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**SUBSTITUTE SENATE BILL 5664**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Commerce & Trade (originally sponsored by Senator Morton)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to uniformed personnel collective bargaining; and  
2 amending RCW 41.56.030, 41.56.465, and 41.56.492.

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

4 **Sec. 1.** RCW 41.56.030 and 2002 c 99 s 2 are each amended to read  
5 as follows:

6 As used in this chapter:

7 (1) "Public employer" means any officer, board, commission,  
8 council, or other person or body acting on behalf of any public body  
9 governed by this chapter, or any subdivision of such public body. For  
10 the purposes of this section, the public employer of district court or  
11 superior court employees for wage-related matters is the respective  
12 county legislative authority, or person or body acting on behalf of the  
13 legislative authority, and the public employer for nonwage-related  
14 matters is the judge or judge's designee of the respective district  
15 court or superior court.

16 (2) "Public employee" means any employee of a public employer  
17 except any person (a) elected by popular vote, or (b) appointed to  
18 office pursuant to statute, ordinance, or resolution for a specified  
19 term of office as a member of a multimember board, commission, or

1 committee, whether appointed by the executive head or body of the  
2 public employer, or (c) whose duties as deputy, administrative  
3 assistant, or secretary necessarily imply a confidential relationship  
4 to (i) the executive head or body of the applicable bargaining unit, or  
5 (ii) any person elected by popular vote, or (iii) any person appointed  
6 to office pursuant to statute, ordinance, or resolution for a specified  
7 term of office as a member of a multimember board, commission, or  
8 committee, whether appointed by the executive head or body of the  
9 public employer, or (d) who is a court commissioner or a court  
10 magistrate of superior court, district court, or a department of a  
11 district court organized under chapter 3.46 RCW, or (e) who is a  
12 personal assistant to a district court judge, superior court judge, or  
13 court commissioner, or (f) excluded from a bargaining unit under RCW  
14 41.56.201(2)(a). For the purpose of (e) of this subsection, no more  
15 than one assistant for each judge or commissioner may be excluded from  
16 a bargaining unit.

17 (3) "Bargaining representative" means any lawful organization which  
18 has as one of its primary purposes the representation of employees in  
19 their employment relations with employers.

20 (4) "Collective bargaining" means the performance of the mutual  
21 obligations of the public employer and the exclusive bargaining  
22 representative to meet at reasonable times, to confer and negotiate in  
23 good faith, and to execute a written agreement with respect to  
24 grievance procedures and collective negotiations on personnel matters,  
25 including wages, hours and working conditions, which may be peculiar to  
26 an appropriate bargaining unit of such public employer, except that by  
27 such obligation neither party shall be compelled to agree to a proposal  
28 or be required to make a concession unless otherwise provided in this  
29 chapter.

30 (5) "Commission" means the public employment relations commission.

31 (6) "Executive director" means the executive director of the  
32 commission.

33 (7) "Uniformed personnel" means: (a) Law enforcement officers as  
34 defined in RCW 41.26.030 employed by the governing body of any city or  
35 town with a population of two thousand five hundred or more and law  
36 enforcement officers employed by the governing body of any county with  
37 a population of (~~ten~~) twenty-five thousand or more; (b) correctional  
38 employees who are uniformed and nonuniformed, commissioned and

1 noncommissioned security personnel employed in a jail as defined in RCW  
2 70.48.020(5), by a county with a population of seventy thousand or  
3 more, and who are trained for and charged with the responsibility of  
4 controlling and maintaining custody of inmates in the jail and  
5 safeguarding inmates from other inmates; (c) general authority  
6 Washington peace officers as defined in RCW 10.93.020 employed by a  
7 port district in a county with a population of one million or more; (d)  
8 security forces established under RCW 43.52.520; (e) fire fighters as  
9 that term is defined in RCW 41.26.030; (f) employees of a port district  
10 in a county with a population of one million or more whose duties  
11 include crash fire rescue or other fire fighting duties; (g) employees  
12 of fire departments of public employers who dispatch exclusively either  
13 fire or emergency medical services, or both; or (h) employees in the  
14 several classes of advanced life support technicians, as defined in RCW  
15 18.71.200, who are employed by a public employer.

16 (8) "Institution of higher education" means the University of  
17 Washington, Washington State University, Central Washington University,  
18 Eastern Washington University, Western Washington University, The  
19 Evergreen State College, and the various state community colleges.

20 (9) "Home care quality authority" means the authority under chapter  
21 74.39A RCW.

22 (10) "Individual provider" means an individual provider as defined  
23 in RCW 74.39A.240(4) who, solely for the purposes of collective  
24 bargaining, is employed by the home care quality authority as provided  
25 in RCW 74.39A.270.

26 **Sec. 2.** RCW 41.56.465 and 1995 c 273 s 2 are each amended to read  
27 as follows:

28 (1) In making its determination, the panel shall be mindful of the  
29 legislative purpose enumerated in RCW 41.56.430 and, as additional  
30 standards or guidelines to aid it in reaching a decision, it shall take  
31 into consideration the following factors:

32 (a) The constitutional and statutory authority of the employer;

33 (b) Stipulations of the parties;

34 (c)(i) For employees listed in RCW 41.56.030(7) (a) through (d),  
35 comparison of the wages, hours, and conditions of employment of  
36 personnel involved in the proceedings with the wages, hours, and  
37 conditions of employment of like personnel of like employers of similar

1 size on the west coast of the United States. However, when an adequate  
2 number of comparable employers exists within the state of Washington,  
3 other west coast employers may not be considered;

4 (ii) For employees listed in RCW 41.56.030(7) (e) through (h),  
5 comparison of the wages, hours, and conditions of employment of  
6 personnel involved in the proceedings with the wages, hours, and  
7 conditions of employment of like personnel of public fire departments  
8 of similar size on the west coast of the United States. However, when  
9 an adequate number of comparable employers exists within the state of  
10 Washington, other west coast employers may not be considered;

11 ~~((The average consumer prices for goods and services, commonly~~  
12 ~~known as the cost of living;~~

13 ~~(e))~~ The percentage change in the implicit price deflator for  
14 personal consumption expenditures for the United States as published by  
15 the bureau of economic analysis of the federal department of commerce  
16 for the year preceding the year in which interest arbitration panel  
17 proceedings are initiated;

18 (e) In making economic determinations, internal equity and local  
19 labor market considerations shall be given substantial weight;

20 (f) The financial constraints of the governing body;

21 (g) Changes in any of the circumstances under (a) through (d) of  
22 this subsection during the pendency of the proceedings; and

23 ~~((f))~~ (h) Such other factors, not confined to the factors under  
24 (a) through ((e)) (g) of this subsection, that are normally or  
25 traditionally taken into consideration in the determination of wages,  
26 hours, and conditions of employment. For those employees listed in RCW  
27 41.56.030(7)(a) who are employed by the governing body of a city or  
28 town with a population of less than fifteen thousand, or a county with  
29 a population of less than seventy thousand, consideration must also be  
30 given to regional differences in the cost of living.

31 (2) Subsection (1)(c) of this section may not be construed to  
32 authorize the panel to require the employer to pay, directly or  
33 indirectly, the increased employee contributions resulting from chapter  
34 502, Laws of 1993 or chapter 517, Laws of 1993 as required under  
35 chapter 41.26 RCW.

36 **Sec. 3.** RCW 41.56.492 and 1993 c 473 s 1 are each amended to read  
37 as follows:

1 In addition to the classes of employees listed in RCW 41.56.030(7),  
2 the provisions of RCW 41.56.430 through 41.56.452, 41.56.470,  
3 41.56.480, and 41.56.490 shall also be applicable to the employees of  
4 a public passenger transportation system of a metropolitan municipal  
5 corporation, county transportation authority, public transportation  
6 benefit area, or city public passenger transportation system, subject  
7 to the following:

8 (1) Negotiations between the public employer and the bargaining  
9 representative may commence at any time agreed to by the parties. If  
10 no agreement has been reached ninety days after commencement of  
11 negotiations, either party may demand that the issues in disagreement  
12 be submitted to a mediator. The services of the mediator shall be  
13 provided by the commission without cost to the parties, but nothing in  
14 this section or RCW 41.56.440 shall be construed to prohibit the public  
15 employer and the bargaining representative from agreeing to substitute  
16 at their own expense some other mediator or mediation procedure; and

17 (2) If an agreement has not been reached following a reasonable  
18 period of negotiations and mediation, and the mediator finds that the  
19 parties remain at impasse, either party may demand that the issues in  
20 disagreement be submitted to an arbitration panel for a binding and  
21 final determination. In making its determination, the arbitration  
22 panel shall be mindful of the legislative purpose enumerated in RCW  
23 41.56.430 and as additional standards or guidelines to aid it in  
24 reaching a ~~((decisions—[decision]))~~ decision, shall take into  
25 consideration the following factors:

26 (a) The constitutional and statutory authority of the employer;

27 (b) Stipulations of the parties;

28 (c) The financial constraints of the governing body;

29 (d) Compensation package comparisons, economic indices, fiscal  
30 constraints, and similar factors determined by the arbitration panel to  
31 be pertinent to the case; ((and

32 +d+)) (e) The percentage change in the implicit price deflator for

33 personal consumption expenditures for the United States as published by

34 the bureau of economic analysis of the federal department of commerce

35 for the year preceding the year in which interest arbitration panel

36 proceedings are initiated;

37 (f) In making economic determinations, internal equity and local

38 labor market considerations shall be given substantial weight; and

1        (g) Such other factors, not confined to the foregoing, which are  
2 normally or traditionally taken into consideration in the determination  
3 of wages, hours, and conditions of employment.

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