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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

Read first time 02/08/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

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

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

5 **Sec. 1.** RCW 41.56.100 and 2010 c 235 s 801 are each amended to  
6 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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