
HOUSE BILL 2212

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66th Legislature

2020 Regular Session

By Representatives Blake, Chapman, Fitzgibbon, Ormsby, Sells, Irwin, Wylie, and Goodman

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1 AN ACT Relating to providing department of fish and wildlife
2 officers interest arbitration under certain circumstances; amending
3 RCW 41.80.340; and reenacting and amending RCW 41.80.005 and
4 41.80.010.

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

6 **Sec. 1.** RCW 41.80.005 and 2019 c 234 s 1 and 2019 c 145 s 3 are
7 each reenacted and amended to read as follows:

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

10 (1) "Agency" means any agency as defined in RCW 41.06.020 and
11 covered by chapter 41.06 RCW. "Agency" also includes the assistant
12 attorneys general of the attorney general's office, regardless of
13 whether those employees are exempt under chapter 41.06 RCW.

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

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

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

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

16 (6) "Employee" means any employee, including employees whose work
17 has ceased in connection with the pursuit of lawful activities
18 protected by this chapter, covered by chapter 41.06 RCW. "Employee"
19 includes assistant attorneys general of the office of the attorney
20 general, regardless of their exemption under chapter 41.06 RCW.
21 "Employee" does not include:

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

24 (b) Confidential employees;

25 (c) Members of the Washington management service;

26 (d) Internal auditors in any agency; or

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

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

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

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

38 (10) "Institutions of higher education" means the University of
39 Washington, Washington State University, Central Washington
40 University, Eastern Washington University, Western Washington

1 University, The Evergreen State College, and the various state
2 community colleges.

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

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

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

20 (14) "Unfair labor practice" means any unfair labor practice
21 listed in RCW 41.80.110.

22 (15) "Uniformed personnel" means (~~duly~~):

23 (a) Duly sworn police officers employed as members of a police
24 force established pursuant to RCW 28B.10.550; and

25 (b) Fish and wildlife officers as defined in RCW 77.08.010(21)
26 who rank below captain.

27 **Sec. 2.** RCW 41.80.010 and 2019 c 415 s 961 and 2019 c 145 s 4
28 are each reenacted and amended to read as follows:

29 (1) For the purpose of negotiating collective bargaining
30 agreements under this chapter, the employer shall be represented by
31 the governor or governor's designee, except as provided for
32 institutions of higher education in subsection (4) of this section.

33 (2)(a) Except as otherwise provided, if an exclusive bargaining
34 representative represents more than one bargaining unit, the
35 exclusive bargaining representative shall negotiate with each
36 employer representative as designated in subsection (1) of this
37 section one master collective bargaining agreement on behalf of all
38 the employees in bargaining units that the exclusive bargaining
39 representative represents. For those exclusive bargaining

1 representatives who represent fewer than a total of five hundred
2 employees each, negotiation shall be by a coalition of all those
3 exclusive bargaining representatives. The coalition shall bargain for
4 a master collective bargaining agreement covering all of the
5 employees represented by the coalition. The governor's designee and
6 the exclusive bargaining representative or representatives are
7 authorized to enter into supplemental bargaining of agency-specific
8 issues for inclusion in or as an addendum to the master collective
9 bargaining agreement, subject to the parties' agreement regarding the
10 issues and procedures for supplemental bargaining. This section does
11 not prohibit cooperation and coordination of bargaining between two
12 or more exclusive bargaining representatives.

13 (b) This subsection (2) does not apply to exclusive bargaining
14 representatives who represent employees of institutions of higher
15 education, except when the institution of higher education has
16 elected to exercise its option under subsection (4) of this section
17 to have its negotiations conducted by the governor or governor's
18 designee under the procedures provided for general government
19 agencies in subsections (1) through (3) of this section.

20 (c) If five hundred or more employees of an independent state
21 elected official listed in RCW 43.01.010 are organized in a
22 bargaining unit or bargaining units under RCW 41.80.070, the official
23 shall be consulted by the governor or the governor's designee before
24 any agreement is reached under (a) of this subsection concerning
25 supplemental bargaining of agency specific issues affecting the
26 employees in such bargaining unit.

27 (d) For assistant attorneys general, the governor or the
28 governor's designee and an exclusive bargaining representative shall
29 negotiate one master collective bargaining agreement.

30 (e) Uniformed personnel who are fish and wildlife officers may
31 not be excluded from coalition bargaining for a master agreement of
32 all exclusive bargaining representatives of fewer than five hundred
33 employees. However, the exclusive bargaining representative of
34 uniformed personnel who are fish and wildlife officers may, should it
35 so choose, but not later than the first Monday in September of every
36 odd-numbered year, choose to enter into separate bargaining with the
37 employer regarding agency-specific issues and be subject to the
38 provisions set forth in RCW 41.80.310 through 41.80.370. If the
39 exclusive bargaining representative does not choose to enter into
40 separate bargaining with the employer, RCW 41.80.310 through

1 41.80.370 do not apply. For purposes of this subsection, "agency-
2 specific issues" are limited to those specified in RCW 41.80.020 and
3 include but are not limited to rates of pay and other compensation.

4 (3) The governor shall submit a request for funds necessary to
5 implement the compensation and fringe benefit provisions in the
6 master collective bargaining agreement or for legislation necessary
7 to implement the agreement. Requests for funds necessary to implement
8 the provisions of bargaining agreements shall not be submitted to the
9 legislature by the governor unless such requests:

10 (a) Have been submitted to the director of the office of
11 financial management by October 1 prior to the legislative session at
12 which the requests are to be considered; and

13 (b) Have been certified by the director of the office of
14 financial management as being feasible financially for the state.

15 The legislature shall approve or reject the submission of the
16 request for funds as a whole. The legislature shall not consider a
17 request for funds to implement a collective bargaining agreement
18 unless the request is transmitted to the legislature as part of the
19 governor's budget document submitted under RCW 43.88.030 and
20 43.88.060. If the legislature rejects or fails to act on the
21 submission, either party may reopen all or part of the agreement or
22 the exclusive bargaining representative may seek to implement the
23 procedures provided for in RCW 41.80.090.

24 (4) (a) (i) For the purpose of negotiating agreements for
25 institutions of higher education, the employer shall be the
26 respective governing board of each of the universities, colleges, or
27 community colleges or a designee chosen by the board to negotiate on
28 its behalf.

29 (ii) A governing board of a university or college may elect to
30 have its negotiations conducted by the governor or governor's
31 designee under the procedures provided for general government
32 agencies in subsections (1) through (3) of this section, except that:

33 (A) The governor or the governor's designee and an exclusive
34 bargaining representative shall negotiate one master collective
35 bargaining agreement for all of the bargaining units of employees of
36 a university or college that the representative represents; or

37 (B) If the parties mutually agree, the governor or the governor's
38 designee and an exclusive bargaining representative shall negotiate
39 one master collective bargaining agreement for all of the bargaining

1 units of employees of more than one university or college that the
2 representative represents.

3 (iii) A governing board of a community college may elect to have
4 its negotiations conducted by the governor or governor's designee
5 under the procedures provided for general government agencies in
6 subsections (1) through (3) of this section.

7 (b) Prior to entering into negotiations under this chapter, the
8 institutions of higher education or their designees shall consult
9 with the director of the office of financial management regarding
10 financial and budgetary issues that are likely to arise in the
11 impending negotiations.

12 (c)(i) In the case of bargaining agreements reached between
13 institutions of higher education other than the University of
14 Washington and exclusive bargaining representatives agreed to under
15 the provisions of this chapter, if appropriations are necessary to
16 implement the compensation and fringe benefit provisions of the
17 bargaining agreements, the governor shall submit a request for such
18 funds to the legislature according to the provisions of subsection
19 (3) of this section, except as provided in (c)(iii) of this
20 subsection.

21 (ii) In the case of bargaining agreements reached between the
22 University of Washington and exclusive bargaining representatives
23 agreed to under the provisions of this chapter, if appropriations are
24 necessary to implement the compensation and fringe benefit provisions
25 of a bargaining agreement, the governor shall submit a request for
26 such funds to the legislature according to the provisions of
27 subsection (3) of this section, except as provided in this subsection
28 (4)(c)(ii) and as provided in (c)(iii) of this subsection.

29 (A) If appropriations of less than ten thousand dollars are
30 necessary to implement the provisions of a bargaining agreement, a
31 request for such funds shall not be submitted to the legislature by
32 the governor unless the request has been submitted to the director of
33 the office of financial management by October 1 prior to the
34 legislative session at which the request is to be considered.

35 (B) If appropriations of ten thousand dollars or more are
36 necessary to implement the provisions of a bargaining agreement, a
37 request for such funds shall not be submitted to the legislature by
38 the governor unless the request:

1 (I) Has been submitted to the director of the office of financial
2 management by October 1 prior to the legislative session at which the
3 request is to be considered; and

4 (II) Has been certified by the director of the office of
5 financial management as being feasible financially for the state.

6 (C) If the director of the office of financial management does
7 not certify a request under (c)(ii)(B) of this subsection as being
8 feasible financially for the state, the parties shall enter into
9 collective bargaining solely for the purpose of reaching a mutually
10 agreed upon modification of the agreement necessary to address the
11 absence of those requested funds. The legislature may act upon the
12 compensation and fringe benefit provisions of the modified collective
13 bargaining agreement if those provisions are agreed upon and
14 submitted to the office of financial management and legislative
15 budget committees before final legislative action on the biennial or
16 supplemental operating budget by the sitting legislature.

17 (iii) In the case of a bargaining unit of employees of
18 institutions of higher education in which the exclusive bargaining
19 representative is certified during or after the conclusion of a
20 legislative session, the legislature may act upon the compensation
21 and fringe benefit provisions of the unit's initial collective
22 bargaining agreement if those provisions are agreed upon and
23 submitted to the office of financial management and legislative
24 budget committees before final legislative action on the biennial or
25 supplemental operating budget by the sitting legislature.

26 (5) If, after the compensation and fringe benefit provisions of
27 an agreement are approved by the legislature, a significant revenue
28 shortfall occurs resulting in reduced appropriations, as declared by
29 proclamation of the governor or by resolution of the legislature,
30 both parties shall immediately enter into collective bargaining for a
31 mutually agreed upon modification of the agreement.

32 (6) After the expiration date of a collective bargaining
33 agreement negotiated under this chapter, all of the terms and
34 conditions specified in the collective bargaining agreement remain in
35 effect until the effective date of a subsequently negotiated
36 agreement, not to exceed one year from the expiration date stated in
37 the agreement. Thereafter, the employer may unilaterally implement
38 according to law.

39 (7)(a) For the 2019-2021 fiscal biennium, the legislature may
40 approve funding for a collective bargaining agreement negotiated by a

1 higher education institution and the Washington federation of state
2 employees and ratified by the exclusive bargaining representative
3 before final legislative action on the omnibus appropriations act by
4 the sitting legislature.

5 (b) Subsection (3)(a) and (b) of this section do not apply to
6 requests for funding made pursuant to this subsection.

7 **Sec. 3.** RCW 41.80.340 and 2019 c 234 s 7 are each amended to
8 read as follows:

9 In making its determination, the panel shall be mindful of the
10 legislative purpose enumerated in RCW 41.80.300 and, as additional
11 standards or guidelines to aid it in reaching a decision, shall take
12 into consideration the following factors:

- 13 (1) The constitutional and statutory authority of the employer;
- 14 (2) Stipulations of the parties;
- 15 (3) Comparison of the hours and conditions of employment of
16 personnel involved in the proceedings with the hours and conditions
17 of employment of like personnel of like employers of similar size on
18 the west coast of the United States, except for uniformed personnel
19 who are fish and wildlife officers, for whom the comparison of hours
20 and conditions of employment is with like personnel of like
21 employers, agencies, or departments, of similar size in the state of
22 Washington;
- 23 (4) Changes in any of the circumstances under subsections (1)
24 through (3) of this section during the pendency of the proceedings;
25 and
- 26 (5) Such other factors, not confined to the factors under
27 subsections (1) through (4) of this section, that are normally or
28 traditionally taken into consideration in the determination of
29 matters that are subject to bargaining under this chapter.

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