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**SUBSTITUTE HOUSE BILL 1764**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Sells, Berry, Bateman, Bronoske, Macri, Simmons, Slatter, Pollet, Ormsby, Frame, and Harris-Talley)

AN ACT Relating to collective bargaining for resident and fellow physicians employed by certain institutions of higher education; amending RCW 41.56.513; adding new sections to chapter 41.56 RCW; and creating a new section.

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

**Sec.**  RCW 41.56.513 and 2012 c 255 s 1 are each amended to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to ((~~postdoctoral~~)):

(1) Postdoctoral and clinical employees as excluded in chapter 41.76 RCW at the University of Washington and at Washington State University; and

(2) The resident and fellow physicians at medical schools operated by institutions of higher education.

NEW SECTION. **Sec.**  (1) It is the intent and purpose of section 3 of this act to recognize that:

(a) There exists a public policy in the state of Washington against strikes by resident and fellow physicians employed by medical schools operated by institutions of higher education as a means of settling labor disputes;

(b) The uninterrupted and dedicated service of the resident and fellow physicians is vital to the health and welfare of the state and citizens of the state; and

(c) A medical school operated by an institution of higher education has an intention to recruit and retain resident and fellow physicians from racially and socioeconomically diverse backgrounds, for the long-term goal of ensuring equitable representation of providers in all communities of the county.

(2) Therefore, to promote uninterrupted performance of medical services offered by medical schools operated by institutions of higher education, there should exist an effective and adequate alternative means of settling disputes.

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

(1) This section applies only to the resident and fellow physicians employed by medical schools operated by institutions of higher education who have the right to collective bargaining pursuant to RCW 41.56.513.

(2) The provisions of RCW 41.56.440 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 apply to resident and fellow physicians of medical schools operated by institutions of higher education, subject to the provisions of this section.

(3) Within 10 working days after the first Monday in September of every odd-numbered year, the bargaining representative for the institution of higher education and the bargaining representative for the appropriate bargaining unit shall attempt to agree on an interest arbitration panel consisting of three members to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. Each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chair of the panel: (a) By mutual consent, the two appointed members may jointly request the commission to, and the commission shall, appoint a third member within two days of such a request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (b) either party may apply to the commission, the federal mediation and conciliation service, or the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties. Immediately upon selecting an interest arbitration panel, the parties shall cooperate to reserve dates with the arbitration panel for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the names of the members of the arbitration panel and the dates reserved for bargaining and arbitration. This subsection imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(4) The arbitration panel may consider only matters that are subject to bargaining under this chapter. The arbitration panel may not consider those subjects listed under RCW 41.80.040.

(5)(a) The decision of the arbitration panel is not binding on the legislature and funds necessary to implement provisions pertaining to wages, wage-related matters, salaries, stipends, and fringe benefits of an arbitrated collective bargaining agreement must come from the institution of higher education's existing resources. The institution of higher education may not increase general fund state appropriations to fund increases in compensation or fringe benefits based on an arbitration award. If compensation and fringe benefit increases are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources, including from general fund state, is not provided.

(b) In the event the institution of higher education receives state appropriations to support the operation of the medical school and associated facilities, a request for funds necessary to support the compensation and fringe benefit provisions of a collective bargaining agreement or arbitration award under this section must be submitted to the legislature consistent with procedures in RCW 41.80.010.

(6) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in section 2 of this act. As additional standards or guidelines to aid the arbitration panel in reaching a decision, the arbitration panel shall take into consideration the following factors:

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

(b) Stipulations of the parties;

(c) The financial ability of the institution of higher education to pay for the compensation and benefit provisions of a collective bargaining agreement;

(d) Comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of personnel of public hospital residency programs of similar size on the west coast of the United States;

(e) The intention of recruiting and retaining resident and fellow physicians from racially and socioeconomically diverse backgrounds, for the long-term goal of ensuring equitable representation of providers in all communities of the county;

(f) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(g) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining.

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

(1) This section applies only to the resident and fellow physicians employed by institutions of higher education who have the right to collective bargaining pursuant to RCW 41.56.513.

(2) For the purpose of providing uninterrupted medical services to patients of the medical school and associated facilities, negotiations for a collective bargaining agreement between the parties must occur on dates and at times, such as weekends and evenings, that least conflict with the working hours of the bargaining representatives who are resident and fellow physicians.

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