

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5481

Chapter 298, Laws of 2020

66th Legislature
2020 Regular Session

FISH AND WILDLIFE OFFICERS--COLLECTIVE BARGAINING

EFFECTIVE DATE: June 11, 2020

Passed by the Senate February 17,
2020

Yeas 48 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House March 5, 2020

Yeas 87 Nays 10

LURIE JINKINS

**Speaker of the House of
Representatives**

Approved April 2, 2020 2:45 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5481** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

April 3, 2020

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5481

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By Senate Ways & Means (originally sponsored by Senators Warnick, Sheldon, Short, Van De Wege, Honeyford, Wagoner, Fortunato, and Holy)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to collective bargaining by fish and wildlife
2 officers; amending RCW 41.56.030; and adding new sections to chapter
3 41.56 RCW.

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

5 **Sec. 1.** RCW 41.56.030 and 2019 c 280 s 1 are each amended to
6 read as follows:

7 As used in this chapter:

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

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

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

17 (4) "Collective bargaining" means the performance of the mutual
18 obligations of the public employer and the exclusive bargaining
19 representative to meet at reasonable times, to confer and negotiate
20 in good faith, and to execute a written agreement with respect to
21 grievance procedures and collective negotiations on personnel

1 matters, including wages, hours and working conditions, which may be
2 peculiar to an appropriate bargaining unit of such public employer,
3 except that by such obligation neither party shall be compelled to
4 agree to a proposal or be required to make a concession unless
5 otherwise provided in this chapter.

6 (5) "Commission" means the public employment relations
7 commission.

8 (6) "Executive director" means the executive director of the
9 commission.

10 (7) "Family child care provider" means a person who: (a) Provides
11 regularly scheduled care for a child or children in the home of the
12 provider or in the home of the child or children for periods of less
13 than twenty-four hours or, if necessary due to the nature of the
14 parent's work, for periods equal to or greater than twenty-four
15 hours; (b) receives child care subsidies; and (c) under chapter
16 43.216 RCW, is either licensed by the state or is exempt from
17 licensing.

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

21 (9) "Institution of higher education" means the University of
22 Washington, Washington State University, Central Washington
23 University, Eastern Washington University, Western Washington
24 University, The Evergreen State College, and the various state
25 community colleges.

26 (10)(a) "Language access provider" means any independent
27 contractor who provides spoken language interpreter services, whether
28 paid by a broker, language access agency, or the respective
29 department:

30 (i) For department of social and health services appointments,
31 department of children, youth, and families appointments, medicaid
32 enrollee appointments, or who provided these services on or after
33 January 1, 2011, and before June 10, 2012;

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

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

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

1 (11) "Public employee" means any employee of a public employer
2 except any person (a) elected by popular vote, or (b) appointed to
3 office pursuant to statute, ordinance or resolution for a specified
4 term of office as a member of a multimember board, commission, or
5 committee, whether appointed by the executive head or body of the
6 public employer, or (c) whose duties as deputy, administrative
7 assistant or secretary necessarily imply a confidential relationship
8 to (i) the executive head or body of the applicable bargaining unit,
9 or (ii) any person elected by popular vote, or (iii) any person
10 appointed to office pursuant to statute, ordinance or resolution for
11 a specified term of office as a member of a multimember board,
12 commission, or committee, whether appointed by the executive head or
13 body of the public employer, or (d) who is a court commissioner or a
14 court magistrate of superior court, district court, or a department
15 of a district court organized under chapter 3.46 RCW, or (e) who is a
16 personal assistant to a district court judge, superior court judge,
17 or court commissioner. For the purpose of (e) of this subsection, no
18 more than one assistant for each judge or commissioner may be
19 excluded from a bargaining unit.

20 (12) "Public employer" means any officer, board, commission,
21 council, or other person or body acting on behalf of any public body
22 governed by this chapter, or any subdivision of such public body. For
23 the purposes of this section, the public employer of district court
24 or superior court employees for wage-related matters is the
25 respective county legislative authority, or person or body acting on
26 behalf of the legislative authority, and the public employer for
27 nonwage-related matters is the judge or judge's designee of the
28 respective district court or superior court.

29 (13) "Uniformed personnel" means: (a) Law enforcement officers as
30 defined in RCW 41.26.030 employed by the governing body of any city
31 or town with a population of two thousand five hundred or more and
32 law enforcement officers employed by the governing body of any county
33 with a population of ten thousand or more; (b) correctional employees
34 who are uniformed and nonuniformed, commissioned and noncommissioned
35 security personnel employed in a jail as defined in RCW 70.48.020(9),
36 by a county with a population of seventy thousand or more, in a
37 correctional facility created under RCW 70.48.095, or in a detention
38 facility created under chapter 13.40 RCW that is located in a county
39 with a population over one million five hundred thousand, and who are
40 trained for and charged with the responsibility of controlling and

1 maintaining custody of inmates in the jail and safeguarding inmates
2 from other inmates; (c) general authority Washington peace officers
3 as defined in RCW 10.93.020 employed by a port district in a county
4 with a population of one million or more; (d) security forces
5 established under RCW 43.52.520; (e) firefighters as that term is
6 defined in RCW 41.26.030; (f) employees of a port district in a
7 county with a population of one million or more whose duties include
8 crash fire rescue or other firefighting duties; (g) employees of fire
9 departments of public employers who dispatch exclusively either fire
10 or emergency medical services, or both; (h) employees in the several
11 classes of advanced life support technicians, as defined in RCW
12 18.71.200, who are employed by a public employer; or (i) court
13 marshals of any county who are employed by, trained for, and
14 commissioned by the county sheriff and charged with the
15 responsibility of enforcing laws, protecting and maintaining security
16 in all county-owned or contracted property, and performing any other
17 duties assigned to them by the county sheriff or mandated by judicial
18 order.

19 (14) "Fish and wildlife officer" means a fish and wildlife
20 officer as defined in RCW 77.08.010 who ranks below lieutenant and
21 includes officers, detectives, and sergeants of the department of
22 fish and wildlife.

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

25 (1) In addition to the entities listed in RCW 41.56.020, this
26 chapter applies to the state with respect to fish and wildlife
27 officers except the state may not negotiate any matters relating to
28 retirement benefits or health care benefits or other employee
29 insurance benefits.

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

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

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

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

7 (a) The state's bargaining representative must periodically
8 consult with the committee of the joint committee on employment
9 relations created in RCW 41.80.007 or any such successor committee
10 for the joint committee on employment relations; and

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

14 (6) The governor shall submit a request for funds necessary to
15 implement the wage and wage-related matters in the collective
16 bargaining agreement or for legislation necessary to implement the
17 agreement. Requests for funds necessary to implement the provisions
18 of bargaining agreements may not be submitted to the legislature by
19 the governor unless such requests:

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

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

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

28 In addition to the classes of employees listed in RCW
29 41.56.030(13), the provisions of RCW 41.56.430, 41.56.440, 41.56.450,
30 41.56.452, 41.56.470, 41.56.480, and 41.56.490 also apply to fish and
31 wildlife officers as provided in this section. If more than one
32 exclusive bargaining unit represents uniformed personnel who are fish
33 and wildlife officers, they may choose to enter into separate
34 bargaining with the employer or agree to conduct bargaining with the
35 employer as one coalition of all the exclusive bargaining
36 representatives. If more than one bargaining unit chooses to advance
37 to interest arbitration, it shall be conducted as coalition. However,
38 one exclusive bargaining representative may singly choose to exercise
39 its right to engage in interest arbitration even if other exclusive

1 bargaining representatives who have chosen to enter into separate
2 bargaining have elected not to take that step. Any exclusive
3 bargaining representative of uniformed personnel who are fish and
4 wildlife officers choosing interest arbitration is subject to the
5 following:

6 (1) Within ten working days after the first Monday in September
7 of every odd-numbered year, the state's bargaining representative and
8 the bargaining representative for the appropriate bargaining unit(s)
9 as a coalition, shall attempt to agree on an interest arbitration
10 panel consisting of three members to be used if the parties are not
11 successful in negotiating a comprehensive collective bargaining
12 agreement. Each party shall name one person to serve as its
13 arbitrator on the arbitration panel. The two members so appointed
14 shall meet within seven days following the appointment of the later
15 appointed member to attempt to choose a third member to act as the
16 neutral chair of the arbitration panel. Upon the failure of the
17 arbitrators to select a neutral chair within seven days, the two
18 appointed members shall use one of the two following options in the
19 appointment of the third member, who shall act as chair of the panel:
20 (a) By mutual consent, the two appointed members may jointly request
21 the commission to, and the commission shall, appoint a third member
22 within two days of such a request. Costs of each party's appointee
23 shall be borne by each party respectively; other costs of the
24 arbitration proceedings shall be borne by the commission; or (b)
25 either party may apply to the commission, the federal mediation and
26 conciliation service, or the American arbitration association to
27 provide a list of five qualified arbitrators from which the neutral
28 chair shall be chosen. Each party shall pay the fees and expenses of
29 its arbitrator, and the fees and expenses of the neutral chair shall
30 be shared equally between the parties. Immediately upon selecting an
31 interest arbitration panel, the parties shall cooperate to reserve
32 dates with the arbitration panel for potential arbitration between
33 August 1st and September 15th of the following even-numbered year.
34 The parties shall also prepare a schedule of at least five
35 negotiation dates for the following year, absent an agreement to the
36 contrary. The parties shall execute a written agreement before
37 November 1st of each odd-numbered year setting forth the names of the
38 members of the arbitration panel and the dates reserved for
39 bargaining and arbitration. This subsection imposes minimum
40 obligations only and is not intended to define or limit a party's

1 full, good faith bargaining obligation under other sections of this
2 chapter.

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

5 (3) The decision of an arbitration panel is not binding on the
6 legislature and, if the legislature does not approve the funds
7 necessary to implement provisions pertaining to wages and wage-
8 related matters of an arbitrated collective bargaining agreement, is
9 not binding on the state or the representatives of the department of
10 fish and wildlife.

11 (4) In making its determination, the arbitration panel shall be
12 mindful of the legislative purpose enumerated in RCW 41.56.430 and,
13 as additional standards or guidelines to aid it in reaching a
14 decision, shall take into consideration the following factors:

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

16 (b) Stipulations of the parties;

17 (c) Comparison of the hours and conditions of employment of
18 personnel involved in the proceedings with the hours and conditions
19 of employment of like personnel of like employers of similar size in
20 the state of Washington;

21 (d) Changes in any of the foregoing circumstances during the
22 pendency of the proceedings; and

23 (e) Such other factors, not confined to the foregoing, which are
24 normally or traditionally taken into consideration in the
25 determination of matters that are subject to bargaining under RCW
26 41.56.473.

Passed by the Senate February 17, 2020.

Passed by the House March 5, 2020.

Approved by the Governor April 2, 2020.

Filed in Office of Secretary of State April 3, 2020.

--- END ---