

---

HOUSE BILL 2997

---

State of Washington                      57th Legislature                      2002 Regular Session

By Representatives Chandler, Mielke and Mulliken

Read first time 03/01/2002. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to prohibiting strikes and lockouts under chapter  
2 41.06 RCW; amending RCW 41.06.150 and 41.06.020; adding a new section  
3 to chapter 41.06 RCW; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 41.06 RCW  
6 to read as follows:

7            (1) It is unlawful for an employee or an employee organization,  
8 directly or indirectly, to induce, instigate, encourage, authorize,  
9 ratify, or participate in a strike.

10           (2) It is unlawful for an employer to authorize, consent to, or  
11 condone a strike, to conduct a lockout, to pay or agree to pay an  
12 employee for any day in which the employee participates in a strike, or  
13 to pay or agree to pay any increase in compensation or benefits to an  
14 employee in response to or as a result of a strike or any act that  
15 violates subsection (1) of this section. It is unlawful for any  
16 representative of the employer to authorize, ratify, or participate in  
17 any violation of this subsection.

18           (3)(a) If a violation of subsection (1) or (2) of this section  
19 occurs, or is imminently threatened, any citizen domiciled within the

1 jurisdictional boundaries of the state may petition the superior court  
2 of the county in which the labor dispute exists for an injunction  
3 restraining the violation or imminently threatened violation. Rules of  
4 civil procedure regarding injunctions apply to the action. However,  
5 the court shall grant a temporary injunction if it appears to the court  
6 that a violation has occurred or is imminently threatened; the  
7 plaintiff need not show that the violation or threatened violation  
8 would greatly or irreparably injure him or her. A bond may not be  
9 required of the plaintiff unless the court determines that a bond is  
10 necessary in the public interest.

11 (b) Failure to comply with any temporary or permanent injunction  
12 granted under this subsection is contempt of court as provided in  
13 chapter 7.21 RCW. The court may impose a penalty of up to ten thousand  
14 dollars for an employee organization or the employer, for each day  
15 during which the failure to comply continues. The sanctions for an  
16 employee found to be in contempt shall be as provided in chapter 7.21  
17 RCW. An individual or an employee organization that makes an active  
18 good faith effort to comply fully with the injunction shall not be  
19 deemed to be in contempt.

20 (4) Nothing in this section prevents new or renewed bargaining and  
21 agreement within the scope of bargaining, as defined by this chapter,  
22 at any time. However, the parties may not agree to a provision  
23 regarding suspension or modification of any court-ordered penalty  
24 provided in this section and any such agreement is void.

25 (5) Each of the remedies and penalties provided by this section is  
26 separate and several and is in addition to any other legal or equitable  
27 remedy or penalty.

28 (6) In addition to the remedies and penalties provided by this  
29 section, the successful litigant is entitled to recover costs and  
30 reasonable attorneys' fees incurred in the litigation.

31 **Sec. 2.** RCW 41.06.150 and 1999 c 297 s 3 are each amended to read  
32 as follows:

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

37 (1) The reduction, dismissal, suspension, or demotion of an  
38 employee;

1           (2) Certification of names for vacancies, including departmental  
2 promotions, with the number of names equal to six more names than there  
3 are vacancies to be filled, such names representing applicants rated  
4 highest on eligibility lists: PROVIDED, That when other applicants  
5 have scores equal to the lowest score among the names certified, their  
6 names shall also be certified;

7           (3) Examinations for all positions in the competitive and  
8 noncompetitive service;

9           (4) Appointments;

10          (5) Training and career development;

11          (6) Probationary periods of six to twelve months and rejections of  
12 probationary employees, depending on the job requirements of the class,  
13 except that entry level state park rangers shall serve a probationary  
14 period of twelve months;

15          (7) Transfers;

16          (8) Sick leaves and vacations;

17          (9) Hours of work;

18          (10) Layoffs when necessary and subsequent reemployment, both  
19 according to seniority;

20          (11) Determination of appropriate bargaining units within any  
21 agency: PROVIDED, That in making such determination the board shall  
22 consider the duties, skills, and working conditions of the employees,  
23 the history of collective bargaining by the employees and their  
24 bargaining representatives, the extent of organization among the  
25 employees, and the desires of the employees;

26          (12) Certification and decertification of exclusive bargaining  
27 representatives: PROVIDED, That after certification of an exclusive  
28 bargaining representative and upon the representative's request, the  
29 director shall hold an election among employees in a bargaining unit to  
30 determine by a majority whether to require as a condition of employment  
31 membership in the certified exclusive bargaining representative on or  
32 after the thirtieth day following the beginning of employment or the  
33 date of such election, whichever is the later, and the failure of an  
34 employee to comply with such a condition of employment constitutes  
35 cause for dismissal: PROVIDED FURTHER, That no more often than once in  
36 each twelve-month period after expiration of twelve months following  
37 the date of the original election in a bargaining unit and upon  
38 petition of thirty percent of the members of a bargaining unit the  
39 director shall hold an election to determine whether a majority wish to

1 rescind such condition of employment: PROVIDED FURTHER, That for  
2 purposes of this clause, membership in the certified exclusive  
3 bargaining representative is satisfied by the payment of monthly or  
4 other periodic dues and does not require payment of initiation,  
5 reinstatement, or any other fees or fines and includes full and  
6 complete membership rights: AND PROVIDED FURTHER, That in order to  
7 safeguard the right of nonassociation of public employees, based on  
8 bona fide religious tenets or teachings of a church or religious body  
9 of which such public employee is a member, such public employee shall  
10 pay to the union, for purposes within the program of the union as  
11 designated by such employee that would be in harmony with his or her  
12 individual conscience, an amount of money equivalent to regular union  
13 dues minus any included monthly premiums for union-sponsored insurance  
14 programs, and such employee shall not be a member of the union but is  
15 entitled to all the representation rights of a union member;

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

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

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

31 (a) The board shall not adopt job classification revisions or class  
32 studies unless implementation of the proposed revision or study will  
33 result in net cost savings, increased efficiencies, or improved  
34 management of personnel or services, and the proposed revision or study  
35 has been approved by the director of financial management in accordance  
36 with chapter 43.88 RCW.

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

1 (i) The board may approve the implementation of salary increases  
2 resulting from adjustments to the classification plan during the 1995-  
3 97 fiscal biennium only if:

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

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

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

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

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

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

28 (16) Allocation and reallocation of positions within the  
29 classification plan;

30 (17) Adoption and revision of a state salary schedule to reflect  
31 the prevailing rates in Washington state private industries and other  
32 governmental units but the rates in the salary schedules or plans shall  
33 be increased if necessary to attain comparable worth under an  
34 implementation plan under RCW 41.06.155 and that, for institutions of  
35 higher education and related boards, shall be competitive for positions  
36 of a similar nature in the state or the locality in which an  
37 institution of higher education or related board is located, such  
38 adoption and revision subject to approval by the director of financial  
39 management in accordance with the provisions of chapter 43.88 RCW;

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

5 (19) Optional lump sum relocation compensation approved by the  
6 agency director, whenever it is reasonably necessary that a person make  
7 a domiciliary move in accepting a transfer or other employment with the  
8 state. An agency must provide lump sum compensation within existing  
9 resources. If the person receiving the relocation payment terminates  
10 or causes termination with the state, for reasons other than layoff,  
11 disability separation, or other good cause as determined by an agency  
12 director, within one year of the date of the employment, the state is  
13 entitled to reimbursement of the lump sum compensation from the person;

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

36 (21) Permitting agency heads to delegate the authority to appoint,  
37 reduce, dismiss, suspend, or demote employees within their agencies if  
38 such agency heads do not have specific statutory authority to so  
39 delegate: PROVIDED, That the board may not authorize such delegation

1 to any position lower than the head of a major subdivision of the  
2 agency;

3 (22) Assuring persons who are or have been employed in classified  
4 positions before July 1, 1993, will be eligible for employment,  
5 reemployment, transfer, and promotion in respect to classified  
6 positions covered by this chapter;

7 (23) Affirmative action in appointment, promotion, transfer,  
8 recruitment, training, and career development; development and  
9 implementation of affirmative action goals and timetables; and  
10 monitoring of progress against those goals and timetables.

11 The board shall consult with the human rights commission in the  
12 development of rules pertaining to affirmative action. The department  
13 of personnel shall transmit a report annually to the human rights  
14 commission which states the progress each state agency has made in  
15 meeting affirmative action goals and timetables.

16 **Sec. 3.** RCW 41.06.020 and 1993 c 281 s 19 are each amended to read  
17 as follows:

18 Unless the context clearly indicates otherwise, the words used in  
19 this chapter have the meaning given in this section.

20 (1) "Agency" means an office, department, board, commission, or  
21 other separate unit or division, however designated, of the state  
22 government and all personnel thereof; it includes any unit of state  
23 government established by law, the executive officer or members of  
24 which are either elected or appointed, upon which the statutes confer  
25 powers and impose duties in connection with operations of either a  
26 governmental or proprietary nature.

27 (2) "Board" means the Washington personnel resources board  
28 established under the provisions of RCW 41.06.110, except that this  
29 definition does not apply to the words "board" or "boards" when used in  
30 RCW 41.06.070.

31 (3) "Classified service" means all positions in the state service  
32 subject to the provisions of this chapter.

33 (4) "Competitive service" means all positions in the classified  
34 service for which a competitive examination is required as a condition  
35 precedent to appointment.

36 (5) "Comparable worth" means the provision of similar salaries for  
37 positions that require or impose similar responsibilities, judgments,  
38 knowledge, skills, and working conditions.

1 (6) "Noncompetitive service" means all positions in the classified  
2 service for which a competitive examination is not required.

3 (7) "Department" means an agency of government that has as its  
4 governing officer a person, or combination of persons such as a  
5 commission, board, or council, by law empowered to operate the agency  
6 responsible either to (a) no other public officer or (b) the governor.

7 (8) "Career development" means the progressive development of  
8 employee capabilities to facilitate productivity, job satisfaction, and  
9 upward mobility through work assignments as well as education and  
10 training that are both state-sponsored and are achieved by individual  
11 employee efforts, all of which shall be consistent with the needs and  
12 obligations of the state and its agencies.

13 (9) "Training" means activities designed to develop job-related  
14 knowledge and skills of employees.

15 (10) "Director" means the director of personnel appointed under the  
16 provisions of RCW 41.06.130.

17 (11) "Affirmative action" means a procedure by which racial  
18 minorities, women, persons in the protected age category, persons with  
19 disabilities, Vietnam-era veterans, and disabled veterans are provided  
20 with increased employment opportunities. It shall not mean any sort of  
21 quota system.

22 (12) "Institutions of higher education" means the University of  
23 Washington, Washington State University, Central Washington University,  
24 Eastern Washington University, Western Washington University, The  
25 Evergreen State College, and the various state community colleges.

26 (13) "Related boards" means the state board for community and  
27 technical colleges; and such other boards, councils, and commissions  
28 related to higher education as may be established.

29 (14) "Labor dispute" means a controversy concerning terms or  
30 conditions of employment, or concerning the association or  
31 representation of persons in negotiating, fixing, maintaining,  
32 changing, or seeking to arrange terms or conditions of their public  
33 employment, regardless of whether the disputants in the controversy  
34 stand in the proximate relation of employer and employee.

35 (15) "Lockout" means the refusal of the employer, in connection  
36 with a labor dispute, to permit its employees to commence or continue  
37 the full performance of their normal duties and services as employees.

38 (16) "Strike" means any concerted action by employees or employee  
39 organizations, in connection with a labor dispute, to suspend, curtail,



- 1 interrupt, withhold, or otherwise fail or refuse to perform fully their
- 2 normal duties or services as employees.

--- END ---