.s. c 16 s 27 are each
35 amended to read as follows:

36 (1) The commission shall determine all questions pertaining to
37 representation via secret ballot elections and shall administer all
38 elections and be responsible for the processing and adjudication of

1 all disputes that arise as a consequence of elections. The commission
2 shall adopt rules that provide for at least the following:

- 3 (a) Secret balloting;
- 4 (b) Consulting with employee organizations;
- 5 (c) Access to lists of employees, job classification, work
6 locations, and home mailing addresses;
- 7 (d) Absentee voting;
- 8 (e) Procedures for the greatest possible participation in voting;
- 9 (f) Campaigning on the employer's property during working hours;

10 and

- 11 (g) Election observers.

12 (2) If an employee organization has been certified as the
13 exclusive bargaining representative of the employees of a bargaining
14 unit under a secret ballot election, the employee organization may
15 act for and negotiate master collective bargaining agreements that
16 will include within the coverage of the agreement all employees in
17 the bargaining unit.

18 (3) The certified exclusive bargaining representative is
19 responsible for representing the interests of all the employees in
20 the bargaining unit. This section shall not be construed to limit an
21 exclusive representative's right to exercise its discretion to refuse
22 to process grievances of employees that are unmeritorious.

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

24 ~~(a) Fewer than twelve months have elapsed since the last~~
25 ~~certification or election; or~~

26 ~~(b) A valid collective bargaining agreement exists covering the~~
27 ~~unit, except for that period of no more than one hundred twenty~~
28 ~~calendar days and no less than ninety calendar days before the~~
29 ~~expiration of the contract)) within one year of an attempted
30 certification or successful decertification.~~

31 (5) Once a ferry employee organization has been certified by the
32 commission as the collective bargaining representative of a
33 collective bargaining unit, the commission must conduct periodic
34 secret ballot elections for the members of the unit to determine the
35 collective bargaining representative, subject to the following
36 conditions:

37 (a) An election to determine the collective bargaining
38 representative must be conducted during every other even-numbered
39 year, beginning in 2020;

1 (b) The existing collective bargaining representative must be on
2 the ballot automatically and a choice of no union representation must
3 also be on the ballot automatically. Any other ferry employee
4 organization may appear on the ballot by providing the commission
5 with proof of interest from at least ten percent of the bargaining
6 unit; and

7 (c) The commission must certify as the collective bargaining
8 representative the ferry employee organization that receives a
9 majority of the votes cast by members of the bargaining unit. If a
10 ferry employee organization other than the incumbent collective
11 bargaining representative is certified, the then existing collective
12 bargaining agreement may be terminated by the new exclusive
13 bargaining representative sixty days after its certification or, by
14 agreement with the employer, at any time. If a majority of votes cast
15 by members of the bargaining unit are for no union representation,
16 then the incumbent employee organization loses its certification as
17 the exclusive bargaining representative and the agreement is deemed
18 to be terminated at its expiration date or third anniversary date,
19 whichever is sooner.

20 (6) The commission may adopt rules that provide for the regular
21 timing and conduct of elections in accordance with this section.

22 **Sec. 26.** RCW 49.39.030 and 2010 c 6 s 4 are each amended to read
23 as follows:

24 The commission, upon reasonable notice, shall decide in each
25 application for certification as an exclusive bargaining
26 representative the unit appropriate for the purpose of collective
27 bargaining. In determining, modifying, or combining the bargaining
28 unit, the commission shall consider the duties, skills, and working
29 conditions of the symphony musicians; the history of collective
30 bargaining by the symphony musicians and their bargaining
31 representatives; the extent of organization among the symphony
32 musicians; and the desire of the symphony musicians. The commission
33 shall determine the bargaining representative by ~~((:-(1) Comparison of~~
34 ~~signatures on organization bargaining authorization cards; or (2))~~
35 conducting an election specifically therefor.

36 **Sec. 27.** RCW 49.39.040 and 2010 c 6 s 5 are each amended to read
37 as follows:

1 (~~If the commission elects to conduct an election to ascertain~~
2 ~~the exclusive bargaining representative, and~~) Upon the request of a
3 prospective bargaining representative showing written proof of at
4 least thirty percent representation of the symphony musicians within
5 the unit, the commission shall hold an election by secret ballot to
6 determine the issue. The ballot shall contain the name of the
7 bargaining representative and of any other bargaining representative
8 showing written proof of at least ten percent representation of the
9 symphony musicians within the unit, together with a choice for any
10 symphony musician to designate that he or she does not desire to be
11 represented by any bargaining agent. Where more than one organization
12 is on the ballot and neither of the three or more choices receives a
13 majority vote of valid ballots cast, a runoff election shall be held.
14 The runoff ballot shall contain the two choices which received the
15 largest and second-largest number of votes. No question concerning
16 representation may be raised within one year of a certification or
17 attempted certification. Where there is a valid collective bargaining
18 agreement in effect, no question of representation may be raised
19 except during the period not more than ninety nor less than sixty
20 days prior to the expiration date of the agreement. Any agreement
21 which contains a provision for automatic renewal or extension of the
22 agreement shall not be a valid agreement; nor shall any agreement be
23 valid if it provides for a term of existence for more than three
24 years.

25 NEW SECTION. **Sec. 28.** A new section is added to chapter 4.24
26 RCW to read as follows:

27 Public employers and an employee organization, or any of their
28 employees or agents, are not liable for, and have a complete defense
29 to, any claims or actions under the law of this state for requiring,
30 deducting, receiving, or retaining membership dues from public
31 employees under section 5 of this act and RCW 28B.52.045, 41.56.060,
32 41.56.070, 41.56.110, 41.56.113, 41.56.122, 41.59.060, 41.59.070,
33 41.76.020, 41.76.045, 41.80.050, 41.80.070, 41.80.080, 41.80.100,
34 47.64.011, 47.64.090, 47.64.135, 47.64.160, 49.39.030, 49.39.040,
35 49.39.080, 49.39.090, and 53.18.050; current or former public
36 employees do not have standing to pursue these claims or actions.

1 NEW SECTION. **Sec. 29.** RCW 41.59.100 (Union security provisions—
2 Scope—Agency shop provision, collection of dues or fees) and 1975 1st
3 ex.s. c 288 s 11 are each repealed.

4 NEW SECTION. **Sec. 30.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected."

SSB 5623 - S AMD **226**
By Senator Ericksen

NOT CONSIDERED 12/23/2019

8 On page 1, line 4 of the title, after "fees;" strike the
9 remainder of the title and insert "amending RCW 28B.52.020,
10 28B.52.030, 28B.52.025, 28B.52.045, 41.56.060, 41.56.070, 41.56.110,
11 41.56.113, 41.56.122, 41.59.060, 41.76.020, 41.76.045, 41.80.050,
12 41.80.070, 41.80.080, 41.80.100, 47.64.090, 47.64.160, 49.39.080,
13 49.39.090, 41.59.070, 47.64.011, 47.64.135, 49.39.030, and 49.39.040;
14 adding new sections to chapter 4.24 RCW; adding a new section to
15 chapter 28B.52 RCW; and repealing RCW 41.59.100."

EFFECT: Requires secret ballot elections every four years to determine the bargaining representative for public employees. Removes provisions that authorize certification of an exclusive bargaining representative by cross-check.

--- END ---