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**SENATE BILL 5422**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Bateman, Conway, Chapman, Cleveland, Frame, Hasegawa, Nobles, Orwall, Saldaña, Salomon, Stanford, Trudeau, and Valdez

Read first time 01/22/25. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to allowing bargaining over matters related to  
2 the use of artificial intelligence; amending RCW 41.56.021,  
3 41.80.005, 41.80.040, and 41.80.430; adding a new section to chapter  
4 41.56 RCW; adding a new section to chapter 41.80 RCW; and creating a  
5 new section.

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

7 **Sec. 1.** RCW 41.56.021 and 2007 c 136 s 1 are each amended to  
8 read as follows:

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

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

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

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

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

1 (iii) Have substantial responsibility for human resources  
2 administration, legislative relations, public information, internal  
3 audits and investigations, or the preparation and administration of  
4 budgets;

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

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

11 (d) Confidential employees;

12 (e) Employees who assist assistant attorneys general who advise  
13 and represent managers or confidential employees in personnel or  
14 labor relations matters, or who advise or represent the state in tort  
15 actions.

16 (2) Employees subject to this section shall not be included in  
17 any unit of employees certified under RCW 41.56.022, 41.56.024, or  
18 41.56.203, chapter 41.76 RCW, or chapter 41.80 RCW. Employees whose  
19 eligibility for collective bargaining is covered by chapter 28B.52,  
20 41.76, or 41.80 RCW are exempt from the provisions of this chapter.

21 (3) Institutions of higher education and the exclusive bargaining  
22 representatives shall not agree to any proposal that would prevent  
23 the implementation of approved affirmative action plans or that would  
24 be inconsistent with the comparable worth agreement that provided the  
25 basis for the salary changes implemented beginning with the 1983-1985  
26 biennium to achieve comparable worth.

27 (4) Institutions of higher education and the exclusive bargaining  
28 representative shall not bargain over rights of management that, in  
29 addition to all powers, duties, and rights established by  
30 constitutional provision or statute, shall include but not be limited  
31 to the following:

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

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

35 (c) The structure of the organization;

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

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

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

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

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

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

9       Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11       (1) "Agency" means any agency as defined in RCW 41.06.020 and  
12 covered by chapter 41.06 RCW. "Agency" also includes the assistant  
13 attorneys general of the attorney general's office and the  
14 administrative law judges of the office of administrative hearings,  
15 regardless of whether those employees are exempt under chapter 41.06  
16 RCW. "Agency" does not include a comprehensive cancer center  
17 participating in a collaborative arrangement as defined in RCW  
18 28B.10.930 that is operated in conformance with RCW 28B.10.930.

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

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

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

36       ~~((3))~~ (4) "Commission" means the public employment relations  
37 commission.

38       ~~((4))~~ (5) "Confidential employee" means an employee who, in the  
39 regular course of his or her duties, assists in a confidential

1 capacity persons who formulate, determine, and effectuate management  
2 policies with regard to labor relations or who, in the regular course  
3 of his or her duties, has authorized access to information relating  
4 to the effectuation or review of the employer's collective bargaining  
5 policies, or who assists or aids a manager. "Confidential employee"  
6 also includes employees who assist assistant attorneys general who  
7 advise and represent managers or confidential employees in personnel  
8 or labor relations matters.

9 ~~((5))~~ (6) "Director" means the director of the public  
10 employment relations commission.

11 ~~((6))~~ (7) "Employee" means any employee, including employees  
12 whose work has ceased in connection with the pursuit of lawful  
13 activities protected by this chapter, covered by chapter 41.06 RCW.  
14 "Employee" includes assistant attorneys general of the office of the  
15 attorney general and administrative law judges of the office of  
16 administrative hearings, regardless of their exemption under chapter  
17 41.06 RCW. "Employee" does not include:

18 (a) Employees covered for collective bargaining by chapter 41.56  
19 RCW;

20 (b) Confidential employees;

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

23 (d) Internal auditors in any agency; or

24 (e) Any employee of the commission, the office of financial  
25 management, or the office of risk management within the department of  
26 enterprise services.

27 ~~((7))~~ (8) "Employee organization" means any organization,  
28 union, or association in which employees participate and that exists  
29 for the purpose, in whole or in part, of collective bargaining with  
30 employers.

31 ~~((8))~~ (9) "Employer" means the state of Washington.

32 ~~((9))~~ (10) "Exclusive bargaining representative" means any  
33 employee organization that has been certified under this chapter as  
34 the representative of the employees in an appropriate bargaining  
35 unit.

36 ~~((10))~~ (11) "Institutions of higher education" means the  
37 University of Washington, Washington State University, Central  
38 Washington University, Eastern Washington University, Western  
39 Washington University, The Evergreen State College, and the various  
40 state community colleges.

1       (~~(11)~~) (12) "Labor dispute" means any controversy concerning  
2 terms, tenure, or conditions of employment, or concerning the  
3 association or representation of persons in negotiating, fixing,  
4 maintaining, changing, or seeking to arrange terms or conditions of  
5 employment with respect to the subjects of bargaining provided in  
6 this chapter, regardless of whether the disputants stand in the  
7 proximate relation of employer and employee.

8       (~~(12)~~) (13) "Manager" means "manager" as defined in RCW  
9 41.06.022.

10       (~~(13)~~) (14) "Supervisor" means an employee who has authority,  
11 in the interest of the employer, to hire, transfer, suspend, lay off,  
12 recall, promote, discharge, direct, reward, or discipline employees,  
13 or to adjust employee grievances, or effectively to recommend such  
14 action, if the exercise of the authority is not of a merely routine  
15 nature but requires the consistent exercise of individual judgment.

16       (~~(14)~~) (15) "Unfair labor practice" means any unfair labor  
17 practice listed in RCW 41.80.110.

18       (~~(15)~~) (16) "Uniformed personnel" means duly sworn police  
19 officers employed as members of a police force established pursuant  
20 to RCW 28B.10.550.

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

23       The employer shall not bargain over rights of management which,  
24 in addition to all powers, duties, and rights established by  
25 constitutional provision or statute, shall include but not be limited  
26 to the following:

27       (1) The functions and programs of the employer(~~(, the)~~);

28       (2) The use of technology(~~(, and the)~~), except as provided in  
29 section 6 of this act;

30       (3) The structure of the organization;

31       (~~(2)~~) (4) The employer's budget, which includes for purposes of  
32 any negotiations conducted during the 2019-2021 fiscal biennium any  
33 specification of the funds or accounts that must be appropriated by  
34 the legislature to fulfill the terms of an agreement, and the size of  
35 the agency workforce, including determining the financial basis for  
36 layoffs;

37       (~~(3)~~) (5) The right to direct and supervise employees;

1       (~~(4)~~) (6) The right to take whatever actions are deemed  
2 necessary to carry out the mission of the state and its agencies  
3 during emergencies; and

4       (~~(5)~~) (7) Retirement plans and retirement benefits.

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

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

10       (b) The following Washington management service members are  
11 excluded from bargaining:

12       (i) Employees in positions within Washington management salary  
13 band 3, salary band 4, and medical band, as defined by the office of  
14 financial management;

15       (ii) Human resource managers;

16       (iii) Budget managers;

17       (iv) Risk and litigation managers;

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

23       (vi) Employees in positions that report directly to an assistant  
24 secretary, deputy secretary, agency director, or equivalent, of an  
25 agency; and

26       (vii) Employees in positions excluded under RCW 41.80.005(~~(6)~~)  
27 (7).

28       (c) Bargaining over wages will be limited to Washington  
29 management service salary band levels, not individual Washington  
30 management service classifications or positions.

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

37       (b) Subject to the public employment relations commission's  
38 review and to avoid excessive fragmentation, more than two bargaining  
39 units that otherwise meet the parameters in (a) of this subsection

1 may be designated within a major administrative division of the  
2 following agencies: The department of corrections, the department of  
3 social and health services, the department of children, youth, and  
4 families, the department of transportation, the department of health,  
5 the state health care authority, the department of natural resources,  
6 the department of enterprise services, the department of ecology, the  
7 employment security department, and the department of fish and  
8 wildlife.

9 (3) The governor or the governor's designee and an exclusive  
10 bargaining representative shall negotiate for eligible Washington  
11 management service members within the bargaining agreements under RCW  
12 41.80.010(2)(a)(i).

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

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

18 (1) An employer shall bargain over the decision to adopt  
19 artificial intelligence technology or modify the current uses of  
20 artificial intelligence technology if the adoption or modification  
21 affects employees' wages, hours, or other terms and conditions of  
22 employment.

23 (2) For purposes of this section, "artificial intelligence" has  
24 the same meaning as defined in RCW 41.80.005.

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

27 An employer shall bargain over the decision to adopt artificial  
28 intelligence technology or modify the current uses of artificial  
29 intelligence technology if the adoption or modification affects  
30 employees' wages, hours, or other terms and conditions of employment.

31 NEW SECTION. **Sec. 7.** Contracts in effect prior to the effective  
32 date of this section remain unaffected by sections 5 and 6 of this  
33 act until the contract expires or is renewed or reopened.

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