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**SENATE BILL 5436**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Billig, Nguyen, and Nobles

AN ACT Relating to collective bargaining over the content of reports by ombuds and the selection of ombuds and their staff who oversee law enforcement personnel; and amending RCW 41.56.100.

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

**Sec.**  RCW 41.56.100 and 2010 c 235 s 801 are each amended to read as follows:

(1) A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative. However, a public employer is not required to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution, or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure, and authority to the board created by chapter 41.06 RCW.

(2) Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. This subsection does not apply to negotiations and mediations conducted between a school district employer and an exclusive bargaining representative under RCW 28A.657.050.

(3) If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

(4)(a) The following are not mandatory subjects of bargaining:

(i) Matters relating to the contents of reports by an ombuds employed by a municipality or county to be published after a discipline process is complete under a collective bargaining agreement covering law enforcement personnel; and

(ii) A local government's selection process for an ombuds and their staff, if the ombuds and staff are exempt from collective bargaining and have, as their primary duties, oversight of law enforcement personnel.

(b) Nothing in (a) of this subsection (4) prohibits or restricts bargaining over whether, or to what extent, the reports published by an ombuds employed by a municipality or county may be used in the disciplinary process for law enforcement personnel.

(c)(i) For the purposes of this subsection (4), "law enforcement personnel" means any individual employed, hired, or otherwise commissioned to enforce criminal laws by any municipal or county agency or department, or combination thereof, that has, as its primary function, the enforcement of criminal laws in general, rather than the implementation or enforcement of laws related to specialized subject matter areas.

(ii) "Law enforcement personnel" does not include any individual hired as an attorney to prosecute or litigate state or local criminal laws or ordinances, nor any civilian individuals hired to do administrative work.

(iii) For the purposes of this subsection (4)(c), "primary function" means that function to which the greater allocation of resources is made.

(5)(a) Any provision in a collective bargaining agreement in effect on the effective date of this section that relates to the contents of reports in subsection (4)(a)(i) of this section or a local government's selection process for an ombuds and their staff covered under subsection (4)(a)(ii) of this section is null and void.

(b) Subsection (5)(a) of this section does not nullify a provision in a collective bargaining agreement that addresses whether the reports published by an ombuds employed by a municipality or county may be used in the disciplinary process for law enforcement personnel.

(c) Subsection (5)(a) of this section does not apply to any provision of a collective bargaining agreement negotiated pursuant to this section after the effective date of this section.

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