**1575-S AMS WAGO S3648.1 - NOT FOR FLOOR USE**

**SHB 1575** - S AMD TO LBRC COMM AMD (S-3309.1/19) **545**

By Senator Wagoner

**NOT ADOPTED 04/11/2019**

On page 3, line 16, after "certified" strike "or recognized" and insert "((~~or recognized~~))"

On page 5, line 9, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

On page 6, beginning on line 12, after "by" strike all material through "(c)" on line 15 and insert "((~~: (a) Examination of organization membership rolls; (b) comparison of signatures on organization bargaining authorization cards; or (c)~~))"

On page 6, beginning on line 27, strike all of section 8

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 7, line 8, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

On page 8, line 21, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

On page 10, line 29, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

On page 12, line 32, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

Beginning on page 14, line 37, after "unit" strike all material through "(6)" on page 15, line 18 and insert "((~~, except under the following circumstances:~~

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

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

Correct any internal references accordingly.

On page 15, line 36, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

On page 17, beginning on line 26, strike all of section 16

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 18, line 4, after "representation" insert "via secret ballot elections"

On page 18, beginning on line 4, after "elections" strike "and cross-check procedures,"

On page 18, beginning on line 6, after "elections" strike "and cross-check procedures"

On page 18, line 20, after "unit" insert "pursuant to a secret ballot election"

On page 19, line 36, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

On page 21, line 33, after "applicable;" insert "and"

Beginning on page 21, line 39, after "Washington" strike all material through "employees." on page 22, line 10 and insert "((~~; and~~

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

Correct any internal references accordingly.

On page 22, line 23, after "applicable;" insert "and"

On page 22, beginning on line 29, after "Washington" strike all material through "employer" on line 36 and insert "((~~; and~~

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

Correct any internal references accordingly.

On page 24, beginning on line 12, strike all of section 21

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 24, line 28, after "certification" strike "or recognition" and insert "((~~or recognition~~))"

On page 26, beginning on line 14, strike all of section 24 and insert the following:

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

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

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

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

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

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

((~~(d)~~)) (c) In instances where the commission has within the previous twelve months conducted a secret ballot election involving any employees included in the unit described in the request for ((~~recognition~~)) certification in which a majority of the valid ballots cast chose not to be represented by any employee organization, the request for ((~~recognition~~)) certification shall not be entertained.

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

(4) Within the time limits prescribed in subsection (3) of this section, a petition may be filed signed by at least thirty percent of the employees of a collective bargaining unit, then represented by an exclusive bargaining representative, alleging that a majority of the employees in that unit do not wish to be represented by an employee organization, requesting that the exclusive bargaining representative be decertified, and indicating the name, address and telephone number of the exclusive bargaining representative and any other interested employee organization, if known. Upon the verification of the signatures on the petition, the commission shall conduct an election by secret ballot as prescribed by subsection (3) of this section.

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

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

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

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

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

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

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

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

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

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

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

(10) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**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 via secret ballot elections 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 under a secret ballot election, 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.

(3) The certified exclusive bargaining representative is responsible for representing the interests of all the employees in the bargaining unit. 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.

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

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

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

((~~If the commission elects to conduct an election to ascertain the exclusive bargaining representative, and~~)) Upon the request of a prospective bargaining representative showing written proof of at least thirty percent representation of the symphony musicians within the unit, the commission shall hold an election by secret ballot to determine the issue. The ballot shall contain the name of the bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the symphony musicians within the unit, together with a choice for any symphony musician to designate that he or she does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority vote of valid ballots cast, a runoff election shall be held. The runoff ballot shall contain the two choices which received the largest and second-largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. Any agreement which contains a provision for automatic renewal or extension of the agreement shall not be a valid agreement; nor shall any agreement be valid if it provides for a term of existence for more than three years."

Renumber the remaining sections consecutively and correct any internal references accordingly.

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On page 27, line 5, after "49.39.090," strike "and 53.18.050" and insert "41.59.070, 47.64.011, 47.64.135, 49.39.030, and 49.39.040" and beginning on line 7 after "28B.52 RCW;" strike all material through "49.39 RCW;" on line 9

EFFECT: Requires union certification through secret ballot elections and prohibits certification through cross-check and voluntary recognition.