

2SSB 5481 - S AMD 1084

By Senator Warnick

ADOPTED 02/17/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 41.56.030 and 2019 c 280 s 1 are each amended to
4 read as follows:

5 As used in this chapter:

6 (1) "Adult family home provider" means a provider as defined in
7 RCW 70.128.010 who receives payments from the medicaid and state-
8 funded long-term care programs.

9 (2) "Bargaining representative" means any lawful organization
10 which has as one of its primary purposes the representation of
11 employees in their employment relations with employers.

12 (3) "Child care subsidy" means a payment from the state through a
13 child care subsidy program established pursuant to RCW 74.12.340, 45
14 C.F.R. Sec. 98.1 through 98.17, or any successor program.

15 (4) "Collective bargaining" means the performance of the mutual
16 obligations of the public employer and the exclusive bargaining
17 representative to meet at reasonable times, to confer and negotiate
18 in good faith, and to execute a written agreement with respect to
19 grievance procedures and collective negotiations on personnel
20 matters, including wages, hours and working conditions, which may be
21 peculiar to an appropriate bargaining unit of such public employer,
22 except that by such obligation neither party shall be compelled to
23 agree to a proposal or be required to make a concession unless
24 otherwise provided in this chapter.

25 (5) "Commission" means the public employment relations
26 commission.

27 (6) "Executive director" means the executive director of the
28 commission.

29 (7) "Family child care provider" means a person who: (a) Provides
30 regularly scheduled care for a child or children in the home of the
31 provider or in the home of the child or children for periods of less
32 than twenty-four hours or, if necessary due to the nature of the

1 parent's work, for periods equal to or greater than twenty-four
2 hours; (b) receives child care subsidies; and (c) under chapter
3 43.216 RCW, is either licensed by the state or is exempt from
4 licensing.

5 (8) "Individual provider" means an individual provider as defined
6 in RCW 74.39A.240(3) who, solely for the purposes of collective
7 bargaining, is a public employee as provided in RCW 74.39A.270.

8 (9) "Institution of higher education" means the University of
9 Washington, Washington State University, Central Washington
10 University, Eastern Washington University, Western Washington
11 University, The Evergreen State College, and the various state
12 community colleges.

13 (10)(a) "Language access provider" means any independent
14 contractor who provides spoken language interpreter services, whether
15 paid by a broker, language access agency, or the respective
16 department:

17 (i) For department of social and health services appointments,
18 department of children, youth, and families appointments, medicaid
19 enrollee appointments, or who provided these services on or after
20 January 1, 2011, and before June 10, 2012;

21 (ii) For department of labor and industries authorized medical
22 and vocational providers, or who provided these services on or after
23 January 1, 2016, and before July 1, 2018; or

24 (iii) For state agencies, or who provided these services on or
25 after January 1, 2016, and before July 1, 2018.

26 (b) "Language access provider" does not mean a manager or
27 employee of a broker or a language access agency.

28 (11) "Public employee" means any employee of a public employer
29 except any person (a) elected by popular vote, or (b) appointed to
30 office pursuant to statute, ordinance or resolution for a specified
31 term of office as a member of a multimember board, commission, or
32 committee, whether appointed by the executive head or body of the
33 public employer, or (c) whose duties as deputy, administrative
34 assistant or secretary necessarily imply a confidential relationship
35 to (i) the executive head or body of the applicable bargaining unit,
36 or (ii) any person elected by popular vote, or (iii) any person
37 appointed to office pursuant to statute, ordinance or resolution for
38 a specified term of office as a member of a multimember board,
39 commission, or committee, whether appointed by the executive head or
40 body of the public employer, or (d) who is a court commissioner or a

1 court magistrate of superior court, district court, or a department
2 of a district court organized under chapter 3.46 RCW, or (e) who is a
3 personal assistant to a district court judge, superior court judge,
4 or court commissioner. For the purpose of (e) of this subsection, no
5 more than one assistant for each judge or commissioner may be
6 excluded from a bargaining unit.

7 (12) "Public employer" means any officer, board, commission,
8 council, or other person or body acting on behalf of any public body
9 governed by this chapter, or any subdivision of such public body. For
10 the purposes of this section, the public employer of district court
11 or superior court employees for wage-related matters is the
12 respective county legislative authority, or person or body acting on
13 behalf of the legislative authority, and the public employer for
14 nonwage-related matters is the judge or judge's designee of the
15 respective district court or superior court.

16 (13) "Uniformed personnel" means: (a) Law enforcement officers as
17 defined in RCW 41.26.030 employed by the governing body of any city
18 or town with a population of two thousand five hundred or more and
19 law enforcement officers employed by the governing body of any county
20 with a population of ten thousand or more; (b) correctional employees
21 who are uniformed and nonuniformed, commissioned and noncommissioned
22 security personnel employed in a jail as defined in RCW 70.48.020(9),
23 by a county with a population of seventy thousand or more, in a
24 correctional facility created under RCW 70.48.095, or in a detention
25 facility created under chapter 13.40 RCW that is located in a county
26 with a population over one million five hundred thousand, and who are
27 trained for and charged with the responsibility of controlling and
28 maintaining custody of inmates in the jail and safeguarding inmates
29 from other inmates; (c) general authority Washington peace officers
30 as defined in RCW 10.93.020 employed by a port district in a county
31 with a population of one million or more; (d) security forces
32 established under RCW 43.52.520; (e) firefighters as that term is
33 defined in RCW 41.26.030; (f) employees of a port district in a
34 county with a population of one million or more whose duties include
35 crash fire rescue or other firefighting duties; (g) employees of fire
36 departments of public employers who dispatch exclusively either fire
37 or emergency medical services, or both; (h) employees in the several
38 classes of advanced life support technicians, as defined in RCW
39 18.71.200, who are employed by a public employer; or (i) court
40 marshals of any county who are employed by, trained for, and

1 commissioned by the county sheriff and charged with the
2 responsibility of enforcing laws, protecting and maintaining security
3 in all county-owned or contracted property, and performing any other
4 duties assigned to them by the county sheriff or mandated by judicial
5 order.

6 (14) "Fish and wildlife officer" means a fish and wildlife
7 officer as defined in RCW 77.08.010 who ranks below lieutenant and
8 includes officers, detectives, and sergeants of the department of
9 fish and wildlife.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.56
11 RCW to read as follows:

12 (1) In addition to the entities listed in RCW 41.56.020, this
13 chapter applies to the state with respect to fish and wildlife
14 officers except the state may not negotiate any matters relating to
15 retirement benefits or health care benefits or other employee
16 insurance benefits.

17 (2) For the purposes of negotiating wages, wage-related matters,
18 and nonwage matters, the state shall be represented by the governor
19 or the governor's designee who is appointed under RCW 41.80.010, and
20 costs of the negotiations under this section shall be reimbursed as
21 provided in RCW 41.80.140.

22 (3) Fish and wildlife officers shall be excluded from the
23 coalition bargaining for a master agreement of all exclusive
24 bargaining representatives of fewer than five hundred employees under
25 chapter 41.80 RCW.

26 (4) The governor or the governor's designee shall consult with
27 the director of fish and wildlife regarding collective bargaining.

28 (5) The negotiation of provisions pertaining to wages and wage-
29 related matters in a collective bargaining agreement between the
30 state and the bargaining representatives of the fish and wildlife
31 officers is subject to the following:

32 (a) The state's bargaining representative must periodically
33 consult with the committee of the joint committee on employment
34 relations created in RCW 41.80.007 or any such successor committee
35 for the joint committee on employment relations; and

36 (b) Provisions that are entered into before the legislature
37 approves the funds necessary to implement the provisions are
38 conditioned upon the legislature's subsequent approval of the funds.

1 (6) The governor shall submit a request for funds necessary to
2 implement the wage and wage-related matters in the collective
3 bargaining agreement or for legislation necessary to implement the
4 agreement. Requests for funds necessary to implement the provisions
5 of bargaining agreements may not be submitted to the legislature by
6 the governor unless such requests:

7 (a) Have been submitted to the director of financial management
8 by October 1st before the legislative session at which the requests
9 are to be considered; and

10 (b) Have been certified by the director of financial management
11 as being feasible financially for the state or reflects the decision
12 of an arbitration panel reached under RCW 41.56.475.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.56
14 RCW to read as follows:

15 In addition to the classes of employees listed in RCW
16 41.56.030(13), the provisions of RCW 41.56.430, 41.56.440, 41.56.450,
17 41.56.452, 41.56.470, 41.56.480, and 41.56.490 also apply to fish and
18 wildlife officers as provided in this section. If more than one
19 exclusive bargaining unit represents uniformed personnel who are fish
20 and wildlife officers, they may choose to enter into separate
21 bargaining with the employer or agree to conduct bargaining with the
22 employer as one coalition of all the exclusive bargaining
23 representatives. If more than one bargaining unit chooses to advance
24 to interest arbitration, it shall be conducted as coalition. However,
25 one exclusive bargaining representative may singly choose to exercise
26 its right to engage in interest arbitration even if other exclusive
27 bargaining representatives who have chosen to enter into separate
28 bargaining have elected not to take that step. Any exclusive
29 bargaining representative of uniformed personnel who are fish and
30 wildlife officers choosing interest arbitration is subject to the
31 following:

32 (1) Within ten working days after the first Monday in September
33 of every odd-numbered year, the state's bargaining representative and
34 the bargaining representative for the appropriate bargaining unit(s)
35 as a coalition, shall attempt to agree on an interest arbitration
36 panel consisting of three members to be used if the parties are not
37 successful in negotiating a comprehensive collective bargaining
38 agreement. Each party shall name one person to serve as its
39 arbitrator on the arbitration panel. The two members so appointed

1 shall meet within seven days following the appointment of the later
2 appointed member to attempt to choose a third member to act as the
3 neutral chair of the arbitration panel. Upon the failure of the
4 arbitrators to select a neutral chair within seven days, the two
5 appointed members shall use one of the two following options in the
6 appointment of the third member, who shall act as chair of the panel:
7 (a) By mutual consent, the two appointed members may jointly request
8 the commission to, and the commission shall, appoint a third member
9 within two days of such a request. Costs of each party's appointee
10 shall be borne by each party respectively; other costs of the
11 arbitration proceedings shall be borne by the commission; or (b)
12 either party may apply to the commission, the federal mediation and
13 conciliation service, or the American arbitration association to
14 provide a list of five qualified arbitrators from which the neutral
15 chair shall be chosen. Each party shall pay the fees and expenses of
16 its arbitrator, and the fees and expenses of the neutral chair shall
17 be shared equally between the parties. Immediately upon selecting an
18 interest arbitration panel, the parties shall cooperate to reserve
19 dates with the arbitration panel for potential arbitration between
20 August 1st and September 15th of the following even-numbered year.
21 The parties shall also prepare a schedule of at least five
22 negotiation dates for the following year, absent an agreement to the
23 contrary. The parties shall execute a written agreement before
24 November 1st of each odd-numbered year setting forth the names of the
25 members of the arbitration panel and the dates reserved for
26 bargaining and arbitration. This subsection imposes minimum
27 obligations only and is not intended to define or limit a party's
28 full, good faith bargaining obligation under other sections of this
29 chapter.

30 (2) The mediator or arbitration panel may consider only matters
31 that are subject to bargaining under RCW 41.80.020.

32 (3) The decision of an arbitration panel is not binding on the
33 legislature and, if the legislature does not approve the funds
34 necessary to implement provisions pertaining to wages and wage-
35 related matters of an arbitrated collective bargaining agreement, is
36 not binding on the state or the representatives of the department of
37 fish and wildlife.

38 (4) In making its determination, the arbitration panel shall be
39 mindful of the legislative purpose enumerated in RCW 41.56.430 and,

1 as additional standards or guidelines to aid it in reaching a
2 decision, shall take into consideration the following factors:

3 (a) The constitutional and statutory authority of the employer;

4 (b) Stipulations of the parties;

5 (c) Comparison of the hours and conditions of employment of
6 personnel involved in the proceedings with the hours and conditions
7 of employment of like personnel of like employers of similar size in
8 the state of Washington;

9 (d) Changes in any of the foregoing circumstances during the
10 pendency of the proceedings; and

11 (e) Such other factors, not confined to the foregoing, which are
12 normally or traditionally taken into consideration in the
13 determination of matters that are subject to bargaining under RCW
14 41.56.473."

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15 On page 1, line 1 of the title, after "Relating to" strike the
16 remainder of the title and insert "collective bargaining by fish and
17 wildlife officers; amending RCW 41.56.030; and adding new sections to
18 chapter 41.56 RCW."

EFFECT: Removes the underlying provisions of the bill. Provides that fish and wildlife officers who rank below lieutenant would bargain under the public employees' collective bargaining act rather than the personnel system reform act. Among other changes this would provide fish and wildlife officers with interest arbitration as an impasse procedure.

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