

SSB 5623 - S AMD 230  
By Senator Short

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

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

7 Employees have the right to self-organization, to form, join, or  
8 assist employee organizations, to bargain collectively through  
9 representatives of their own choosing, and also have the right to  
10 refrain from any or all of these activities (~~except to the extent  
11 that employees may be required to make payments to an exclusive  
12 bargaining representative or charitable organization under a union  
13 security provision authorized in this chapter~~).

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

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

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

27 (c) The employee's authorization remains in effect until  
28 expressly revoked by the employee in accordance with the terms and  
29 conditions of the authorization.

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

34 (b) After the employer receives confirmation from the exclusive  
35 bargaining representative that the employee has revoked authorization  
36 for deductions, the employer shall end the deduction effective on the  
37 first payroll after receipt of the confirmation.

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

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

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

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

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

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

3       (1) The commission, after hearing upon reasonable notice, shall  
4 decide in each application for certification as an exclusive  
5 bargaining representative, the unit appropriate for the purpose of  
6 collective bargaining. In determining, modifying, or combining the  
7 bargaining unit, the commission shall consider the duties, skills,  
8 and working conditions of the public employees; the history of  
9 collective bargaining by the public employees and their bargaining  
10 representatives; the extent of organization among the public  
11 employees; and the desire of the public employees. The commission  
12 shall determine the bargaining representative by(~~(a) Examination~~  
13 ~~of organization membership rolls; (b) comparison of signatures on~~  
14 ~~organization bargaining authorization cards; or (c))~~) conducting an  
15 election specifically therefor.

16       (2) For classified employees of school districts and educational  
17 service districts:

18       (a) Appropriate bargaining units existing on July 24, 2005, may  
19 not be divided into more than one unit without the agreement of the  
20 public employer and the certified bargaining representative of the  
21 unit; and

22       (b) In making bargaining unit determinations under this section,  
23 the commission must consider, in addition to the factors listed in  
24 subsection (1) of this section, the avoidance of excessive  
25 fragmentation.

26       **Sec. 8.** RCW 41.56.110 and 2018 c 247 s 2 are each amended to  
27 read as follows:

28       (1) Upon the (~~written~~) authorization of an employee within the  
29 bargaining unit and after the certification (~~or recognition~~) of the  
30 bargaining unit's exclusive bargaining representative, the employer  
31 shall deduct from the payments to the employee the monthly amount of  
32 dues as certified by the secretary of the exclusive bargaining  
33 representative and shall transmit the same to the treasurer of the  
34 exclusive bargaining representative.

35       (2) (a) An employee's written, electronic, or recorded voice  
36 authorization to have the employer deduct membership dues from the  
37 employee's salary must be made by the employee to the exclusive  
38 bargaining representative. If the employer receives a request for  
39 authorization of deductions, the employer shall as soon as

1 practicable forward the request to the exclusive bargaining  
2 representative.

3 (b) Upon receiving notice of the employee's authorization from  
4 the exclusive bargaining representative, the employer shall deduct  
5 from the employee's salary membership dues and remit the amounts to  
6 the exclusive bargaining representative.

7 (c) The employee's authorization remains in effect until  
8 expressly revoked by the employee in accordance with the terms and  
9 conditions of the authorization.

10 (3) (a) An employee's request to revoke authorization for payroll  
11 deductions must be in writing and submitted by the employee to the  
12 exclusive bargaining representative in accordance with the terms and  
13 conditions of the authorization.

14 (b) After the employer receives confirmation from the exclusive  
15 bargaining representative that the employee has revoked authorization  
16 for deductions, the employer shall end the deduction effective on the  
17 first payroll after receipt of the confirmation.

18 (4) The employer shall rely on information provided by the  
19 exclusive bargaining representative regarding the authorization and  
20 revocation of deductions.

21 (5) If the employer and the exclusive bargaining representative  
22 of a bargaining unit enter into a collective bargaining agreement  
23 that (

24 ~~(a) Includes a union security provision authorized under RCW~~  
25 ~~41.56.122, the employer must enforce the agreement by deducting from~~  
26 ~~the payments to bargaining unit members the dues required for~~  
27 ~~membership in the exclusive bargaining representative, or, for~~  
28 ~~nonmembers thereof, a fee equivalent to the dues; or~~

29 ~~(b))~~ includes requirements for deductions of other payments  
30 ~~((other than the deduction under (a) of this subsection)),~~ the  
31 employer must make such deductions upon ((written)) authorization of  
32 the employee.

33 **Sec. 9.** RCW 41.56.113 and 2018 c 278 s 29 are each amended to  
34 read as follows:

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

37 (a) Upon the ((written)) authorization of an individual provider  
38 who contracts with the department of social and health services, a  
39 family child care provider, an adult family home provider, or a

1 language access provider within the bargaining unit and after the  
2 certification (~~(or recognition)~~) of the bargaining unit's exclusive  
3 bargaining representative, the state as payor, but not as the  
4 employer, shall, subject to (c) of this subsection, deduct from the  
5 payments to an individual provider who contracts with the department  
6 of social and health services, a family child care provider, an adult  
7 family home provider, or a language access provider the monthly  
8 amount of dues as certified by the secretary of the exclusive  
9 bargaining representative and shall transmit the same to the  
10 treasurer of the exclusive bargaining representative.

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

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

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

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

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

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

36 (vii) If the governor and the exclusive bargaining representative  
37 of a bargaining unit of individual providers who contract with the  
38 department of social and health services, family child care  
39 providers, adult family home providers, or language access providers  
40 enter into a collective bargaining agreement that(÷



1 ~~(i) Includes a union security provision authorized in RCW~~  
2 ~~41.56.122, the state as payor, but not as the employer, shall,~~  
3 ~~subject to (c) of this subsection, enforce the agreement by deducting~~  
4 ~~from the payments to bargaining unit members the dues required for~~  
5 ~~membership in the exclusive bargaining representative, or, for~~  
6 ~~nonmembers thereof, a fee equivalent to the dues; or~~

7 ~~(ii))~~ includes requirements for deductions of other payments  
8 ~~((other than the deduction under (b)(i) of this subsection)),~~ the  
9 state, as payor, but not as the employer, shall, subject to (c) of  
10 this subsection, make such deductions upon ~~((written))~~ authorization  
11 of the individual provider, family child care provider, adult family  
12 home provider, or language access provider.

13 (c)(i) The initial additional costs to the state in making  
14 deductions from the payments to individual providers, family child  
15 care providers, adult family home providers, and language access  
16 providers under this section shall be negotiated, agreed upon in  
17 advance, and reimbursed to the state by the exclusive bargaining  
18 representative.

19 (ii) The allocation of ongoing additional costs to the state in  
20 making deductions from the payments to individual providers, family  
21 child care providers, adult family home providers, or language access  
22 providers under this section shall be an appropriate subject of  
23 collective bargaining between the exclusive bargaining representative  
24 and the governor unless prohibited by another statute. If no  
25 collective bargaining agreement containing a provision allocating the  
26 ongoing additional cost is entered into between the exclusive  
27 bargaining representative and the governor, or if the legislature  
28 does not approve funding for the collective bargaining agreement as  
29 provided in RCW 74.39A.300, 41.56.028, 41.56.029, or 41.56.510, as  
30 applicable, the ongoing additional costs to the state in making  
31 deductions from the payments to individual providers, family child  
32 care providers, adult family home providers, or language access  
33 providers under this section shall be negotiated, agreed upon in  
34 advance, and reimbursed to the state by the exclusive bargaining  
35 representative.

36 ~~((d) The governor and the exclusive bargaining representative of~~  
37 ~~a bargaining unit of family child care providers may not enter into a~~  
38 ~~collective bargaining agreement that contains a union security~~  
39 ~~provision unless the agreement contains a process, to be administered~~  
40 ~~by the exclusive bargaining representative of a bargaining unit of~~

1 ~~family child care providers, for hardship dispensation for license-~~  
2 ~~exempt family child care providers who are also temporary assistance~~  
3 ~~for needy families recipients or WorkFirst participants.))~~

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

10 ~~((i))~~ (a) The monthly amount of dues as certified by the  
11 secretary of the exclusive bargaining representative be deducted from  
12 the payments to the language access provider and transmitted to the  
13 treasurer of the exclusive bargaining representative; and

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

16 ~~((b) If the governor and the exclusive bargaining representative~~  
17 ~~of the bargaining unit of language access providers enter into a~~  
18 ~~collective bargaining agreement that includes a union security~~  
19 ~~provision authorized in RCW 41.56.122, the state shall enforce the~~  
20 ~~agreement by requiring through its contracts with third parties that:~~

21 ~~(i) The monthly amount of dues required for membership in the~~  
22 ~~exclusive bargaining representative as certified by the secretary of~~  
23 ~~the exclusive bargaining representative, or, for nonmembers thereof,~~  
24 ~~a fee equivalent to the dues, be deducted from the payments to the~~  
25 ~~language access provider and transmitted to the treasurer of the~~  
26 ~~exclusive bargaining representative; and~~

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

29 (3) This subsection (3) applies only to individual providers who  
30 contract with the department of social and health services. ~~((If the~~  
31 ~~governor and the exclusive bargaining representative of a bargaining~~  
32 ~~unit of individual providers enter into a collective bargaining~~  
33 ~~agreement that meets the requirements in subsection (1) (b) (i) or (ii)~~  
34 ~~of this section, and the state as payor, but not as the employer,~~  
35 ~~contracts with a third-party entity to perform its obligations as set~~  
36 ~~forth in those subsections, and that third-party contracts with the~~  
37 ~~exclusive bargaining representative to perform voluntary deductions~~  
38 ~~for individual providers, the exclusive bargaining representative may~~  
39 ~~direct the third-party to make the deductions required by the~~  
40 ~~collective bargaining agreement, at the expense of the exclusive~~

1 bargaining representative, so long as such deductions by the  
2 exclusive bargaining representative do not conflict with any federal  
3 or state law.)) The exclusive bargaining representative of individual  
4 providers may designate a third-party entity to act as the individual  
5 provider's agent in receiving payments from the state to the  
6 individual provider, so long as the individual provider has entered  
7 into an agency agreement with a third-party entity for the purposes  
8 of deducting and remitting voluntary payments to the exclusive  
9 bargaining representative. A third-party entity that receives such  
10 payments is responsible for making and remitting deductions  
11 authorized by the individual provider. The costs of such deductions  
12 must be paid by the exclusive bargaining representative.

13 **Sec. 10.** RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each  
14 amended to read as follows:

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

16 ~~(1) Contain union security provisions: PROVIDED, That nothing in~~  
17 ~~this section shall authorize a closed shop provision: PROVIDED~~  
18 ~~FURTHER, That agreements involving union security provisions must~~  
19 ~~safeguard the right of nonassociation of public employees based on~~  
20 ~~bona fide religious tenets or teachings of a church or religious body~~  
21 ~~of which such public employee is a member. Such public employee shall~~  
22 ~~pay an amount of money equivalent to regular union dues and~~  
23 ~~initiation fee to a nonreligious charity or to another charitable~~  
24 ~~organization mutually agreed upon by the public employee affected and~~  
25 ~~the bargaining representative to which such public employee would~~  
26 ~~otherwise pay the dues and initiation fee. The public employee shall~~  
27 ~~furnish written proof that such payment has been made. If the public~~  
28 ~~employee and the bargaining representative do not reach agreement on~~  
29 ~~such matter, the commission shall designate the charitable~~  
30 ~~organization. When there is a conflict between any collective~~  
31 ~~bargaining agreement reached by a public employer and a bargaining~~  
32 ~~representative on a union security provision and any charter,~~  
33 ~~ordinance, rule, or regulation adopted by the public employer or its~~  
34 ~~agents, including but not limited to, a civil service commission, the~~  
35 ~~terms of the collective bargaining agreement shall prevail.~~

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

1       **Sec. 11.** RCW 41.59.060 and 2018 c 247 s 3 are each amended to  
2 read as follows:

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

10       (2) (a) Upon (~~written~~) authorization of an employee within the  
11 bargaining unit and after the certification (~~or recognition~~) of the  
12 bargaining unit's exclusive bargaining representative, the employer  
13 must deduct from the payments to the employee the monthly amount of  
14 dues as certified by the secretary of the exclusive bargaining  
15 representative and must transmit the same to the treasurer of the  
16 exclusive bargaining representative.

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

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

28       (d) The employee's authorization remains in effect until  
29 expressly revoked by the employee in accordance with the terms and  
30 conditions of the authorization.

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

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

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

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

7 ~~(i) Includes a union security provision authorized under RCW~~  
8 ~~41.59.100, the employer must enforce the agreement by deducting from~~  
9 ~~the payments to bargaining unit members the dues required for~~  
10 ~~membership in the exclusive bargaining representative, or, for~~  
11 ~~nonmembers thereof, a fee equivalent to the dues; or~~

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

16 **Sec. 12.** RCW 41.76.020 and 2002 c 356 s 7 are each amended to  
17 read as follows:

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

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

22 (2) If there is a valid collective bargaining agreement in  
23 effect, no question concerning representation may be raised except  
24 during the period not more than ninety nor less than sixty days prior  
25 to the expiration date of the agreement: PROVIDED, That in the event  
26 a valid collective bargaining agreement, together with any renewals  
27 or extensions thereof, has been or will be in existence for more than  
28 three years, then a question concerning representation may be raised  
29 not more than ninety nor less than sixty days prior to the third  
30 anniversary date or any subsequent anniversary date of the agreement;  
31 and if the exclusive bargaining representative is removed as the  
32 result of such procedure, the collective bargaining agreement shall  
33 be deemed to be terminated as of the date of the certification or the  
34 anniversary date following the filing of the petition, whichever is  
35 later.

36 (3) An employee organization seeking certification as exclusive  
37 bargaining representative of a bargaining unit, or faculty members  
38 seeking decertification of their exclusive bargaining representative,  
39 must make a confidential showing to the commission of credible

1 evidence demonstrating that at least thirty percent of the faculty in  
2 the bargaining unit are in support of the petition. The petition must  
3 indicate the name, address, and telephone number of any employee  
4 organization known to claim an interest in the bargaining unit.

5 (4) A petition filed by an employer must be supported by credible  
6 evidence demonstrating the good faith basis on which the employer  
7 claims the existence of a question concerning the representation of  
8 its faculty.

9 (5) Any employee organization which makes a confidential showing  
10 to the commission of credible evidence demonstrating that it has the  
11 support of at least ten percent of the faculty in the bargaining unit  
12 involved is entitled to intervene in proceedings under this section  
13 and to have its name listed as a choice on the ballot in an election  
14 conducted by the commission.

15 (6) The commission shall determine any question concerning  
16 representation by conducting a secret ballot election among the  
17 faculty members in the bargaining unit (~~(, except under the following~~  
18 ~~circumstances:~~

19 ~~(a) If only one employee organization is seeking certification as~~  
20 ~~exclusive bargaining representative of a bargaining unit for which~~  
21 ~~there is no incumbent exclusive bargaining representative, the~~  
22 ~~commission may, upon the concurrence of the employer and the employee~~  
23 ~~organization, determine the question concerning representation by~~  
24 ~~conducting a cross-check comparing the employee organization's~~  
25 ~~membership records or bargaining authorization cards against the~~  
26 ~~employment records of the employer; or~~

27 ~~(b) If the commission determines that a serious unfair labor~~  
28 ~~practice has been committed which interfered with the election~~  
29 ~~process and precludes the holding of a fair election, the commission~~  
30 ~~may determine the question concerning representation by conducting a~~  
31 ~~cross-check comparing the employee organization's membership records~~  
32 ~~or bargaining authorization cards against the employment records of~~  
33 ~~the employer)).~~

34 (7) The representation election ballot must contain a choice for  
35 each employee organization qualifying under subsection (3) or (5) of  
36 this section, together with a choice for no representation. The  
37 representation election shall be determined by the majority of the  
38 valid ballots cast. If there are three or more choices on the ballot  
39 and none of the three or more choices receives a majority of the  
40 valid ballots cast, a runoff election shall be conducted between the

1 two choices receiving the highest and second highest numbers of  
2 votes.

3 (8) The commission shall certify as the exclusive bargaining  
4 representative the employee organization that has been determined to  
5 represent a majority of faculty members in a bargaining unit.

6 **Sec. 13.** RCW 41.76.045 and 2018 c 247 s 4 are each amended to  
7 read as follows:

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

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

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

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

28 (d) The employee's authorization remains in effect until  
29 expressly revoked by the employee in accordance with the terms and  
30 conditions of the authorization.

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

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

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

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

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

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

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

30 **Sec. 14.** RCW 41.80.050 and 2002 c 354 s 306 are each amended to  
31 read as follows:

32 Except as may be specifically limited by this chapter, employees  
33 shall have the right to self-organization, to form, join, or assist  
34 employee organizations, and to bargain collectively through  
35 representatives of their own choosing for the purpose of collective  
36 bargaining free from interference, restraint, or coercion. Employees  
37 shall also have the right to refrain from any or all such activities  
38 ~~((except to the extent that they may be required to pay a fee to an~~



1 ~~exclusive bargaining representative under a union security provision~~  
2 ~~authorized by this chapter))~~ .

3 **Sec. 15.** RCW 41.80.080 and 2002 c 354 s 309 are each amended to  
4 read as follows:

5 (1) The commission shall determine all questions pertaining to  
6 representation via secret ballot election and shall administer all  
7 elections and be responsible for the processing and adjudication of  
8 all disputes that arise as a consequence of elections. The commission  
9 shall adopt rules that provide for at least the following:

- 10 (a) Secret balloting;
- 11 (b) Consulting with employee organizations;
- 12 (c) Access to lists of employees, job classification, work  
13 locations, and home mailing addresses;
- 14 (d) Absentee voting;
- 15 (e) Procedures for the greatest possible participation in voting;
- 16 (f) Campaigning on the employer's property during working hours;
- 17 and
- 18 (g) Election observers.

19 (2)(a) If an employee organization has been certified as the  
20 exclusive bargaining representative of the employees of a bargaining  
21 unit, the employee organization may act for and negotiate master  
22 collective bargaining agreements that will include within the  
23 coverage of the agreement all employees in the bargaining unit as  
24 provided in RCW 41.80.010(2)(a). However, if a master collective  
25 bargaining agreement is in effect for the exclusive bargaining  
26 representative, it shall apply to the bargaining unit for which the  
27 certification has been issued. Nothing in this section requires the  
28 parties to engage in new negotiations during the term of that  
29 agreement.

30 (b) This subsection (2) does not apply to exclusive bargaining  
31 representatives who represent employees of institutions of higher  
32 education.

33 (3) The certified exclusive bargaining representative shall be  
34 responsible for representing the interests of all the employees in  
35 the bargaining unit. This section shall not be construed to limit an  
36 exclusive representative's right to exercise its discretion to refuse  
37 to process grievances of employees that are unmeritorious.

38 (4) No question concerning representation may be raised if:

1 (a) Fewer than twelve months have elapsed since the last  
2 certification or election; or

3 (b) A valid collective bargaining agreement exists covering the  
4 unit, except for that period of no more than one hundred twenty  
5 calendar days nor less than ninety calendar days before the  
6 expiration of the contract.

7 **Sec. 16.** RCW 41.80.100 and 2018 c 247 s 5 are each amended to  
8 read as follows:

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

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

37 ~~(3)(a))~~ Upon ~~((written))~~ authorization of an employee within the  
38 bargaining unit and after the certification ~~((or recognition))~~ of the  
39 bargaining unit's exclusive bargaining representative, the employer

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

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

8 ~~(i) Includes a union security provision authorized under~~  
9 ~~subsection (1) of this section, the employer must enforce the~~  
10 ~~agreement by deducting from the payments to bargaining unit members~~  
11 ~~the dues required for membership in the exclusive bargaining~~  
12 ~~representative, or, for nonmembers thereof, a fee equivalent to the~~  
13 ~~dues; or~~

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

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

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

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

4 **Sec. 17.** RCW 47.64.090 and 2011 1st sp.s. c 16 s 25 are each  
5 amended to read as follows:

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

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

30 (a) The terms of those collective bargaining agreements that it  
31 or its subcontractors negotiate with the exclusive bargaining  
32 representatives of its or its subcontractors' employees under chapter  
33 41.56 RCW or the National Labor Relations Act, as applicable; and

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

1 ~~(c) Unless otherwise prohibited by federal or state law, a~~  
2 ~~requirement that the benefit area and any contract with its~~  
3 ~~subcontractors, on any questions concerning representation of~~  
4 ~~employees for collective bargaining purposes, may be determined by~~  
5 ~~conducting a cross-check comparing an employee organization's~~  
6 ~~membership records or bargaining authorization cards against the~~  
7 ~~employment records of the employer)).~~

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

17 (a) The terms of those collective bargaining agreements that it  
18 or its subcontractors negotiate with the exclusive bargaining  
19 representatives of its or its subcontractors' employees under chapter  
20 41.56 RCW or the national labor relations act, as applicable; and

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

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

34 (4) The department of transportation shall make its terminal,  
35 dock, and pier space available to private operators of passenger-only  
36 ferries if the space can be made available without limiting the  
37 operation of car ferries operated by the department. These private  
38 operators are not bound by the provisions of subsection (1) of this  
39 section. Charges for the equipment and space must be fair market

1 value taking into account the public benefit derived from the  
2 passenger-only ferry service.

3 **Sec. 18.** RCW 47.64.160 and 1983 c 15 s 7 are each amended to  
4 read as follows:

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

30 (2) (a) Upon receiving notice of the employee's authorization from  
31 the exclusive bargaining representative, the employer shall deduct  
32 from the employee's salary membership dues and remit the amounts to  
33 the exclusive bargaining representative.

34 (b) The employee's authorization remains in effect until  
35 expressly revoked by the employee in accordance with the terms and  
36 conditions of the authorization.

37 (c) An employee's request to revoke authorization for payroll  
38 deductions must be in writing and submitted by the employee to the

1 exclusive bargaining representative in accordance with the terms and  
2 conditions of the authorization.

3 (d) After the employer receives confirmation from the exclusive  
4 bargaining representative that the employee has revoked authorization  
5 for deductions, the employer shall end the deduction effective on the  
6 first payroll after receipt of the confirmation.

7 (e) The employer shall rely on information provided by the  
8 exclusive bargaining representative regarding the authorization and  
9 revocation of deductions.

10 **Sec. 19.** RCW 49.39.080 and 2018 c 247 s 6 are each amended to  
11 read as follows:

12 (1) Upon the (~~written~~) authorization of an employee within the  
13 bargaining unit and after the certification (~~or recognition~~) of the  
14 bargaining unit's exclusive bargaining representative, the employer  
15 must deduct from the payments to the employee the monthly amount of  
16 dues as certified by the secretary of the exclusive bargaining  
17 representative and must transmit the same to the treasurer of the  
18 exclusive bargaining representative.

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

26 (b) 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 (c) 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 (d) 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 (e) After the employer receives confirmation from the exclusive  
38 bargaining representative that the employee has revoked authorization

1 for deductions, the employer shall end the deduction effective on the  
2 first payroll after receipt of the confirmation.

3 (f) The employer shall rely on information provided by the  
4 exclusive bargaining representative regarding the authorization and  
5 revocation of deductions.

6 (3) If the employer and the exclusive bargaining representative  
7 of a bargaining unit enter into a collective bargaining agreement  
8 that((÷

9 ~~(a) Includes a union security provision authorized under RCW~~  
10 ~~49.39.090, the employer must enforce the agreement by deducting from~~  
11 ~~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 ~~(b))~~ includes requirements for deductions of other payments  
15 ~~((other than the deduction under (a) of this subsection)),~~ the  
16 employer must make such deductions upon ~~((written))~~ authorization of  
17 the employee.

18 **Sec. 20.** RCW 49.39.090 and 2010 c 6 s 10 are each amended to  
19 read as follows:

20 A collective bargaining agreement may((÷

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

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



1       **Sec. 21.** RCW 41.59.070 and 1975 1st ex.s. c 288 s 8 are each  
2 amended to read as follows:

3       (1) Any employee organization may file a request with the  
4 commission for ~~((recognition))~~ certification as the exclusive  
5 representative. Such request shall allege that a majority of the  
6 employees in an appropriate collective bargaining unit wish to be  
7 represented for the purpose of collective bargaining by such  
8 organization, shall describe the grouping of jobs or positions which  
9 constitute the unit claimed to be appropriate, shall be supported by  
10 credible evidence demonstrating that at least thirty percent of the  
11 employees in the appropriate unit desire the organization requesting  
12 ~~((recognition))~~ certification as their exclusive representative, and  
13 shall indicate the name, address, and telephone number of any other  
14 interested employee organization, if known to the requesting  
15 organization.

16       (2) The commission shall determine the exclusive representative  
17 by conducting an election by secret ballot, except under the  
18 following circumstances:

19       (a) ~~((In instances where a serious unfair labor practice has been  
20 committed which interfered with the election process and precluded  
21 the holding of a fair election, the commission shall determine the  
22 exclusive bargaining representative by an examination of organization  
23 membership rolls or a comparison of signatures on organization  
24 bargaining authorization cards.~~

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

33       ~~((c))~~ (b) In instances where within the previous twelve months  
34 another employee organization has been lawfully ~~((recognized or))~~  
35 certified as the exclusive bargaining representative of any employees  
36 included in the unit described in the request for ~~((recognition))~~  
37 certification, the request for ~~((recognition))~~ certification shall  
38 not be entertained.

39       ~~((d))~~ (c) In instances where the commission has within the  
40 previous twelve months conducted a secret ballot election involving

1 any employees included in the unit described in the request for  
2 (~~recognition~~) certification in which a majority of the valid  
3 ballots cast chose not to be represented by any employee  
4 organization, the request for (~~recognition~~) certification shall not  
5 be entertained.

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

37 (4) Within the time limits prescribed in subsection (3) of this  
38 section, a petition may be filed signed by at least thirty percent of  
39 the employees of a collective bargaining unit, then represented by an  
40 exclusive bargaining representative, alleging that a majority of the

1 employees in that unit do not wish to be represented by an employee  
2 organization, requesting that the exclusive bargaining representative  
3 be decertified, and indicating the name, address and telephone number  
4 of the exclusive bargaining representative and any other interested  
5 employee organization, if known. Upon the verification of the  
6 signatures on the petition, the commission shall conduct an election  
7 by secret ballot as prescribed by subsection (3) of this section.

8 **Sec. 22.** RCW 47.64.011 and 2011 1st sp.s. c 16 s 24 are each  
9 amended to read as follows:

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

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

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

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

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

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

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

27 (7) "Ferry employee organization" means any labor organization  
28 (~~(recognized)~~) certified to represent a collective bargaining unit of  
29 ferry employees.

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

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

38 (10) "Strike or work stoppage" means a ferry employee's refusal,  
39 in concerted action with others, to report to duty, or his or her

1 willful absence from his or her position, or his or her stoppage or  
2 slowdown of work, or his or her abstinence in whole or in part from  
3 the full, faithful, and proper performance of the duties of  
4 employment, for the purpose of inducing, influencing, or coercing a  
5 change in conditions, compensation, rights, privileges, or  
6 obligations of his, her, or any other ferry employee's employment. A  
7 refusal, in good faith, to work under conditions which pose an  
8 endangerment to the health and safety of ferry employees or the  
9 public, as determined by the master of the vessel, shall not be  
10 considered a strike for the purposes of this chapter.

11 **Sec. 23.** RCW 47.64.135 and 2011 1st sp.s. c 16 s 27 are each  
12 amended to read as follows:

13 (1) The commission shall determine all questions pertaining to  
14 representation via secret ballot elections and shall administer all  
15 elections and be responsible for the processing and adjudication of  
16 all disputes that arise as a consequence of elections. The commission  
17 shall adopt rules that provide for at least the following:

- 18 (a) Secret balloting;
- 19 (b) Consulting with employee organizations;
- 20 (c) Access to lists of employees, job classification, work  
21 locations, and home mailing addresses;
- 22 (d) Absentee voting;
- 23 (e) Procedures for the greatest possible participation in voting;
- 24 (f) Campaigning on the employer's property during working hours;
- 25 and
- 26 (g) Election observers.

27 (2) If an employee organization has been certified as the  
28 exclusive bargaining representative of the employees of a bargaining  
29 unit under a secret ballot election, the employee organization may  
30 act for and negotiate master collective bargaining agreements that  
31 will include within the coverage of the agreement all employees in  
32 the bargaining unit.

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

38 (4) No question concerning representation may be raised if:

1 (a) Fewer than twelve months have elapsed since the last  
2 certification or election; or

3 (b) A valid collective bargaining agreement exists covering the  
4 unit, except for that period of no more than one hundred twenty  
5 calendar days and no less than ninety calendar days before the  
6 expiration of the contract.

7 **Sec. 24.** RCW 49.39.030 and 2010 c 6 s 4 are each amended to read  
8 as follows:

9 The commission, upon reasonable notice, shall decide in each  
10 application for certification as an exclusive bargaining  
11 representative the unit appropriate for the purpose of collective  
12 bargaining. In determining, modifying, or combining the bargaining  
13 unit, the commission shall consider the duties, skills, and working  
14 conditions of the symphony musicians; the history of collective  
15 bargaining by the symphony musicians and their bargaining  
16 representatives; the extent of organization among the symphony  
17 musicians; and the desire of the symphony musicians. The commission  
18 shall determine the bargaining representative by ~~((:-(1) Comparison of~~  
19 ~~signatures on organization bargaining authorization cards; or (2))~~  
20 conducting an election specifically therefor.

21 **Sec. 25.** RCW 49.39.040 and 2010 c 6 s 5 are each amended to read  
22 as follows:

23 ~~((If the commission elects to conduct an election to ascertain~~  
24 ~~the exclusive bargaining representative, and)) Upon the request of a  
25 prospective bargaining representative showing written proof of at  
26 least thirty percent representation of the symphony musicians within  
27 the unit, the commission shall hold an election by secret ballot to  
28 determine the issue. The ballot shall contain the name of the  
29 bargaining representative and of any other bargaining representative  
30 showing written proof of at least ten percent representation of the  
31 symphony musicians within the unit, together with a choice for any  
32 symphony musician to designate that he or she does not desire to be  
33 represented by any bargaining agent. Where more than one organization  
34 is on the ballot and neither of the three or more choices receives a  
35 majority vote of valid ballots cast, a runoff election shall be held.  
36 The runoff ballot shall contain the two choices which received the  
37 largest and second-largest number of votes. No question concerning  
38 representation may be raised within one year of a certification or~~

1 attempted certification. Where there is a valid collective bargaining  
2 agreement in effect, no question of representation may be raised  
3 except during the period not more than ninety nor less than sixty  
4 days prior to the expiration date of the agreement. Any agreement  
5 which contains a provision for automatic renewal or extension of the  
6 agreement shall not be a valid agreement; nor shall any agreement be  
7 valid if it provides for a term of existence for more than three  
8 years.

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

11 Public employers and an employee organization, or any of their  
12 employees or agents, are not liable for, and have a complete defense  
13 to, any claims or actions under the law of this state for requiring,  
14 deducting, receiving, or retaining membership dues from public  
15 employees under section 5 of this act and RCW 28B.52.045, 41.56.060,  
16 41.56.110, 41.56.113, 41.56.122, 41.59.060, 41.59.070, 41.76.020,  
17 41.76.045, 41.80.050, 41.80.080, 41.80.100, 47.64.011, 47.64.090,  
18 47.64.135, 47.64.160, 49.39.030, 49.39.040, 49.39.080, and 49.39.090;  
19 current or former public employees do not have standing to pursue  
20 these claims or actions.

21 NEW SECTION. **Sec. 27.** RCW 41.59.100 (Union security provisions—  
22 Scope—Agency shop provision, collection of dues or fees) and 1975 1st  
23 ex.s. c 288 s 11 are each repealed.

24 NEW SECTION. **Sec. 28.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected."

**SSB 5623 - S AMD 230**  
By Senator Short

**NOT CONSIDERED 12/23/2019**

28 On page 1, line 4 of the title, after "fees;" strike the  
29 remainder of the title and insert "amending RCW 28B.52.020,  
30 28B.52.030, 28B.52.025, 28B.52.045, 41.56.060, 41.56.110, 41.56.113,  
31 41.56.122, 41.59.060, 41.76.020, 41.76.045, 41.80.050, 41.80.080,

1 41.80.100, 47.64.090, 47.64.160, 49.39.080, 49.39.090, 41.59.070,  
2 47.64.011, 47.64.135, 49.39.030, and 49.39.040; adding new sections  
3 to chapter 4.24 RCW; adding a new section to chapter 28B.52 RCW; and  
4 repealing RCW 41.59.100."

EFFECT: Removes provisions that authorize certification of an exclusive bargaining representative by cross-check.

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