
SUBSTITUTE SENATE BILL 5773

State of Washington

67th Legislature

2022 Regular Session

By Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Stanford, Keiser, Conway, Das, Dhingra, Frockt, Hasegawa, Hunt, Kuderer, Liiias, Lovelett, Mullet, Nguyen, Nobles, Randall, Saldaña, Van De Wege, and C. Wilson)

READ FIRST TIME 01/28/22.

1 AN ACT Relating to extending collective bargaining rights to
2 employees of the legislative branch of state government; amending RCW
3 41.80.005, 41.80.010, 41.80.007, and 41.80.140; and adding new
4 sections to chapter 41.80 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.80
7 RCW to read as follows:

8 (1) In addition to the agencies defined in RCW 41.80.005 and
9 except as otherwise provided, this chapter applies to all employees
10 of the legislative branch of state government, including employees of
11 the joint legislative audit and review committee, the statute law
12 committee, the legislative ethics board, the legislative evaluation
13 and accountability program committee, the office of the state
14 actuary, the legislative service center, the office of legislative
15 support services, the joint transportation committee, and the
16 redistricting commission.

17 (2) This chapter does not apply to:

18 (a) Elected or appointed members of the legislature;

19 (b) The chief clerk, deputy chief clerk, secretary of the senate,
20 and deputy secretary of the senate;

1 (c) Directors and assistant directors of legislative staff work
2 groups, and administrators, directors, and members of committees,
3 boards, and commissions;

4 (d) Caucus chiefs of staff and caucus deputy chiefs of staff;

5 (e) (i) (A) Counsel for the house of representatives and the senate
6 that provide direct legal advice to the administration of the house
7 of representatives and the senate, respectively; and

8 (B) The speaker's attorney and leadership counsel to the minority
9 caucus of the house of representatives.

10 (ii) This subsection (2)(e) does not include staff counsel for
11 senate committee services, the office of program research, or the
12 caucuses;

13 (f) Commissioners of the Washington state redistricting
14 commission; and

15 (g) Employees hired on a temporary or seasonal basis, except for
16 legislative and committee assistants, session aides, and security
17 personnel, temporarily hired by the house of representatives or the
18 senate for the legislative session.

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

21 (1) Except as otherwise provided in this chapter, the matters
22 subject to bargaining for legislative branch employees under section
23 1 of this act include: Wages, hours, and other terms and conditions
24 of employment, and the negotiation of any question arising under a
25 collective bargaining agreement.

26 (2) The employer is not required to bargain over matters
27 pertaining to any matters relating to retirement benefits, health
28 care benefits, or other employee insurance benefits.

29 (3) The employer and the exclusive bargaining representative
30 shall not bargain over matters pertaining to management rights
31 established in RCW 41.80.040.

32 (4) Except as otherwise provided in this chapter, if a conflict
33 exists between policies adopted by the legislature, relating to
34 wages, hours, and terms and conditions of employment and a collective
35 bargaining agreement negotiated under this chapter, the collective
36 bargaining agreement shall prevail. A provision of a collective
37 bargaining agreement that conflicts with the terms of a statute,
38 resolution, or concurrent resolution is invalid and unenforceable.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.80
2 RCW to read as follows:

3 For the purpose of negotiating agreements with the exclusive
4 bargaining representative of employees of the legislative branch, as
5 described in section 1 of this act, the secretary of the senate, the
6 chief clerk of the house of representatives, the senate facilities
7 and operations committee, the house executive rules committee, and,
8 if applicable, the administrators or the directors of the joint
9 legislative audit and review committee, the statute law committee,
10 the legislative ethics board, the legislative evaluation and
11 accountability program committee, the office of the state actuary,
12 the legislative service center, the office of legislative support
13 services, the joint transportation committee, and the redistricting
14 commission, shall coordinate with each other to:

15 (1) Select a negotiator or negotiators to negotiate on behalf of
16 the legislative branch;

17 (2) Create a streamlined process for approving negotiated
18 collective bargaining agreements on behalf of the legislative branch;
19 and

20 (3) Create procedures consistent with section 4 of this act for
21 timely submitting requests for funding to the appropriate legislative
22 committees if appropriations are necessary to implement provisions of
23 the collective bargaining agreements.

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

26 (1) If appropriations are necessary to implement the compensation
27 and fringe benefit provisions of a collective bargaining agreement
28 reached between the legislative branch and exclusive bargaining
29 representatives of legislative branch employees, the senate, the
30 house of representatives, and the legislative entities specified in
31 section 1 of this act shall submit a request for funds to the
32 appropriate legislative committees according to procedures
33 established as required under section 3 of this act and set forth in
34 this section. Requests for funds necessary to implement the
35 provisions of collective bargaining agreements entered into under
36 section 1 of this act shall not be submitted unless such agreements
37 have been finalized by October 1st prior to the regular legislative
38 session in which the funds are requested.

1 (2) The legislature shall approve or reject the submission of the
2 request for funds as a whole. If the legislature rejects or fails to
3 act on the submission, either party may reopen all or part of the
4 agreement or the exclusive bargaining representative may seek to
5 implement the procedures provided for in RCW 41.80.090.

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

12 (4) After the expiration date of a collective bargaining
13 agreement negotiated under section 1 of this act, all of the terms
14 and conditions specified in the collective bargaining agreement
15 remain in effect until the effective date of a subsequently
16 negotiated agreement, not to exceed one year from the expiration date
17 stated in the agreement. Thereafter, the legislative branch employer
18 may unilaterally implement according to law.

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

21 (1) Collective bargaining negotiations under section 1 of this
22 act must commence no later than July 1st of each even-numbered year.

23 (2) Except as provided in subsection (3) of this section, the
24 duration of any collective bargaining agreement under section 1 of
25 this act shall not exceed one fiscal biennium.

26 (3) Collective bargaining negotiations under section 1 of this
27 act shall commence no earlier than June 1, 2023. No collective
28 bargaining agreement entered into under section 1 of this act may
29 take effect prior to July 1, 2024. Any collective bargaining
30 agreement that takes effect after July 1, 2024, but prior to July 1,
31 2025, must expire no later than July 1, 2025.

32 **Sec. 6.** RCW 41.80.005 and 2021 c 180 s 1 are each amended to
33 read as follows:

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

36 (1) "Agency" means any agency as defined in RCW 41.06.020 and
37 covered by chapter 41.06 RCW. "Agency" also includes the assistant
38 attorneys general of the attorney general's office and the

1 administrative law judges of the office of administrative hearings,
2 regardless of whether those employees are exempt under chapter 41.06
3 RCW. The employees of the legislative branch of state government, as
4 described in section 1 of this act, are considered an "agency" for
5 the sole purpose of collective bargaining, regardless of their
6 exemption under chapter 41.06 RCW.

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

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

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

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

28 (6) "Employee" means any employee, including employees whose work
29 has ceased in connection with the pursuit of lawful activities
30 protected by this chapter, covered by chapter 41.06 RCW. "Employee"
31 includes assistant attorneys general of the office of the attorney
32 general and administrative law judges of the office of administrative
33 hearings, regardless of their exemption under chapter 41.06 RCW.
34 "Employee" also includes employees of the legislative branch, as
35 described in section 1 of this act, regardless of their exemption
36 under chapter 41.06 RCW. "Employee" does not include:

- 37 (a) Employees covered for collective bargaining by chapter 41.56
38 RCW;
- 39 (b) Confidential employees;
- 40 (c) Members of the Washington management service;

1 (d) Internal auditors in any agency; or
2 (e) Any employee of the commission, the office of financial
3 management, or the office of risk management within the department of
4 enterprise services.
5 (7) "Employee organization" means any organization, union, or
6 association in which employees participate and that exists for the
7 purpose, in whole or in part, of collective bargaining with
8 employers.
9 (8) "Employer" means the state of Washington.
10 (9) "Exclusive bargaining representative" means any employee
11 organization that has been certified under this chapter as the
12 representative of the employees in an appropriate bargaining unit.
13 (10) "Institutions of higher education" means the University of
14 Washington, Washington State University, Central Washington
15 University, Eastern Washington University, Western Washington
16 University, The Evergreen State College, and the various state
17 community colleges.
18 (11) "Labor dispute" means any controversy concerning terms,
19 tenure, or conditions of employment, or concerning the association or
20 representation of persons in negotiating, fixing, maintaining,
21 changing, or seeking to arrange terms or conditions of employment
22 with respect to the subjects of bargaining provided in this chapter,
23 regardless of whether the disputants stand in the proximate relation
24 of employer and employee.
25 (12) "Manager" means "manager" as defined in RCW 41.06.022.
26 (13) "Supervisor" means an employee who has authority, in the
27 interest of the employer, to hire, transfer, suspend, lay off,
28 recall, promote, discharge, direct, reward, or discipline employees,
29 or to adjust employee grievances, or effectively to recommend such
30 action, if the exercise of the authority is not of a merely routine
31 nature but requires the consistent exercise of individual judgment.
32 However, no employee who is a member of the Washington management
33 service may be included in a collective bargaining unit established
34 under this section.
35 (14) "Unfair labor practice" means any unfair labor practice
36 listed in RCW 41.80.110.
37 (15) "Uniformed personnel" means duly sworn police officers
38 employed as members of a police force established pursuant to RCW
39 28B.10.550.

1 **Sec. 7.** RCW 41.80.010 and 2021 c 334 s 968 are each amended to
2 read as follows:

3 (1) For the purpose of negotiating collective bargaining
4 agreements under this chapter, the employer shall be represented by
5 the governor or governor's designee, except as provided for
6 institutions of higher education in subsection (4) of this section
7 and except as provided for in section 3 of this act for employees of
8 the legislative branch.

9 (2) (a) (i) Except as otherwise provided, if an exclusive
10 bargaining representative represents more than one bargaining unit,
11 the exclusive bargaining representative shall negotiate with each
12 employer representative as designated in subsection (1) of this
13 section one master collective bargaining agreement on behalf of all
14 the employees in bargaining units that the exclusive bargaining
15 representative represents.

16 (ii) For those exclusive bargaining representatives who represent
17 fewer than a total of five hundred employees each, negotiation shall
18 be by a coalition of all those exclusive bargaining representatives.
19 The coalition shall bargain for a master collective bargaining
20 agreement covering all of the employees represented by the coalition.
21 The governor's designee and the exclusive bargaining representative
22 or representatives are authorized to enter into supplemental
23 bargaining of agency-specific issues for inclusion in or as an
24 addendum to the master collective bargaining agreement, subject to
25 the parties' agreement regarding the issues and procedures for
26 supplemental bargaining. Exclusive bargaining representatives that
27 represent employees covered under chapter 41.06 RCW and exclusive
28 bargaining representatives that represent employees exempt under
29 chapter 41.06 RCW shall constitute separate coalitions and must
30 negotiate separate master collective bargaining agreements. This
31 subsection does not prohibit cooperation and coordination of
32 bargaining between two or more exclusive bargaining representatives.

33 (b) This subsection does not apply to exclusive bargaining
34 representatives who represent employees of institutions of higher
35 education, except when the institution of higher education has
36 elected to exercise its option under subsection (4) of this section
37 to have its negotiations conducted by the governor or governor's
38 designee under the procedures provided for general government
39 agencies in subsections (1) through (3) of this section. This
40 subsection also does not apply to exclusive bargaining

1 representatives who represent employees of the legislative branch, as
2 described in section 1 of this act.

3 (c) If five hundred or more employees of an independent state
4 elected official listed in RCW 43.01.010 are organized in a
5 bargaining unit or bargaining units under RCW 41.80.070, the official
6 shall be consulted by the governor or the governor's designee before
7 any agreement is reached under (a) of this subsection concerning
8 supplemental bargaining of agency specific issues affecting the
9 employees in such bargaining unit.

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

13 (3) (a) The governor shall submit a request for funds necessary to
14 implement the compensation and fringe benefit provisions in the
15 master collective bargaining agreement or for legislation necessary
16 to implement the agreement. Requests for funds necessary to implement
17 the provisions of bargaining agreements shall not be submitted to the
18 legislature by the governor unless such requests:

19 ~~((a))~~ (i) Have been submitted to the director of the office of
20 financial management by October 1 prior to the legislative session at
21 which the requests are to be considered; and

22 ~~((b))~~ (ii) Have been certified by the director of the office of
23 financial management as being feasible financially for the state.

24 The legislature shall approve or reject the submission of the
25 request for funds as a whole. The legislature shall not consider a
26 request for funds to implement a collective bargaining agreement
27 unless the request is transmitted to the legislature as part of the
28 governor's budget document submitted under RCW 43.88.030 and
29 43.88.060. If the legislature rejects or fails to act on the
30 submission, either party may reopen all or part of the agreement or
31 the exclusive bargaining representative may seek to implement the
32 procedures provided for in RCW 41.80.090.

33 (b) This subsection does not apply to the employees of the
34 legislative branch, as described in section 1 of this act.

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

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

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

9 (B) If the parties mutually agree, the governor or the governor's
10 designee and an exclusive bargaining representative shall negotiate
11 one master collective bargaining agreement for all of the bargaining
12 units of employees of more than one university or college that the
13 representative represents.

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

18 (b) Prior to entering into negotiations under this chapter, the
19 institutions of higher education or their designees shall consult
20 with the director of the office of financial management regarding
21 financial and budgetary issues that are likely to arise in the
22 impending negotiations.

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

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

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

7 (B) If appropriations of ten thousand dollars or more 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:

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

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

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

27 (iii) In the case of a bargaining unit of employees of
28 institutions of higher education in which the exclusive bargaining
29 representative is certified during or after the conclusion of a
30 legislative session, the legislature may act upon the compensation
31 and fringe benefit provisions of the unit's initial collective
32 bargaining agreement if those provisions are agreed upon and
33 submitted to the office of financial management and legislative
34 budget committees before final legislative action on the biennial or
35 supplemental operating budget by the sitting legislature.

36 (5) If, after the compensation and fringe benefit provisions of
37 an agreement are approved by the legislature, a significant revenue
38 shortfall occurs resulting in reduced appropriations, as declared by
39 proclamation of the governor or by resolution of the legislature,

1 both parties shall immediately enter into collective bargaining for a
2 mutually agreed upon modification of the agreement.

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

10 (7) (a) For the 2019-2021 fiscal biennium, the legislature may
11 approve funding for a collective bargaining agreement negotiated by a
12 higher education institution and the Washington federation of state
13 employees and ratified by the exclusive bargaining representative
14 before final legislative action on the omnibus appropriations act by
15 the sitting legislature.

16 (b) Subsection (3) (a) (i) and (~~(b)~~) (ii) of this section do not
17 apply to requests for funding made pursuant to this subsection.

18 (8) (a) For the 2021-2023 fiscal biennium, the legislature may
19 approve funding for a collective bargaining agreement negotiated by
20 the governor or governor's designee and the Washington public
21 employees association community college coalition and the general
22 government agencies and ratified by the exclusive bargaining
23 representative before final legislative action on the omnibus
24 appropriations act by the sitting legislature.

25 (b) For the 2021-2023 fiscal biennium, the legislature may
26 approve funding for a collective bargaining agreement negotiated
27 between Highline Community College and the Washington public
28 employees association and ratified by the exclusive bargaining
29 representative before final legislative action on the omnibus
30 appropriations act by the sitting legislature.

31 (c) Subsection (3) (a) (i) and (~~(b)~~) (ii) of this section does
32 not apply to requests for funding made pursuant to this subsection.

33 **Sec. 8.** RCW 41.80.007 and 2017 3rd sp.s. c 23 s 2 are each
34 amended to read as follows:

35 (1) A joint committee on employment relations is established,
36 composed of the following members:

37 (a) Two members with leadership positions in the house of
38 representatives, representing each of the two largest caucuses;

1 (b) The chair and ranking minority member of the house
2 appropriations committee, or its successor, representing each of the
3 two largest caucuses;

4 (c) Two members with leadership positions in the senate,
5 representing each of the two largest caucuses;

6 (d) The chair and ranking minority member of the senate ways and
7 means committee, or its successor, representing each of the two
8 largest caucuses; and

9 (e) One nonvoting member, appointed by the governor, representing
10 the office of financial management.

11 (2) The committee shall elect a chairperson and a vice
12 chairperson.

13 (3) The governor or a designee shall convene meetings of the
14 committee. The committee must meet at least six times, generally
15 every two months, for the purpose of consulting with the governor or
16 the governor's designee and institutions of higher education on
17 matters related to collective bargaining with state employees
18 conducted under the authority of this chapter and chapters 41.56,
19 47.64, and 74.39A RCW, but not collective bargaining with employees
20 of the legislative branch. The governor or the governor's designee or
21 the institution of higher education may not share internal bargaining
22 notes.

23 (4) In years when master collective bargaining agreements are
24 negotiated, the committee must meet prior to the start of bargaining
25 to identify goals and objectives for public employee collective
26 bargaining that the governor may take into consideration during
27 negotiations.

28 (5) One meeting must be convened following the governor's budget
29 submittal to the legislature to consult with the committee regarding
30 the appropriations necessary to implement the compensation and fringe
31 benefit provisions in the master collective bargaining agreements and
32 to advise the committee on the elements of the agreements and on any
33 legislation necessary to implement the agreements.

34 (6) The committee shall, by a majority of the members, adopt
35 rules to govern its conduct as may be necessary or appropriate,
36 including reasonable procedures for calling and conducting meetings
37 of the committee, ensuring reasonable advance notice of each meeting,
38 and providing for the right of the public to attend each such meeting
39 with enumerated exceptions designed to protect the public's interest,
40 the privacy of individuals, and confidential information used or to

1 be used in collective bargaining, including the specific details of
2 bargaining proposals.

3 (7) The committee may, by a majority of the members, meet more or
4 less frequently. A quorum of the joint committee is not required for
5 the meeting to take place. Meetings may take place by conference
6 telephone or similar communications equipment so that all persons
7 participating in the meeting can hear each other at the same time.
8 Participation by that method constitutes presence in person at a
9 meeting.

10 **Sec. 9.** RCW 41.80.140 and 2016 sp.s. c 36 s 924 are each amended
11 to read as follows:

12 (1) The office of financial management's labor relations service
13 account is created in the custody of the state treasurer to be used
14 as a revolving fund for the payment of labor relations services
15 required for the negotiation of the collective bargaining agreements
16 entered into under this chapter. An amount not to exceed one-tenth of
17 one percent of the approved allotments of salaries and wages for all
18 bargaining unit positions in the classified service in each of the
19 agencies subject to this chapter, except the institutions of higher
20 education and employees of the legislative branch as specified in
21 section 1 of this act, shall be charged to the operations
22 appropriations of each agency and credited to the office of financial
23 management's labor relations service account as the allotments are
24 approved pursuant to chapter 43.88 RCW. Subject to the above
25 limitations, the amount shall be charged against the allotments pro
26 rata, at a rate to be fixed by the director of financial management
27 from time to time. Payment for services rendered under this chapter
28 shall be made on a quarterly basis to the state treasurer and
29 deposited into the office of financial management's labor relations
30 service account.

31 (2) Moneys from the office of financial management's labor
32 relations service account shall be disbursed by the state treasurer
33 by warrants on vouchers authorized by the director of financial
34 management or the director's designee. An appropriation is not
35 required.

36 (3) During the 2015-2017 fiscal biennium, the legislature may
37 transfer moneys from the office of financial management's labor

1 relations service account to the state general fund such amounts as
2 reflect the excess fund balance of the account.

--- **END** ---