
HOUSE BILL 3369

State of Washington 60th Legislature 2008 Regular Session

By Representatives Dunn, Ahern, McCune, Roach, Schindler, and Warnick

Read first time 02/14/08. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to protecting the liberties of religious objectors;
2 amending RCW 28B.52.045, 41.56.122, 41.59.100, 41.76.045, 41.80.100,
3 47.64.160, and 49.66.010; and reenacting and amending RCW 41.06.150.

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

5 **Sec. 1.** RCW 28B.52.045 and 1987 c 314 s 8 are each amended to read
6 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 representative
10 of the bargaining unit shall have the right to have deducted from the
11 salary of the bargaining unit employee the periodic dues and initiation
12 fees uniformly required as a condition of acquiring or retaining
13 membership in the exclusive bargaining representative. Such employee
14 authorization shall not be irrevocable for a period of more than one
15 year. Such dues and fees shall be deducted from the pay of all
16 employees who have given authorization for such deduction, and shall be
17 transmitted by the employer to the employee organization or to the
18 depository designated by the employee organization.

1 (2) A collective bargaining agreement may include union security
2 provisions, but not a closed shop. If an agency shop or other union
3 security provision is agreed to, the employer shall enforce any such
4 provision by deductions from the salary of bargaining unit employees
5 affected thereby and shall transmit such funds to the employee
6 organization or to the depository designated by the employee
7 organization.

8 (3) An employee who is covered by a union security provision and
9 who asserts a right of nonassociation based on bona fide personally
10 held religious beliefs or based on the tenets or teachings of a church
11 or religious body of which such employee is a member shall pay directly
12 to ((a)) any nonreligious ((~~charity or other~~)) charitable organization
13 an amount of money equivalent to the periodic dues and initiation fees
14 uniformly required as a condition of acquiring or retaining membership
15 in the exclusive bargaining representative. The ((~~charity~~)) charitable
16 organization shall be ((~~agreed upon by the employee and the employee~~
17 ~~organization to which such employee would otherwise pay the dues and~~
18 ~~fees. The employee shall furnish written proof that such payments have~~
19 ~~been made. If the employee and the employee organization do not reach~~
20 ~~agreement on such matter, the commission shall designate the charitable~~
21 ~~organization~~)) registered with the secretary of state or recognized
22 under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
23 code.

24 **Sec. 2.** RCW 41.06.150 and 2002 c 371 s 906, 2002 c 354 s 203, 2002
25 c 354 s 202, and 2002 c 110 s 1 are each reenacted and amended to read
26 as follows:

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

31 (1) The reduction, dismissal, suspension, or demotion of an
32 employee;

33 (2) Certification of names for vacancies, including departmental
34 promotions, with the number of names equal to six more names than there
35 are vacancies to be filled, such names representing applicants rated
36 highest on eligibility lists((~~:- PROVIDED, That~~)). However, when other

1 applicants have scores equal to the lowest score among the names
2 certified, their names shall also be certified;

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

5 (4) Appointments;

6 (5) Training and career development;

7 (6) Probationary periods of six to twelve months and rejections of
8 probationary employees, depending on the job requirements of the class,
9 except as follows:

10 (a) Entry level state park rangers shall serve a probationary
11 period of twelve months;

12 (b) The probationary period of campus police officer appointees who
13 are required to attend the Washington state criminal justice training
14 commission basic law enforcement academy shall extend from the date of
15 appointment until twelve months from the date of successful completion
16 of the basic law enforcement academy, or twelve months from the date of
17 appointment if academy training is not required. The board shall adopt
18 rules to ensure that employees promoting to campus police officer who
19 are required to attend the Washington state criminal justice training
20 commission basic law enforcement academy shall have the trial service
21 period extend from the date of appointment until twelve months from the
22 date of successful completion of the basic law enforcement academy, or
23 twelve months from the date of appointment if academy training is not
24 required;

25 (7) Transfers;

26 (8) Sick leaves and vacations;

27 (9) Hours of work;

28 (10) Layoffs when necessary and subsequent reemployment, both
29 according to seniority;

30 (11) Collective bargaining procedures:

31 (a) After certification of an exclusive bargaining representative
32 and upon the representative's request, the director shall hold an
33 election among employees in a bargaining unit to determine by a
34 majority whether to require as a condition of employment membership in
35 the certified exclusive bargaining representative on or after the
36 thirtieth day following the beginning of employment or the date of such
37 election, whichever is the later, and the failure of an employee to
38 comply with such a condition of employment constitutes cause for

1 dismissal(~~(: PROVIDED FURTHER, That)~~). No more often than once in
2 each twelve-month period after expiration of twelve months following
3 the date of the original election in a bargaining unit and upon
4 petition of thirty percent of the members of a bargaining unit the
5 director shall hold an election to determine whether a majority wish to
6 rescind such condition of employment(~~(: PROVIDED FURTHER, That)~~). For
7 purposes of this (~~elause~~) subsection (11)(a), membership in the
8 certified exclusive bargaining representative is satisfied by the
9 payment of monthly or other periodic dues and does not require payment
10 of initiation, reinstatement, or any other fees or fines and includes
11 full and complete membership rights(~~(: AND PROVIDED FURTHER, That)~~).
12 Further, in order to safeguard the right of nonassociation of public
13 employees, based on bona fide personally held religious beliefs or
14 based on the tenets or teachings of a church or religious body of which
15 such public employee is a member, such public employee shall pay (~~to~~
16 ~~the union, for purposes within the program of the union as designated~~
17 ~~by such employee that would be in harmony with his or her individual~~
18 ~~conscience,~~) directly to any nonreligious charitable organization
19 registered with the secretary of state or recognized under Title 26
20 U.S.C. Sec. 501(c)(3) of the federal internal revenue code an amount of
21 money equivalent to regular union dues minus any included monthly
22 premiums for union-sponsored insurance programs, and such employee
23 shall not be a member of the union but is entitled to all the
24 representation rights of a union member;

25 (b) Agreements between agencies and certified exclusive bargaining
26 representatives providing for grievance procedures and collective
27 negotiations on all personnel matters over which the appointing
28 authority of the appropriate bargaining unit of such agency may
29 lawfully exercise discretion;

30 (c) Written agreements may contain provisions for payroll
31 deductions of employee organization dues upon authorization by the
32 employee member and for the cancellation of such payroll deduction by
33 the filing of a proper prior notice by the employee with the appointing
34 authority and the employee organization(~~(: PROVIDED, That)~~). Nothing
35 contained herein permits or grants to any employee the right to strike
36 or refuse to perform his or her official duties;

37 (d) A collective bargaining agreement entered into under this
38 subsection before July 1, 2004, covering employees subject to RCW

1 41.80.001 and 41.80.010 through 41.80.130, that expires after July 1,
2 2004, shall remain in full force during its duration, or until
3 superseded by a collective bargaining agreement entered into by the
4 parties under RCW 41.80.001 and 41.80.010 through 41.80.130. However,
5 an agreement entered into before July 1, 2004, may not be renewed or
6 extended beyond July 1, 2005. This subsection (11) does not apply to
7 collective bargaining negotiations or collective bargaining agreements
8 entered into under RCW 41.80.001 and 41.80.010 through 41.80.130;

9 (12) Adoption and revision of a comprehensive classification plan
10 for all positions in the classified service, based on investigation and
11 analysis of the duties and responsibilities of each such position.

12 (a) The board shall not adopt job classification revisions or class
13 studies unless implementation of the proposed revision or study will
14 result in net cost savings, increased efficiencies, or improved
15 management of personnel or services, and the proposed revision or study
16 has been approved by the director of financial management in accordance
17 with chapter 43.88 RCW.

18 (b) Reclassifications, class studies, and salary adjustments are
19 governed by (a) of this subsection and RCW 41.06.152;

20 (13) Allocation and reallocation of positions within the
21 classification plan;

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

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

36 (16) Optional lump sum relocation compensation approved by the
37 agency director, whenever it is reasonably necessary that a person make
38 a domiciliary move in accepting a transfer or other employment with the

1 state. An agency must provide lump sum compensation within existing
2 resources. If the person receiving the relocation payment terminates
3 or causes termination with the state, for reasons other than layoff,
4 disability separation, or other good cause as determined by an agency
5 director, within one year of the date of the employment, the state is
6 entitled to reimbursement of the lump sum compensation from the person;

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

29 (18) Permitting agency heads to delegate the authority to appoint,
30 reduce, dismiss, suspend, or demote employees within their agencies if
31 such agency heads do not have specific statutory authority to so
32 delegate(~~(: PROVIDED, That)~~). However, the board may not authorize
33 such delegation to any position lower than the head of a major
34 subdivision of the agency;

35 (19) Assuring persons who are or have been employed in classified
36 positions before July 1, 1993, will be eligible for employment,
37 reemployment, transfer, and promotion in respect to classified
38 positions covered by this chapter;

1 (20) Affirmative action in appointment, promotion, transfer,
2 recruitment, training, and career development; development and
3 implementation of affirmative action goals and timetables; and
4 monitoring of progress against those goals and timetables.

5 The board shall consult with the human rights commission in the
6 development of rules pertaining to affirmative action. The department
7 of personnel shall transmit a report annually to the human rights
8 commission which states the progress each state agency has made in
9 meeting affirmative action goals and timetables.

10 Notwithstanding this section and rules of the board adopted under
11 this section, agencies may place employees on temporary unpaid leave
12 during the 2001-2003 fiscal biennium for the purpose of implementing
13 appropriations reductions enacted in the 2002 supplemental
14 appropriations act. Mandatory unpaid leave must be approved by the
15 agency director, and must be, to the greatest extent possible, mutually
16 agreeable to the employee and employer. Employees taking mandatory
17 temporary unpaid leave will not lose seniority, leave accrual, or
18 health insurance benefits.

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

21 A collective bargaining agreement may:

22 (1) Contain union security provisions(~~(:—PROVIDED, That))~~;
23 however, nothing in this section shall authorize a closed shop
24 provision(~~(:—PROVIDED FURTHER, That))~~. Further, agreements involving
25 union security provisions must safeguard the right of nonassociation of
26 public employees based on bona fide personally held religious beliefs
27 or based on the tenets or teachings of a church or religious body of
28 which such public employee is a member. Such public employee shall pay
29 an amount of money equivalent to regular union dues and initiation fee
30 directly to ((a)) any nonreligious (~~(charity or to another))~~ charitable
31 organization (~~((mutually agreed upon by the public employee affected and~~
32 ~~the bargaining representative to which such public employee would~~
33 ~~otherwise pay the dues and initiation fee. The public employee shall~~
34 ~~furnish written proof that such payment has been made. If the public~~
35 ~~employee and the bargaining representative do not reach agreement on~~
36 ~~such matter, the commission shall designate the charitable~~
37 ~~organization))~~ registered with the secretary of state or recognized

1 under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
2 code. When there is a conflict between any collective bargaining
3 agreement reached by a public employer and a bargaining representative
4 on a union security provision and any charter, ordinance, rule, or
5 regulation adopted by the public employer or its agents, including but
6 not limited to, a civil service commission, the terms of the collective
7 bargaining agreement shall prevail.

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

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

13 A collective bargaining agreement may include union security
14 provisions including an agency shop, but not a union or closed shop.
15 If an agency shop provision is agreed to, the employer shall enforce it
16 by deducting from the salary payments to members of the bargaining unit
17 the dues required of membership in the bargaining representative, or,
18 for nonmembers thereof, a fee equivalent to such dues. All union
19 security provisions must safeguard the right of nonassociation of
20 employees based on bona fide personally held religious beliefs or based
21 on the tenets or teachings of a church or religious body of which such
22 employee is a member. Such employee shall pay an amount of money
23 equivalent to regular dues and fees directly to ((a)) any nonreligious
24 ((charity or to another)) charitable organization ((mutually agreed
25 upon by the employee affected and the bargaining representative to
26 which such employee would otherwise pay the dues and fees. The
27 employee shall furnish written proof that such payment has been made.
28 If the employee and the bargaining representative do not reach
29 agreement on such matter, the commission shall designate the charitable
30 organization)) registered with the secretary of state or recognized
31 under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
32 code.

33 **Sec. 5.** RCW 41.76.045 and 2002 c 356 s 12 are each amended to read
34 as follows:

35 (1) Upon filing with the employer the voluntary written
36 authorization of a bargaining unit faculty member under this chapter,

1 the employee organization which is the exclusive bargaining
2 representative of the bargaining unit shall have the right to have
3 deducted from the salary of the bargaining unit faculty member the
4 periodic dues and initiation fees uniformly required as a condition of
5 acquiring or retaining membership in the exclusive bargaining
6 representative. Such employee authorization shall not be irrevocable
7 for a period of more than one year. Such dues and fees shall be
8 deducted from the pay of all faculty members who have given
9 authorization for such deduction, and shall be transmitted by the
10 employer to the employee organization or to the depository designated
11 by the employee organization.

12 (2) A collective bargaining agreement may include union security
13 provisions, but not a closed shop. If an agency shop or other union
14 security provision is agreed to, the employer shall enforce any such
15 provision by deductions from the salary of bargaining unit faculty
16 members affected thereby and shall transmit such funds to the employee
17 organization or to the depository designated by the employee
18 organization.

19 (3) A faculty member who is covered by a union security provision
20 and who asserts a right of nonassociation based on bona fide personally
21 held religious beliefs or based on the tenets or teachings of a church
22 or religious body of which such faculty member is a member shall pay
23 directly to ((a)) any nonreligious ((charity or other)) charitable
24 organization an amount of money equivalent to the periodic dues and
25 initiation fees uniformly required as a condition of acquiring or
26 retaining membership in the exclusive bargaining representative. The
27 ((charity)) charitable organization shall be ((agreed upon by the
28 faculty member and the employee organization to which such faculty
29 member would otherwise pay the dues and fees. The faculty member shall
30 furnish written proof that such payments have been made. If the
31 faculty member and the employee organization do not reach agreement on
32 such matter, the dispute shall be submitted to the commission for
33 determination)) registered with the secretary of state or recognized
34 under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
35 code.

36 **Sec. 6.** RCW 41.80.100 and 2002 c 354 s 311 are each amended to
37 read as follows:

1 (1) A collective bargaining agreement may contain a union security
2 provision requiring as a condition of employment the payment, no later
3 than the thirtieth day following the beginning of employment or July 1,
4 2004, whichever is later, of an agency shop fee to the employee
5 organization that is the exclusive bargaining representative for the
6 bargaining unit in which the employee is employed. The amount of the
7 fee shall be equal to the amount required to become a member in good
8 standing of the employee organization. Each employee organization
9 shall establish a procedure by which any employee so requesting may pay
10 a representation fee no greater than the part of the membership fee
11 that represents a pro rata share of expenditures for purposes germane
12 to the collective bargaining process, to contract administration, or to
13 pursuing matters affecting wages, hours, and other conditions of
14 employment.

15 (2) An employee who is covered by a union security provision and
16 who asserts a right of nonassociation based on bona fide personally
17 held religious beliefs or based on the tenets((τ)) or teachings of a
18 church or religious body of which the employee is a member((τ))
19 shall(~~(, as a condition of employment, make payments to the employee~~
20 ~~organization, for purposes within the program of the employee~~
21 ~~organization as designated by the employee that would be in harmony~~
22 ~~with his or her individual conscience. The amount of the payments~~
23 ~~shall be equal~~)) pay directly to any nonreligious charitable
24 organization an amount of money equivalent to the periodic dues and
25 fees uniformly required as a condition of acquiring or retaining
26 membership in the employee organization minus any included monthly
27 premiums for insurance programs sponsored by the employee organization.
28 The charitable organization shall be registered with the secretary of
29 state or recognized under Title 26 U.S.C. Sec. 501(c)(3) of the federal
30 internal revenue code. The employee shall not be a member of the
31 employee organization but is entitled to all the representation rights
32 of a member of the employee organization.

33 (3) Upon filing with the employer the written authorization of a
34 bargaining unit employee under this chapter, the employee organization
35 that is the exclusive bargaining representative of the bargaining unit
36 shall have the exclusive right to have deducted from the salary of the
37 employee an amount equal to the fees and dues uniformly required as a
38 condition of acquiring or retaining membership in the employee

1 organization. The fees and dues shall be deducted each pay period from
2 the pay of all employees who have given authorization for the deduction
3 and shall be transmitted by the employer as provided for by agreement
4 between the employer and the employee organization.

5 (4) Employee organizations that before July 1, 2004, were entitled
6 to the benefits of this section shall continue to be entitled to these
7 benefits.

8 **Sec. 7.** RCW 47.64.160 and 1983 c 15 s 7 are each amended to read
9 as follows:

10 A collective bargaining agreement may include union security
11 provisions including an agency shop, but not a union or closed shop.
12 If an agency shop provision is agreed to, the employer shall enforce it
13 by deducting from the salary payments to members of the bargaining unit
14 the dues required of membership in the bargaining representative, or,
15 for nonmembers thereof, a fee equivalent to such dues. All union
16 security provisions shall safeguard the right of nonassociation of
17 employees based on bona fide personally held religious beliefs or based
18 on the tenets or teachings of a church or religious body of which such
19 employee is a member. Such employee shall pay an amount of money
20 equivalent to regular dues and fees directly to ((a)) any nonreligious
21 ((charity or to another)) charitable organization ((mutually agreed
22 upon by the employee affected and the bargaining representative to
23 which such employee would otherwise pay the dues and fees. The
24 employee shall furnish written proof that such payment has been made.
25 If the employee and the bargaining representative do not reach
26 agreement on such matter, the commission shall designate the charitable
27 organization)) registered with the secretary of state or recognized
28 under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
29 code.

30 **Sec. 8.** RCW 49.66.010 and 1973 2nd ex.s. c 3 s 1 are each amended
31 to read as follows:

32 It is the public policy of the state to expedite the settlement of
33 labor disputes arising in connection with health care activities, in
34 order that there may be no lessening, however temporary, in the quality
35 of the care given to patients. It is the legislative purpose by this
36 chapter to promote collective bargaining between health care activities

1 and their employees, to protect the right of employees of health care
2 activities to organize and select collective bargaining units of their
3 own choosing.

4 It is further determined that any agreements involving union
5 security including an all-union agreement or agency agreement must
6 safeguard the rights of nonassociation of employees, based on bona fide
7 personally held religious beliefs or based on the tenets or teachings
8 of a church or religious body of which such employee is a member. Such
9 employee must pay an amount of money equivalent to regular union dues
10 and initiation fees and assessments, if any, directly to ((a)) any
11 nonreligious ~~((charity or to another))~~ charitable organization
12 ~~((mutually agreed upon by the employee affected and the representative~~
13 ~~of the labor organization to which such employee would otherwise pay~~
14 ~~dues. The employee shall furnish written proof that this has been~~
15 ~~done. If the employee and representative of the labor organization do~~
16 ~~not reach agreement on the matter, the department shall designate such~~
17 ~~organization))~~ registered with the secretary of state or recognized
18 under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
19 code.

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