

ESHB 1622 - S COMM AMD

By Committee on Labor & Commerce

NOT CONSIDERED 04/27/2025

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

3 "Sec. 1. RCW 41.56.021 and 2007 c 136 s 1 are each amended to
4 read as follows:

5 (1) In addition to the entities listed in RCW 41.56.020, this
6 chapter applies to employees of institutions of higher education who
7 are exempted from civil service pursuant to RCW 41.06.070(2), with
8 the following exceptions:

9 (a) Executive employees, including all members of the governing
10 board of each institution of higher education and related boards; all
11 presidents and vice presidents; deans, directors, and chairs; and
12 executive heads of major administrative or academic divisions;

13 (b) Managers who perform any of the following functions:

14 (i) Formulate, develop, or establish institutional policy, or
15 direct the work of an administrative unit;

16 (ii) Manage, administer, and control a program, including its
17 physical, financial, or personnel resources;

18 (iii) Have substantial responsibility for human resources
19 administration, legislative relations, public information, internal
20 audits and investigations, or the preparation and administration of
21 budgets;

22 (iv) Functionally is above the first level of supervision and
23 exercises authority that is not merely routine or clerical in nature
24 and requires the consistent use of independent judgment;

25 (c) Employees who, in the regular course of their duties, act as
26 a principal assistant, administrative assistant, or personal
27 assistant to employees as defined by (a) of this subsection;

28 (d) Confidential employees;

29 (e) Employees who assist assistant attorneys general who advise
30 and represent managers or confidential employees in personnel or
31 labor relations matters, or who advise or represent the state in tort
32 actions.

1 (2) Employees subject to this section shall not be included in
2 any unit of employees certified under RCW 41.56.022, 41.56.024, or
3 41.56.203, chapter 41.76 RCW, or chapter 41.80 RCW. Employees whose
4 eligibility for collective bargaining is covered by chapter 28B.52,
5 41.76, or 41.80 RCW are exempt from the provisions of this chapter.

6 (3) Institutions of higher education and the exclusive bargaining
7 representatives shall not agree to any proposal that would prevent
8 the implementation of approved affirmative action plans or that would
9 be inconsistent with the comparable worth agreement that provided the
10 basis for the salary changes implemented beginning with the 1983-1985
11 biennium to achieve comparable worth.

12 (4) Institutions of higher education and the exclusive bargaining
13 representative shall not bargain over rights of management that, in
14 addition to all powers, duties, and rights established by
15 constitutional provision or statute, shall include but not be limited
16 to the following:

17 (a) The functions and programs of the institution(~~(, the)~~);

18 (b) The use of technology(~~(, and the)~~), except as provided in
19 section 5 of this act;

20 (c) The structure of the organization;

21 ~~((b))~~ (d) The institution's budget and the size of its
22 workforce, including determining the financial basis for layoffs;

23 ~~((e))~~ (e) The right to direct and supervise employees;

24 ~~((d))~~ (f) The right to take whatever actions are deemed
25 necessary to carry out the mission of the state and the institutions
26 of higher education during emergencies;

27 ~~((e))~~ (g) Retirement plans and retirement benefits; or

28 ~~((f))~~ (h) Health care benefits or other employee insurance
29 benefits, except as provided in RCW 41.80.020.

30 **Sec. 2.** RCW 41.80.005 and 2023 c 136 s 2 are each amended to
31 read as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

34 (1) "Agency" means any agency as defined in RCW 41.06.020 and
35 covered by chapter 41.06 RCW. "Agency" also includes the assistant
36 attorneys general of the attorney general's office and the
37 administrative law judges of the office of administrative hearings,
38 regardless of whether those employees are exempt under chapter 41.06
39 RCW. "Agency" does not include a comprehensive cancer center

1 participating in a collaborative arrangement as defined in RCW
2 28B.10.930 that is operated in conformance with RCW 28B.10.930.

3 (2)(a) "Artificial intelligence" means the use of machine
4 learning and related technologies that use data to train statistical
5 models for the purpose of enabling computer systems to perform tasks
6 normally associated with human intelligence or perception, such as
7 computer vision, speech or natural language processing, translation,
8 decision making, and content generation.

9 (b) For purposes of this subsection, "machine learning" means the
10 process by which artificial intelligence is developed using data and
11 algorithms to draw inferences thereupon to automatically adapt or
12 improve its accuracy without explicit programming.

13 (3) "Collective bargaining" means the performance of the mutual
14 obligation of the representatives of the employer and the exclusive
15 bargaining representative to meet at reasonable times and to bargain
16 in good faith in an effort to reach agreement with respect to the
17 subjects of bargaining specified under RCW 41.80.020. The obligation
18 to bargain does not compel either party to agree to a proposal or to
19 make a concession, except as otherwise provided in this chapter.

20 ~~((3))~~ (4) "Commission" means the public employment relations
21 commission.

22 ~~((4))~~ (5) "Confidential employee" means an employee who, in the
23 regular course of his or her duties, assists in a confidential
24 capacity persons who formulate, determine, and effectuate management
25 policies with regard to labor relations or who, in the regular course
26 of his or her duties, has authorized access to information relating
27 to the effectuation or review of the employer's collective bargaining
28 policies, or who assists or aids a manager. "Confidential employee"
29 also includes employees who assist assistant attorneys general who
30 advise and represent managers or confidential employees in personnel
31 or labor relations matters.

32 ~~((5))~~ (6) "Director" means the director of the public
33 employment relations commission.

34 ~~((6))~~ (7) "Employee" means any employee, including employees
35 whose work has ceased in connection with the pursuit of lawful
36 activities protected by this chapter, covered by chapter 41.06 RCW.
37 "Employee" includes assistant attorneys general of the office of the
38 attorney general and administrative law judges of the office of
39 administrative hearings, regardless of their exemption under chapter
40 41.06 RCW. "Employee" does not include:

1 (a) Employees covered for collective bargaining by chapter 41.56
2 RCW;

3 (b) Confidential employees;

4 (c) Members of the Washington management service excluded from
5 collective bargaining under RCW 41.80.430;

6 (d) Internal auditors in any agency; or

7 (e) Any employee of the commission, the office of financial
8 management, or the office of risk management within the department of
9 enterprise services.

10 ~~((7))~~ (8) "Employee organization" means any organization,
11 union, or association in which employees participate and that exists
12 for the purpose, in whole or in part, of collective bargaining with
13 employers.

14 ~~((8))~~ (9) "Employer" means the state of Washington.

15 ~~((9))~~ (10) "Exclusive bargaining representative" means any
16 employee organization that has been certified under this chapter as
17 the representative of the employees in an appropriate bargaining
18 unit.

19 ~~((10))~~ (11) "Institutions of higher education" means the
20 University of Washington, Washington State University, Central
21 Washington University, Eastern Washington University, Western
22 Washington University, The Evergreen State College, and the various
23 state community colleges.

24 ~~((11))~~ (12) "Labor dispute" means any controversy concerning
25 terms, tenure, or conditions of employment, or concerning the
26 association or representation of persons in negotiating, fixing,
27 maintaining, changing, or seeking to arrange terms or conditions of
28 employment with respect to the subjects of bargaining provided in
29 this chapter, regardless of whether the disputants stand in the
30 proximate relation of employer and employee.

31 ~~((12))~~ (13) "Manager" means "manager" as defined in RCW
32 41.06.022.

33 ~~((13))~~ (14) "Supervisor" means an employee who has authority,
34 in the interest of the employer, to hire, transfer, suspend, lay off,
35 recall, promote, discharge, direct, reward, or discipline employees,
36 or to adjust employee grievances, or effectively to recommend such
37 action, if the exercise of the authority is not of a merely routine
38 nature but requires the consistent exercise of individual judgment.

39 ~~((14))~~ (15) "Unfair labor practice" means any unfair labor
40 practice listed in RCW 41.80.110.

1 (~~(15)~~) (16) "Uniformed personnel" means duly sworn police
2 officers employed as members of a police force established pursuant
3 to RCW 28B.10.550.

4 **Sec. 3.** RCW 41.80.040 and 2020 c 357 s 913 are each amended to
5 read as follows:

6 The employer shall not bargain over rights of management which,
7 in addition to all powers, duties, and rights established by
8 constitutional provision or statute, shall include but not be limited
9 to the following:

- 10 (1) The functions and programs of the employer(~~(, the)~~);
11 (2) The use of technology(~~(, and the)~~), except as provided in
12 section 6 of this act;
13 (3) The structure of the organization;
14 (~~(2)~~) (4) The employer's budget, which includes for purposes of
15 any negotiations conducted during the 2019-2021 fiscal biennium any
16 specification of the funds or accounts that must be appropriated by
17 the legislature to fulfill the terms of an agreement, and the size of
18 the agency workforce, including determining the financial basis for
19 layoffs;
20 (~~(3)~~) (5) The right to direct and supervise employees;
21 (~~(4)~~) (6) The right to take whatever actions are deemed
22 necessary to carry out the mission of the state and its agencies
23 during emergencies; and
24 (~~(5)~~) (7) Retirement plans and retirement benefits.

25 **Sec. 4.** RCW 41.80.430 and 2023 c 136 s 3 are each amended to
26 read as follows:

27 (1)(a) Washington management service members who are not
28 otherwise excluded from bargaining under (b) of this subsection are
29 granted the right to collectively bargain.

30 (b) The following Washington management service members are
31 excluded from bargaining:

- 32 (i) Employees in positions within Washington management salary
33 band 3, salary band 4, and medical band, as defined by the office of
34 financial management;
35 (ii) Human resource managers;
36 (iii) Budget managers;
37 (iv) Risk and litigation managers;

1 (v) Employees in positions whose official primary duties include
2 conducting employee-related investigations including, but not limited
3 to, a possible unfair practice under chapter 49.60 RCW, a possible
4 violation of other federal, state, or local laws or an employing
5 agency's internal policies, and employee misconduct or performance;

6 (vi) Employees in positions that report directly to an assistant
7 secretary, deputy secretary, agency director, or equivalent, of an
8 agency; and

9 (vii) Employees in positions excluded under RCW 41.80.005(~~(+6)~~)
10 (7).

11 (c) Bargaining over wages will be limited to Washington
12 management service salary band levels, not individual Washington
13 management service classifications or positions.

14 (2)(a) Except as provided in (b) of this subsection, the only
15 units that may be designated for the purpose of collective bargaining
16 under this chapter are a supervisory or nonsupervisory unit, as
17 determined by the commission, of all salary band 1 and salary band 2
18 Washington management service members within an agency that are not
19 otherwise excluded from bargaining under this section.

20 (b) Subject to the public employment relations commission's
21 review and to avoid excessive fragmentation, more than two bargaining
22 units that otherwise meet the parameters in (a) of this subsection
23 may be designated within a major administrative division of the
24 following agencies: The department of corrections, the department of
25 social and health services, the department of children, youth, and
26 families, the department of transportation, the department of health,
27 the state health care authority, the department of natural resources,
28 the department of enterprise services, the department of ecology, the
29 employment security department, and the department of fish and
30 wildlife.

31 (3) The governor or the governor's designee and an exclusive
32 bargaining representative shall negotiate for eligible Washington
33 management service members within the bargaining agreements under RCW
34 41.80.010(2)(a)(i).

35 (4) No collective bargaining agreement entered into under this
36 section with an exclusive bargaining representative of members of the
37 Washington management service may take effect prior to July 1, 2025.

38 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.56
39 RCW to read as follows:

1 (1) (a) An employer shall bargain over the decision to adopt
2 artificial intelligence technology or modify the current uses of
3 artificial intelligence technology if the adoption or modification
4 affects employees' wages or performance evaluations.

5 (b) The requirement in (a) of this subsection does not apply to
6 the implementation or modification of artificial intelligence
7 technology if the implementation or modification is part of an update
8 made by a third party to technology already in use by employees and
9 does not meaningfully impact employee's wages or performance
10 evaluations.

11 (2) For the purposes of this section:

12 (a) "Artificial intelligence" has the same meaning as defined in
13 RCW 41.80.005;

14 (b) "Third party" means an individual or entity that provides
15 services such as technology services, digital services, equipment, or
16 software, but does not have an employment or a coemployment
17 relationship with the employer.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.80
19 RCW to read as follows:

20 (1) (a) An employer shall bargain over the decision to adopt
21 artificial intelligence technology or modify the current uses of
22 artificial intelligence technology if the adoption or modification
23 affects employees' wages or performance evaluations.

24 (b) The requirement in (a) of this subsection does not apply to
25 the implementation or modification of artificial intelligence
26 technology if the implementation or modification is part of an update
27 made by a third party to technology already in use by employees and
28 does not meaningfully impact employee's wages or performance
29 evaluations.

30 (2) For the purposes of this section, "third party" means an
31 individual or entity that provides services such as technology
32 services, digital services, equipment, or software, but does not have
33 an employment or a coemployment relationship with the employer.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 54.04
35 RCW to read as follows:

36 Section 5 of this act applies to collective bargaining done
37 pursuant to RCW 54.04.170 and 54.04.180.

1 NEW SECTION. **Sec. 8.** Contracts in effect prior to the effective
2 date of this section remain unaffected by sections 5 through 7 of
3 this act until the contract expires or is renewed or reopened.

4 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
5 this act, referencing this act by bill or chapter number, is not
6 provided by June 30, 2025, in the omnibus appropriations act, this
7 act is null and void."

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8 On page 1, line 2 of the title, after "intelligence;" strike the
9 remainder of the title and insert "amending RCW 41.56.021, 41.80.005,
10 41.80.040, and 41.80.430; adding a new section to chapter 41.56 RCW;
11 adding a new section to chapter 41.80 RCW; adding a new section to
12 chapter 54.04 RCW; and creating new sections."

EFFECT: (1) Provides that the requirement to bargain over AI
technology does not apply to certain third-party updates, rather than
providing that the employer is not required to bargain over the
third-party updates.

(2) Applies the provisions of the bill to public utility
districts.

(3) Makes a technical change to subsection enumeration.

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