

1 **SHB 1760 - H AMD 265**

2 By Representative Mulliken

3 Strike everything after the enacting clause and insert the
4 following:

5 "Sec. 1. RCW 28B.52.045 and 1987 c 314 s 8 are each amended
6 to read as follows:

7 (1) Upon filing with the employer the voluntary written
8 authorization of a bargaining unit employee under this chapter, the
9 employee organization which is the exclusive bargaining
10 representative of the bargaining unit shall have the right to have
11 deducted from the salary of the bargaining unit employee the
12 periodic dues and initiation fees uniformly required as a condition
13 of acquiring or retaining membership in the exclusive bargaining
14 representative. Such employee authorization shall not be
15 irrevocable for a period of more than one year. Such dues and fees
16 shall be deducted from the pay of all employees who have given
17 authorization for such deduction, and shall be transmitted by the
18 employer to the employee organization or to the depository
19 designated by the employee organization.

20 (2) A collective bargaining agreement may include union
21 security provisions, but not a closed shop. If an agency shop or
22 other union security provision is agreed to, the employer shall
23 enforce any such provision by deductions from the salary of
24 bargaining unit employees affected thereby and shall transmit such
25 funds to the employee organization or to the depository designated
26 by the employee organization. Each employee organization must
27 establish a procedure by which an employee may elect not to be a
28 member of the employee organization but to pay a representation fee
29 no greater than the part of the membership fee that represents a
30 pro rata share of expenditures for purposes germane to the
31 collective bargaining process and contract administration, and to
32 pursuing matters that employers are authorized to negotiate under
33 this chapter. An employee's election to not be a member and to pay
34 a representation fee shall be continuous until revoked by the
35 employee. However, the employee organization retains the right to
36 establish time periods during which an employee who has elected to

1 pay a representation fee may revoke that election and acquire
2 membership in the employee organization.

3 (3) An employee who is covered by a union security provision
4 and who asserts a right of nonassociation based on bona fide
5 religious tenets or teachings of a church or religious body of
6 which such employee is a member shall pay to a nonreligious charity
7 or other charitable organization an amount of money equivalent to
8 the periodic dues and initiation fees uniformly required as a
9 condition of acquiring or retaining membership in the exclusive
10 bargaining representative. The charity shall be agreed upon by the
11 employee and the employee organization to which such employee would
12 otherwise pay the dues and fees. The employee shall furnish
13 written proof that such payments have been made. If the employee
14 and the employee organization do not reach agreement on such
15 matter, the commission shall designate the charitable organization.

16 **Sec. 2.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to
17 read as follows:

18 The board shall adopt rules, consistent with the purposes and
19 provisions of this chapter, as now or hereafter amended, and with
20 the best standards of personnel administration, regarding the basis
21 and procedures to be followed for:

22 (1) The reduction, dismissal, suspension, or demotion of an
23 employee;

24 (2) Certification of names for vacancies, including
25 departmental promotions, with the number of names equal to six more
26 names than there are vacancies to be filled, such names
27 representing applicants rated highest on eligibility lists:
28 PROVIDED, That when other applicants have scores equal to the
29 lowest score among the names certified, their names shall also be
30 certified;

31 (3) Examinations for all positions in the competitive and
32 noncompetitive service;

33 (4) Appointments;

34 (5) Training and career development;

35 (6) Probationary periods of six to twelve months and
36 rejections of probationary employees, depending on the job

1 requirements of the class, except that entry level state park
2 rangers shall serve a probationary period of twelve months;

3 (7) Transfers;

4 (8) Sick leaves and vacations;

5 (9) Hours of work;

6 (10) Layoffs when necessary and subsequent reemployment, both
7 according to seniority;

8 (11) Determination of appropriate bargaining units within any
9 agency: PROVIDED, That in making such determination the board
10 shall consider the duties, skills, and working conditions of the
11 employees, the history of collective bargaining by the employees
12 and their bargaining representatives, the extent of organization
13 among the employees, and the desires of the employees;

14 (12) Certification and decertification of exclusive bargaining
15 representatives: PROVIDED, That after certification of an
16 exclusive bargaining representative and upon the representative's
17 request, the director shall hold an election among employees in a
18 bargaining unit to determine by a majority whether to require as a
19 condition of employment membership in the certified exclusive
20 bargaining representative on or after the thirtieth day following
21 the beginning of employment or the date of such election, whichever
22 is the later, and the failure of an employee to comply with such a
23 condition of employment constitutes cause for dismissal: PROVIDED
24 FURTHER, That no more often than once in each twelve-month period
25 after expiration of twelve months following the date of the
26 original election in a bargaining unit and upon petition of thirty
27 percent of the members of a bargaining unit the director shall hold
28 an election to determine whether a majority wish to rescind such
29 condition of employment: PROVIDED FURTHER, That for purposes of
30 this clause, membership in the certified exclusive bargaining
31 representative is satisfied by the payment of monthly or other
32 periodic dues and does not require payment of initiation,
33 reinstatement, or any other fees or fines and includes full and
34 complete membership rights. Each exclusive bargaining
35 representative must establish a procedure by which an employee may
36 elect not to be a member of the exclusive bargaining representative
37 but to pay a representation fee no greater than the part of the
38 membership fee that represents a pro rata share of expenditures for

1 purposes germane to the collective bargaining process and contract
2 administration, and to pursuing matters that employers are
3 authorized to negotiate under this section. An employee's election
4 to not be a member and to pay a representation fee shall be
5 continuous until revoked by the employee. However, the exclusive
6 bargaining representative retains the right to establish time
7 periods during which an employee who has elected to pay a
8 representation fee may revoke that election and acquire membership
9 in the exclusive bargaining representative: AND PROVIDED FURTHER,
10 That in order to safeguard the right of nonassociation of public
11 employees, based on bona fide religious tenets or teachings of a
12 church or religious body of which such public employee is a member,
13 such public employee shall pay to the union, for purposes within
14 the program of the union as designated by such employee that would
15 be in harmony with his or her individual conscience, an amount of
16 money equivalent to regular union dues minus any included monthly
17 premiums for union-sponsored insurance programs, and such employee
18 shall not be a member of the union but is entitled to all the
19 representation rights of a union member;

20 (13) Agreements between agencies and certified exclusive
21 bargaining representatives providing for grievance procedures and
22 collective negotiations on all personnel matters over which the
23 appointing authority of the appropriate bargaining unit of such
24 agency may lawfully exercise discretion;

25 (14) Written agreements may contain provisions for payroll
26 deductions of employee organization dues upon authorization by the
27 employee member and for the cancellation of such payroll deduction
28 by the filing of a proper prior notice by the employee with the
29 appointing authority and the employee organization: PROVIDED, That
30 nothing contained herein permits or grants to any employee the
31 right to strike or refuse to perform his or her official duties;

32 (15) Adoption and revision of a comprehensive classification
33 plan for all positions in the classified service, based on
34 investigation and analysis of the duties and responsibilities of
35 each such position.

36 (a) The board shall not adopt job classification revisions or
37 class studies unless implementation of the proposed revision or
38 study will result in net cost savings, increased efficiencies, or

1 improved management of personnel or services, and the proposed
2 revision or study has been approved by the director of financial
3 management in accordance with chapter 43.88 RCW.

4 (b) Beginning July 1, 1995, through June 30, 1997, in addition
5 to the requirements of (a) of this subsection:

6 (i) The board may approve the implementation of salary
7 increases resulting from adjustments to the classification plan
8 during the 1995-97 fiscal biennium only if:

9 (A) The implementation will not result in additional net costs
10 and the proposed implementation has been approved by the director
11 of financial management in accordance with chapter 43.88 RCW;

12 (B) The implementation will take effect on July 1, 1996, and
13 the total net cost of all such actions approved by the board for
14 implementation during the 1995-97 fiscal biennium does not exceed
15 the amounts specified by the legislature specifically for this
16 purpose; or

17 (C) The implementation is a result of emergent conditions.
18 Emergent conditions are defined as emergency situations requiring
19 the establishment of positions necessary for the preservation of
20 the public health, safety, or general welfare, which do not exceed
21 \$250,000 of the moneys identified in section 718(2), chapter 18,
22 Laws of 1995 2nd sp. sess.

23 (ii) The board shall approve only those salary increases
24 resulting from adjustments to the classification plan if they are
25 due to documented recruitment and retention difficulties, salary
26 compression or inversion, increased duties and responsibilities, or
27 inequities. For these purposes, inequities are defined as similar
28 work assigned to different job classes with a salary disparity
29 greater than 7.5 percent.

30 (iii) Adjustments made to the higher education hospital
31 special pay plan are exempt from (b)(i) through (ii) of this
32 subsection.

33 (c) Reclassifications, class studies, and salary adjustments
34 to be implemented during the 1997-99 and subsequent fiscal biennia
35 are governed by (a) of this subsection and RCW 41.06.152;

36 (16) Allocation and reallocation of positions within the
37 classification plan;

1 (17) Adoption and revision of a state salary schedule to
2 reflect the prevailing rates in Washington state private industries
3 and other governmental units but the rates in the salary schedules
4 or plans shall be increased if necessary to attain comparable worth
5 under an implementation plan under RCW 41.06.155 and that, for
6 institutions of higher education and related boards, shall be
7 competitive for positions of a similar nature in the state or the
8 locality in which an institution of higher education or related
9 board is located, such adoption and revision subject to approval by
10 the director of financial management in accordance with the
11 provisions of chapter 43.88 RCW;

12 (18) Increment increases within the series of steps for each
13 pay grade based on length of service for all employees whose
14 standards of performance are such as to permit them to retain job
15 status in the classified service;

16 (19) Providing for veteran's preference as required by
17 existing statutes, with recognition of preference in regard to
18 layoffs and subsequent reemployment for veterans and their
19 surviving spouses by giving such eligible veterans and their
20 surviving spouses additional credit in computing their seniority by
21 adding to their unbroken state service, as defined by the board,
22 the veteran's service in the military not to exceed five years.
23 For the purposes of this section, "veteran" means any person who
24 has one or more years of active military service in any branch of
25 the armed forces of the United States or who has less than one
26 year's service and is discharged with a disability incurred in the
27 line of duty or is discharged at the convenience of the government
28 and who, upon termination of such service has received an honorable
29 discharge, a discharge for physical reasons with an honorable
30 record, or a release from active military service with evidence of
31 service other than that for which an undesirable, bad conduct, or
32 dishonorable discharge shall be given: PROVIDED, HOWEVER, That the
33 surviving spouse of a veteran is entitled to the benefits of this
34 section regardless of the veteran's length of active military
35 service: PROVIDED FURTHER, That for the purposes of this section
36 "veteran" does not include any person who has voluntarily retired
37 with twenty or more years of active military service and whose

1 military retirement pay is in excess of five hundred dollars per
2 month;

3 (20) Permitting agency heads to delegate the authority to
4 appoint, reduce, dismiss, suspend, or demote employees within their
5 agencies if such agency heads do not have specific statutory
6 authority to so delegate: PROVIDED, That the board may not
7 authorize such delegation to any position lower than the head of a
8 major subdivision of the agency;

9 (21) Assuring persons who are or have been employed in
10 classified positions before July 1, 1993, will be eligible for
11 employment, reemployment, transfer, and promotion in respect to
12 classified positions covered by this chapter;

13 (22) Affirmative action in appointment, promotion, transfer,
14 recruitment, training, and career development; development and
15 implementation of affirmative action goals and timetables; and
16 monitoring of progress against those goals and timetables.

17 The board shall consult with the human rights commission in
18 the development of rules pertaining to affirmative action. The
19 department of personnel shall transmit a report annually to the
20 human rights commission which states the progress each state agency
21 has made in meeting affirmative action goals and timetables.

22 **Sec. 3.** RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each
23 amended to read as follows:

24 A collective bargaining agreement may:

25 (1)(a) Contain union security provisions(~~(:—PROVIDED, That~~
26 ~~nothing in this section shall authorize)~~), but not a closed shop
27 provision(~~(:—PROVIDED FURTHER, That)~~). Each bargaining
28 representative must establish a procedure by which an employee may
29 elect not to be a member of the bargaining representative but to
30 pay a representation fee no greater than the part of the membership
31 fee that represents a pro rata share of expenditures for purposes
32 germane to the collective bargaining process and contract
33 administration, and to pursuing matters that employers are
34 authorized to negotiate under this chapter. An employee's election
35 to not be a member and to pay a representation fee shall be
36 continuous until revoked by the employee. However, the bargaining
37 representative retains the right to establish time periods during

1 which an employee who has elected to pay a representation fee may
2 revoke that election and acquire membership in the bargaining
3 representative.

4 (b) Agreements involving union security provisions must
5 safeguard the right of nonassociation of public employees based on
6 bona fide religious tenets or teachings of a church or religious
7 body of which such public employee is a member. Such public
8 employee shall pay an amount of money equivalent to regular union
9 dues and initiation fee to a nonreligious charity or to another
10 charitable organization mutually agreed upon by the public employee
11 affected and the bargaining representative to which such public
12 employee would otherwise pay the dues and initiation fee. The
13 public employee shall furnish written proof that such payment has
14 been made. If the public employee and the bargaining
15 representative do not reach agreement on such matter, the
16 commission shall designate the charitable organization.

17 (c) When there is a conflict between any collective bargaining
18 agreement reached by a public employer and a bargaining
19 representative on a union security provision and any charter,
20 ordinance, rule, or regulation adopted by the public employer or
21 its agents, including but not limited to, a civil service
22 commission, the terms of the collective bargaining agreement shall
23 prevail.

24 (2) Provide for binding arbitration of a labor dispute arising
25 from the application or the interpretation of the matters contained
26 in a collective bargaining agreement.

27 **Sec. 4.** RCW 41.59.100 and 1975 1st ex.s. c 288 s 11 are each
28 amended to read as follows:

29 (1) A collective bargaining agreement may include union
30 security provisions including an agency shop, but not a union or
31 closed shop. If an agency shop provision is agreed to, the
32 employer shall enforce it by deducting from the salary payments to
33 members of the bargaining unit the dues required of membership in
34 the bargaining representative, or, for nonmembers thereof, a fee
35 equivalent to such dues. Each bargaining representative must
36 establish a procedure by which an employee electing not to be a
37 member of the bargaining representative may pay a representation

1 fee no greater than the part of the membership fee that represents
2 a pro rata share of expenditures for purposes germane to the
3 collective bargaining process and contract administration, and to
4 pursuing matters that employers are authorized to negotiate under
5 this chapter. An employee's election to not be a member and to pay
6 a representation fee shall be continuous until revoked by the
7 employee. However, the bargaining representative retains the right
8 to establish time periods during which an employee who has elected
9 to pay a representation fee may revoke that election and acquire
10 membership in the bargaining representative.

11 (2) All union security provisions must safeguard the right of
12 nonassociation of employees based on bona fide religious tenets or
13 teachings of a church or religious body of which such employee is
14 a member. ((Such)) An employee who asserts a right of
15 nonassociation shall pay an amount of money equivalent to regular
16 dues and fees to a nonreligious charity or to another charitable
17 organization mutually agreed upon by the employee affected and the
18 bargaining representative to which such employee would otherwise
19 pay the dues and fees. The employee shall furnish written proof
20 that such payment has been made. If the employee and the
21 bargaining representative do not reach agreement on such matter,
22 the commission shall designate the charitable organization.

23 **Sec. 5.** RCW 47.64.160 and 1983 c 15 s 7 are each amended to
24 read as follows:

25 (1) A collective bargaining agreement may include union
26 security provisions including an agency shop, but not a union or
27 closed shop. If an agency shop provision is agreed to, the
28 employer shall enforce it by deducting from the salary payments to
29 members of the bargaining unit the dues required of membership in
30 the bargaining representative, or, for nonmembers thereof, a fee
31 equivalent to such dues. Each bargaining representative must
32 establish a procedure by which an employee electing not to be a
33 member of the bargaining representative may pay a representation
34 fee no greater than the part of the membership fee that represents
35 a pro rata share of expenditures for purposes germane to the
36 collective bargaining process and contract administration, and to
37 pursuing matters that employers are authorized to negotiate under

1 this chapter. An employee's election to not be a member and to pay
2 a representation fee shall be continuous until revoked by the
3 employee. However, the bargaining representative retains the right
4 to establish time periods during which an employee who has elected
5 to pay a representation fee may revoke that election and acquire
6 membership in the bargaining representative.

7 (2) All union security provisions shall safeguard the right of
8 nonassociation of employees based on bona fide religious tenets or
9 teachings of a church or religious body of which such employee is
10 a member. ((Such)) An employee who asserts a right of
11 nonassociation shall pay an amount of money equivalent to regular
12 dues and fees to a nonreligious charity or to another charitable
13 organization mutually agreed upon by the employee affected and the
14 bargaining representative to which such employee would otherwise
15 pay the dues and fees. The employee shall furnish written proof
16 that such payment has been made. If the employee and the
17 bargaining representative do not reach agreement on such matter,
18 the commission shall designate the charitable organization.

19 **Sec. 6.** RCW 53.18.050 and 1967 c 101 s 5 are each amended to
20 read as follows:

21 A labor agreement signed by a port district may contain:

22 (1) Provisions that the employee organization chosen by a
23 majority of the employees in a grouping or unit will be recognized
24 as the representative of all employees in the classification
25 included in such grouping or unit;

26 (2) Maintenance of membership provisions including dues check-
27 off arrangements. Each employee organization must establish a
28 procedure by which an employee may elect not to be a member of the
29 employee organization but to pay a representation fee no greater
30 than the part of the membership fee that represents a pro rata
31 share of expenditures for purposes germane to the collective
32 bargaining process and contract administration, and to pursuing
33 matters that employers are authorized to negotiate under this
34 chapter. An employee's election to not be a member and to pay a
35 representation fee shall be continuous until revoked by the
36 employee. However, the employee organization retains the right to
37 establish time periods during which an employee who has elected to

1 pay a representation fee may revoke that election and acquire
2 membership in the employee organization; and

3 (3) Provisions providing for binding arbitration, the expenses
4 being equally borne by the parties, in matters of contract
5 interpretation and the settlement of jurisdictional disputes.

6 **Sec. 7.** RCW 54.04.170 and 1963 c 28 s 1 are each amended to
7 read as follows:

8 (1) Employees of public utility districts are hereby
9 authorized and entitled to enter into collective bargaining
10 relations with their employers with all the rights and privileges
11 incident thereto as are accorded to similar employees in private
12 industry and a public utility district may enter into collective
13 bargaining relations with its employees in the same manner that a
14 private employer might do and may agree to be bound by the result
15 of such collective bargaining.

16 (2) Each employee organization must establish a procedure by
17 which an employee of a public utility district may elect not to be
18 a member of the employee organization but to pay a representation
19 fee no greater than the part of the membership fee that represents
20 a pro rata share of expenditures for purposes germane to the
21 collective bargaining process and contract administration, and to
22 pursuing matters that employers are authorized to negotiate under
23 this chapter. An employee's election to not be a member and to pay
24 a representation fee shall be continuous until revoked by the
25 employee. However, the employee organization retains the right to
26 establish time periods during which an employee who has elected to
27 pay a representation fee may revoke that election and acquire
28 membership in the employee organization.

29 NEW SECTION. **Sec. 8.** RCW 54.04.180 and 1963 c 28 s 2 are
30 each repealed.

31 **Sec. 9.** RCW 41.56.020 and 1994 c 297 s 1 are each amended to
32 read as follows:

33 This chapter shall apply to any county or municipal
34 corporation, or any political subdivision of the state of
35 Washington, including district courts and superior courts, except

1 as otherwise provided by RCW 54.04.170(~~(, 54.04.180,)~~) and chapters
2 41.59, 47.64, and 53.18 RCW. The Washington state patrol shall be
3 considered a public employer of state patrol officers appointed
4 under RCW 43.43.020. The Washington state bar association shall be
5 considered a public employer of its employees.

6 **Sec. 10.** RCW 42.41.020 and 1994 c 210 s 1 are each amended to
7 read as follows:

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

10 (1)(a) "Improper governmental action" means any action by a
11 local government officer or employee:

12 (i) That is undertaken in the performance of the officer's or
13 employee's official duties, whether or not the action is within the
14 scope of the employee's employment; and

15 (ii) That is in violation of any federal, state, or local law
16 or rule, is an abuse of authority, is of substantial and specific
17 danger to the public health or safety, or is a gross waste of
18 public funds.

19 (b) "Improper governmental action" does not include personnel
20 actions including but not limited to employee grievances,
21 complaints, appointments, promotions, transfers, assignments,
22 reassignments, reinstatements, restorations, reemployments,
23 performance evaluations, reductions in pay, dismissals,
24 suspensions, demotions, violations of the local government
25 collective bargaining and civil service laws, alleged labor
26 agreement violations, reprimands, or any action that may be taken
27 under chapter 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 RCW or
28 RCW 54.04.170 (~~and 54.04.180~~).

29 (2) "Local government" means any governmental entity other
30 than the state, federal agencies, or an operating system
31 established under chapter 43.52 RCW. It includes, but is not
32 limited to cities, counties, school districts, and special purpose
33 districts.

34 (3) "Retaliatory action" means: (a) Any adverse change in a
35 local government employee's employment status, or the terms and
36 conditions of employment including denial of adequate staff to
37 perform duties, frequent staff changes, frequent and undesirable

1 office changes, refusal to assign meaningful work, unwarranted and
2 unsubstantiated letters of reprimand or unsatisfactory performance
3 evaluations, demotion, transfer, reassignment, reduction in pay,
4 denial of promotion, suspension, dismissal, or any other
5 disciplinary action; or (b) hostile actions by another employee
6 towards a local government employee that were encouraged by a
7 supervisor or senior manager or official.

8 (4) "Emergency" means a circumstance that if not immediately
9 changed may cause damage to persons or property."

10 Correct the title.

EFFECT: The striking amendment deletes the requirement for public employers to give notice to employees of union security issues. The amendment retains the provisions in the substitute bill that require public employee organizations to establish procedures for employees to become "representation fee payers" and that an employee's election to be a representation fee payer is continuous until revoked by the employee.