
SENATE BILL 5297

State of Washington

66th Legislature

2019 Regular Session

By Senators Hunt, Conway, Keiser, Dhingra, Saldaña, Kuderer, and Pedersen

Read first time 01/17/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to extending collective bargaining rights to
2 assistant attorneys general; amending RCW 41.80.005, 41.80.010,
3 43.10.070, and 43.10.060; adding a new section to chapter 41.80 RCW;
4 and creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the legal
7 services provided by assistant attorneys general in the office of the
8 attorney general are crucial to the ability of the state officials,
9 agencies, colleges, boards, and commissions to function and fulfill
10 their obligations to the citizens of the state. Assistant attorneys
11 general are exempt from civil service under RCW 41.06.070. The
12 assistant attorneys general currently have no mechanism through which
13 to collectively bargain for salary increases. The legislature finds
14 the office of the attorney general has experienced increased
15 difficulty recruiting and retaining attorneys due to the disparity in
16 wages paid to assistant attorneys general as compared to attorneys in
17 other public sector positions. This type of turnover is costly to the
18 office of the attorney general, negatively impacts morale, interferes
19 with the ability of the office to succession plan, and ultimately
20 harms the citizens of this state. Therefore, it is the legislature's
21 intent to empower assistant attorneys general to collectively bargain

1 for fair wages that will foster job satisfaction and the highest
2 standards of professional competence among assistant attorneys
3 general.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.80
5 RCW to read as follows:

6 (1) In addition to the agencies defined in RCW 41.80.005 and
7 subject to the provisions of this section, this chapter applies to
8 assistant attorneys general.

9 (2)(a) Assistant attorneys general who are not otherwise excluded
10 from bargaining under (b) of this subsection are granted the right to
11 collectively bargain.

12 (b) Division chiefs, deputy attorneys general, the solicitor
13 general, special assistant attorneys general, confidential employees
14 as defined in RCW 41.80.005, and any assistant or deputy attorney
15 general who reports directly to the attorney general are excluded
16 from this section and do not have the right to collectively bargain.

17 (3) The only unit appropriate for the purpose of collective
18 bargaining under this chapter is a statewide unit of all assistant
19 attorneys general not otherwise excluded from bargaining.

20 (4) The governor or the governor's designee and an exclusive
21 bargaining representative shall negotiate one master collective
22 bargaining agreement for assistant attorneys general.

23 **Sec. 3.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each
24 amended to read as follows:

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

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

31 (2) "Collective bargaining" means the performance of the mutual
32 obligation of the representatives of the employer and the exclusive
33 bargaining representative to meet at reasonable times and to bargain
34 in good faith in an effort to reach agreement with respect to the
35 subjects of bargaining specified under RCW 41.80.020. The obligation
36 to bargain does not compel either party to agree to a proposal or to
37 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, except:

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

21 (b) Confidential employees;

22 (c) Members of the Washington management service;

23 (d) Internal auditors in any agency; or

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

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

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

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

35 (10) "Institutions of higher education" means the University of
36 Washington, Washington State University, Central Washington
37 University, Eastern Washington University, Western Washington
38 University, The Evergreen State College, and the various state
39 community colleges.

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

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

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

18 (14) "Unfair labor practice" means any unfair labor practice
19 listed in RCW 41.80.110.

20 **Sec. 4.** RCW 41.80.010 and 2017 3rd sp.s. c 23 s 3 are each
21 amended to read as follows:

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

26 (2)(a) Except as otherwise provided, if an exclusive bargaining
27 representative represents more than one bargaining unit, the
28 exclusive bargaining representative shall negotiate with each
29 employer representative as designated in subsection (1) of this
30 section one master collective bargaining agreement on behalf of all
31 the employees in bargaining units that the exclusive bargaining
32 representative represents. For those exclusive bargaining
33 representatives who represent fewer than a total of five hundred
34 employees each, negotiation shall be by a coalition of all those
35 exclusive bargaining representatives. The coalition shall bargain for
36 a master collective bargaining agreement covering all of the
37 employees represented by the coalition. The governor's designee and
38 the exclusive bargaining representative or representatives are
39 authorized to enter into supplemental bargaining of agency-specific

1 issues for inclusion in or as an addendum to the master collective
2 bargaining agreement, subject to the parties' agreement regarding the
3 issues and procedures for supplemental bargaining. This section does
4 not prohibit cooperation and coordination of bargaining between two
5 or more exclusive bargaining representatives.

6 (b) This subsection (2) does not apply to exclusive bargaining
7 representatives who represent employees of institutions of higher
8 education, except when the institution of higher education has
9 elected to exercise its option under subsection (4) of this section
10 to have its negotiations conducted by the governor or governor's
11 designee under the procedures provided for general government
12 agencies in subsections (1) through (3) of this section.

13 (c) If five hundred or more employees of an independent state
14 elected official listed in RCW 43.01.010 are organized in a
15 bargaining unit or bargaining units under RCW 41.80.070, the official
16 shall be consulted by the governor or the governor's designee before
17 any agreement is reached under (a) of this subsection concerning
18 supplemental bargaining of agency specific issues affecting the
19 employees in such bargaining unit.

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

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

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

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

34 The legislature shall approve or reject the submission of the
35 request for funds as a whole. The legislature shall not consider a
36 request for funds to implement a collective bargaining agreement
37 unless the request is transmitted to the legislature as part of the
38 governor's budget document submitted under RCW 43.88.030 and
39 43.88.060. If the legislature rejects or fails to act on the
40 submission, either party may reopen all or part of the agreement or

1 the exclusive bargaining representative may seek to implement the
2 procedures provided for in RCW 41.80.090.

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

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

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

16 (B) If the parties mutually agree, the governor or the governor's
17 designee and an exclusive bargaining representative shall negotiate
18 one master collective bargaining agreement for all of the bargaining
19 units of employees of more than one university or college that the
20 representative represents.

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

25 (b) Prior to entering into negotiations under this chapter, the
26 institutions of higher education or their designees shall consult
27 with the director of the office of financial management regarding
28 financial and budgetary issues that are likely to arise in the
29 impending negotiations.

30 (c) (i) In the case of bargaining agreements reached between
31 institutions of higher education other than the University of
32 Washington and exclusive bargaining representatives agreed to under
33 the provisions of this chapter, if appropriations are necessary to
34 implement the compensation and fringe benefit provisions of the
35 bargaining agreements, the governor shall submit a request for such
36 funds to the legislature according to the provisions of subsection
37 (3) of this section, except as provided in (c) (iii) of this
38 subsection.

39 (ii) In the case of bargaining agreements reached between the
40 University of Washington and exclusive bargaining representatives

1 agreed to under the provisions of this chapter, if appropriations are
2 necessary to implement the compensation and fringe benefit provisions
3 of a bargaining agreement, the governor shall submit a request for
4 such funds to the legislature according to the provisions of
5 subsection (3) of this section, except as provided in this subsection
6 (4)(c)(ii) and as provided in (c)(iii) of this subsection.

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

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

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

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

22 (C) If the director of the office of financial management does
23 not certify a request under (c)(ii)(B) of this subsection as being
24 feasible financially for the state, the parties shall enter into
25 collective bargaining solely for the purpose of reaching a mutually
26 agreed upon modification of the agreement necessary to address the
27 absence of those requested funds. The legislature may act upon the
28 compensation and fringe benefit provisions of the modified collective
29 bargaining agreement if those provisions are agreed upon and
30 submitted to the office of financial management and legislative
31 budget committees before final legislative action on the biennial or
32 supplemental operating budget by the sitting legislature.

33 (iii) In the case of a bargaining unit of employees of
34 institutions of higher education in which the exclusive bargaining
35 representative is certified during or after the conclusion of a
36 legislative session, the legislature may act upon the compensation
37 and fringe benefit provisions of the unit's initial collective
38 bargaining agreement if those provisions are agreed upon and
39 submitted to the office of financial management and legislative

1 budget committees before final legislative action on the biennial or
2 supplemental operating budget by the sitting legislature.

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

9 (6) After the expiration date of a collective bargaining
10 agreement negotiated under this chapter, all of the terms and
11 conditions specified in the collective bargaining agreement remain in
12 effect until the effective date of a subsequently negotiated
13 agreement, not to exceed one year from the expiration date stated in
14 the agreement. Thereafter, the employer may unilaterally implement
15 according to law.

16 (7) For the 2013-2015 fiscal biennium, a collective bargaining
17 agreement related to employee health care benefits negotiated between
18 the employer and coalition pursuant to RCW 41.80.020(3) regarding the
19 dollar amount expended on behalf of each employee shall be a separate
20 agreement for which the governor may request funds necessary to
21 implement the agreement. The legislature may act upon a 2013-2015
22 collective bargaining agreement related to employee health care
23 benefits if an agreement is reached and submitted to the office of
24 financial management and legislative budget committees before final
25 legislative action on the biennial or supplemental operating
26 appropriations act by the sitting legislature.

27 (8)(a) For the 2015-2017 fiscal biennium, the governor may
28 request funds to implement:

29 (i) Modifications to collective bargaining agreements as set
30 forth in a memorandum of understanding negotiated between the
31 employer and the service employees international union healthcare
32 1199nw, an exclusive bargaining representative, that was necessitated
33 by an emergency situation or an imminent jeopardy determination by
34 the center for medicare and medicaid services that relates to the
35 safety or health of the clients, employees, or both the clients and
36 employees.

37 (ii) Unilaterally implemented modifications to collective
38 bargaining agreements, resulting from the employer being prohibited
39 from negotiating with an exclusive bargaining representative due to a
40 pending representation petition, necessitated by an emergency

1 situation or an imminent jeopardy determination by the center for
2 medicare and medicaid services that relates to the safety or health
3 of the clients, employees, or both the clients and employees.

4 (iii) Modifications to collective bargaining agreements as set
5 forth in a memorandum of understanding negotiated between the
6 employer and the union of physicians of Washington, an exclusive
7 bargaining representative, that was necessitated by an emergency
8 situation or an imminent jeopardy determination by the center for
9 medicare and medicaid services that relates to the safety or health
10 of the clients, employees, or both the clients and employees. If the
11 memorandum of understanding submitted to the legislature as part of
12 the governor's budget document is rejected by the legislature, and
13 the parties reach a new memorandum of understanding by June 30, 2016,
14 within the funds, conditions, and limitations provided in section
15 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of
16 understanding shall be considered approved by the legislature and may
17 be retroactive to December 1, 2015.

18 (iv) Modifications to collective bargaining agreements as set
19 forth in a memorandum of understanding negotiated between the
20 employer and the teamsters union local 117, an exclusive bargaining
21 representative, for salary adjustments for the state employee job
22 classifications of psychiatrist, psychiatric social worker, and
23 psychologist.

24 (b) For the 2015-2017 fiscal biennium, the legislature may act
25 upon the request for funds for modifications to a 2015-2017
26 collective bargaining agreement under (a)(i), (ii), (iii), and (iv)
27 of this subsection if funds are requested by the governor before
28 final legislative action on the supplemental omnibus appropriations
29 act by the sitting legislature.

30 (c) The request for funding made under this subsection and any
31 action by the legislature taken pursuant to this subsection is
32 limited to the modifications described in this subsection and may not
33 otherwise affect the original terms of the 2015-2017 collective
34 bargaining agreement.

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

37 **Sec. 5.** RCW 43.10.070 and 1965 c 8 s 43.10.070 are each amended
38 to read as follows:

1 Subject to any collective bargaining agreement, the attorney
2 general shall fix the compensation of all assistants, attorneys, and
3 employees, and in the event they are assigned to any department,
4 board, or commission, such department, board, or commission shall pay
5 the compensation as fixed by the attorney general, not however in
6 excess of the amount made available to the department by law for
7 legal services.

8 **Sec. 6.** RCW 43.10.060 and 2009 c 549 s 5049 are each amended to
9 read as follows:

10 The attorney general may appoint necessary assistants(~~(, who~~
11 ~~shall hold office at his or her pleasure, and)~~) who shall have the
12 power to perform any act which the attorney general is authorized by
13 law to perform. Subject to any collective bargaining agreement,
14 assistants shall hold office at the attorney general's pleasure.

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