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**HOUSE BILL 1777**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Condotta, Manweller, G. Hunt, and Wilson

AN ACT Relating to exclusive representation of employees in collective bargaining; amending RCW 41.56.080, 41.76.015, 49.39.050, 47.64.135, 41.80.080, and 41.59.090; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.76 RCW; adding a new section to chapter 28B.52 RCW; adding a new section to chapter 49.39 RCW; adding a new section to chapter 47.64 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 41.59 RCW; and adding a new section to chapter 49.66 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

(1) If a bargaining representative certified by the commission and a public employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 41.56.122:

(a) The bargaining representative is the exclusive bargaining representative for only those public employees who choose to be members of the bargaining representative.

(b) Any contract negotiated by the bargaining representative applies only to those public employees who choose to be members of the bargaining representative.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual public employee who chooses not to be a member of the exclusive bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with a public employer and to negotiate individual employment contracts governing their wages, hours, and working conditions.

(e) No public employer shall be obligated to agree to any terms of a contract proposed by an individual public employee, nor shall any public employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual public employee.

(ii) Agreeing to an individual employment contract that sets wages, hours, or working conditions that differ from those in the exclusive bargaining representative's collective bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any public employee with intent to induce the public employee to cease or refrain from being a member of a bargaining representative, or to become or remain a member of a bargaining representative.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this section and apply to any renewal or extension of any existing contract.

**Sec.**  RCW 41.56.080 and 2012 c 117 s 84 are each amended to read as follows:

The bargaining representative which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent, all the public employees within the unit without regard to membership in said bargaining representative: PROVIDED, That:

(1) Any public employee at any time may present his or her grievance to the public employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive bargaining representative has been given reasonable opportunity to be present at any initial meeting called for the resolution of such grievance;

(2) The bargaining representative has negotiated a collective bargaining agreement that contains a union security provision. If a union security provision has not been negotiated, the bargaining representative is the exclusive bargaining representative of only those public employees in the bargaining unit that are members of the bargaining representative, in accordance with section 1 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 41.76 RCW to read as follows:

(1) If an employee organization certified by the commission and an employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 41.76.045:

(a) The employee organization is the exclusive bargaining representative for only those faculty members who choose to be members of the employee organization.

(b) Any contract negotiated by the employee organization applies only to those faculty members who choose to be members of the employee organization.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual faculty member who chooses not to be a member of the exclusive bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with an employer and to negotiate individual employment contracts governing their wages, hours, and conditions of employment.

(e) No employer shall be obligated to agree to any terms of a contract proposed by an individual faculty member, nor shall any employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual faculty member.

(ii) Agreeing to an individual employment contract that sets wages, hours, or conditions of employment that differ from those in the exclusive bargaining representative's collective bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any faculty member with intent to induce the faculty member to cease or refrain from being a member of an employee organization, or to become or remain a member of an employee organization.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this section and apply to any renewal or extension of any existing contract.

**Sec.**  RCW 41.76.015 and 2002 c 356 s 6 are each amended to read as follows:

The employee organization which has been determined by the commission to be the exclusive bargaining representative of a bargaining unit shall be required to represent all the faculty members within the bargaining unit without regard to membership in that employee organization: PROVIDED, That:

(1) Any faculty member may at any time present his or her complaints or concerns to the employer and have such complaints or concerns adjusted without intervention of the exclusive bargaining representative, as long as the exclusive bargaining representative has been given an opportunity to be present at the adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect;

(2) The employee organization has negotiated a collective bargaining agreement that contains a union security provision. If a union security provision has not been negotiated, the employee organization is the exclusive bargaining representative of only those faculty members in the bargaining unit that are members of the employee organization, in accordance with section 3 of this act.

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

(1) If an employee organization certified by the commission and an employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 28B.52.045:

(a) The employee organization is the exclusive bargaining representative for only those academic employees who choose to be members of the employee organization.

(b) Any contract negotiated by the employee organization applies only to those academic employees who choose to be members of the employee organization.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual academic employee who chooses not to be a member of the exclusive bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with an employer and to negotiate individual employment contracts governing their wages, hours, and conditions of employment.

(e) No employer shall be obligated to agree to any terms of a contract proposed by an individual academic employee, nor shall any employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual academic employee.

(ii) Agreeing to an individual employment contract that sets wages, hours, or conditions of employment that differ from those in the exclusive bargaining representative's bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any academic employee with intent to induce the academic employee to cease or refrain from being a member of an employee organization, or to become or remain a member of an employee organization.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this chapter and shall apply to any renewal or extension of any existing contract.

NEW SECTION. **Sec.**  A new section is added to chapter 49.39 RCW to read as follows:

(1) If a bargaining representative certified by the commission and an employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 49.39.090:

(a) The bargaining representative is the exclusive bargaining representative for only those symphony musicians who choose to be members of the bargaining representative.

(b) Any contract negotiated by the bargaining representative applies only to those symphony musicians who choose to be members of the bargaining representative.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual symphony musician who chooses not to be a member of the exclusive bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with an employer and to negotiate individual employment contracts governing their wages, hours, and working conditions.

(e) No employer shall be obligated to agree to any terms of a contract proposed by an individual symphony musician, nor shall any employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual symphony musician.

(ii) Agreeing to an individual employment contract that sets wages, hours, or working conditions that differ from those in the exclusive bargaining representative's bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any symphony musicians with intent to induce the symphony musician to cease or refrain from being a member of a bargaining representative, or to become or remain a member of a bargaining representative.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this section and apply to any renewal or extension of any existing contract.

**Sec.**  RCW 49.39.050 and 2010 c 6 s 6 are each amended to read as follows:

The bargaining representative which has been determined to represent a majority of the symphony musicians in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent, all the symphony musicians within the unit without regard to membership in the bargaining representative((~~. However,~~)): PROVIDED, That:

(1) Any symphony musician at any time may present his or her grievance to the employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive bargaining representative has been given reasonable opportunity to be present at any initial meeting called for the resolution of the grievance;

(2) The bargaining representative has negotiated a collective bargaining agreement that contains a union security provision. If a union security provision has not been negotiated, the bargaining representative is the exclusive bargaining representative of only those faculty members in the bargaining unit that are members of the bargaining representative, in accordance with section 6 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 47.64 RCW to read as follows:

(1) If a ferry employee organization certified by the commission and the employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 47.64.160:

(a) The ferry employee organization is the exclusive bargaining representative for only those ferry employees who choose to be members of the ferry employee organization.

(b) Any contract negotiated by the ferry employee organization applies only to those ferry employees who choose to be members of the ferry employee organization.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual ferry employee who chooses not to be a member of the exclusive bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with the employer and to negotiate individual employment contracts governing their wages, hours, and working conditions.

(e) The employer shall not be obligated to agree to any terms of a contract proposed by an individual ferry employee, nor shall the employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual ferry employee.

(ii) Agreeing to an individual employment contract that sets wages, hours, or working conditions that differ from those in the exclusive bargaining representative's bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any ferry employee with intent to induce the ferry employee to cease or refrain from being a member of a ferry employee organization, or to become or remain a member of a ferry employee organization.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this section and apply to any renewal or extension of any existing contract.

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

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

(a) Secret balloting;

(b) Consulting with employee organizations;

(c) Access to lists of employees, job classification, work locations, and home mailing addresses;

(d) Absentee voting;

(e) Procedures for the greatest possible participation in voting;

(f) Campaigning on the employer's property during working hours; and

(g) Election observers.

(2) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit, except as provided by section 8 of this act.

(3) The certified exclusive bargaining representative is responsible for representing the interests of all the employees in the bargaining unit, except as provided by section 8 of this act. This section shall not be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

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

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

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

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

(1) If an employee organization certified by the commission and the employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 41.80.100:

(a) The employee organization is the exclusive bargaining representative for only those employees who choose to be members of the employee organization.

(b) Any contract negotiated by the employee organization applies only to those employees who choose to be members of the employee organization.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual employee who chooses not to be a member of the exclusive bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with the employer and to negotiate individual employment contracts governing their wages, hours, and conditions of employment.

(e) The employer shall not be obligated to agree to any terms of a contract proposed by an individual employee, nor shall the employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual employee.

(ii) Agreeing to an individual employment contract that sets wages, hours, or conditions of employment that differ from those in the exclusive bargaining representative's bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any employee with intent to induce the employee to cease or refrain from being a member of an employee organization, or to become or remain a member of an employee organization.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this section and apply to any renewal or extension of any existing contract.

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

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

(a) Secret balloting;

(b) Consulting with employee organizations;

(c) Access to lists of employees, job classification, work locations, and home mailing addresses;

(d) Absentee voting;

(e) Procedures for the greatest possible participation in voting;

(f) Campaigning on the employer's property during working hours; and

(g) Election observers.

(2)(a) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit, except as provided by section 10 of this act, as provided in RCW 41.80.010(2)(a). However, if a master collective bargaining agreement is in effect for the exclusive bargaining representative, it shall apply to the bargaining unit for which the certification has been issued. Nothing in this section requires the parties to engage in new negotiations during the term of that agreement.

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

(3) The certified exclusive bargaining representative shall be responsible for representing the interests of all the employees in the bargaining unit, except as provided by section 10 of this act. This section shall not be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

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

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 41.59 RCW to read as follows:

(1) If an employee organization certified by the commission and an employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 41.59.100:

(a) The employee organization is the exclusive bargaining representative for only those employees who choose to be members of the employee organization.

(b) Any contract negotiated by the employee organization applies only to those employees who choose to be members of the employee organization.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual employee who chooses not to be a member of the exclusive bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with an employer and to negotiate individual employment contracts governing their wages, hours, and conditions of employment.

(e) No employer shall be obligated to agree to any terms of a contract proposed by an individual employee, nor shall any employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual employee.

(ii) Agreeing to an individual employment contract that sets wages, hours, or conditions of employment that differ from those in the exclusive bargaining representative's bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any employee with intent to induce the employee to cease or refrain from being a member of an employee organization, or to become or remain a member of an employee organization.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this section and apply to any renewal or extension of any existing contract.

**Sec.**  RCW 41.59.090 and 2012 c 117 s 91 are each amended to read as follows:

The employee organization which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the commission as the exclusive bargaining representative of, and shall be required to represent all the employees within the unit without regard to membership in that bargaining representative: PROVIDED, That:

(1) Any employee at any time may present his or her grievance to the employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, as long as such representative has been given an opportunity to be present at that adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect;

(2) The employee organization has negotiated a collective bargaining agreement that contains a union security provision. If a union security provision has not been negotiated, the employee organization is the exclusive bargaining representative of only those employees in the bargaining unit that are members of the employee organization, in accordance with section 12 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 49.66 RCW to read as follows:

(1) If an employee organization certified by the director and an employer agree to a collective bargaining agreement that does not contain a union security provision as authorized by RCW 49.66.010:

(a) The employee organization is the certified bargaining representative for only those employees who choose to be members of the employee organization.

(b) Any contract negotiated by the employee organization applies only to those employees who choose to be members of the employee organization.

(c) There may be no more than one certified exclusive bargaining representative per bargaining unit at any one time.

(d) Notwithstanding (c) of this subsection, any individual employee who chooses not to be a member of the certified bargaining representative has the right to represent themselves directly or through a representative of their own choosing in their relations with the employer and to negotiate individual employment contracts governing their wages, hours, and conditions of employment.

(e) No employer shall be obligated to agree to any terms of a contract proposed by an individual employee, nor shall any employer be guilty of an unfair labor practice for:

(i) Refusing to bargain with an individual employee.

(ii) Agreeing to an individual employment contract that sets wages, hours, or conditions of employment that differ from those in the exclusive bargaining representative's bargaining agreement.

(f) No person shall exert undue influence, directly or indirectly, on any employee with intent to induce the employee to cease or refrain from being a member of an employee organization, or to become or remain a member of an employee organization.

(2) The provisions of this section apply to all collective bargaining agreements entered into after the effective date of this section and apply to any renewal or extension of any existing contract.

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