
HOUSE BILL 3163

State of Washington

61st Legislature

2010 Regular Session

By Representatives Clibborn, Roach, and Liias; by request of Office of Financial Management

1 AN ACT Relating to health care benefits for marine employees of the
2 department of transportation; and amending RCW 47.64.120, 47.64.270,
3 47.64.320, and 41.80.020.

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

5 **Sec. 1.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read
6 as follows:

7 (1) Except as otherwise provided in this chapter, the employer and
8 ferry system employee organizations, through their collective
9 bargaining representatives, shall meet at reasonable times(~~(,)~~) to
10 negotiate in good faith with respect to wages, hours, working
11 conditions, and insurance, (~~(and health care benefits as limited by RCW~~
12 ~~47.64.270,)~~) and other matters mutually agreed upon. Employer funded
13 retirement benefits shall be provided under the public employees
14 retirement system under chapter 41.40 RCW and shall not be included in
15 the scope of collective bargaining. Except as provided under RCW
16 47.64.270, the employer is not required to bargain over health care
17 benefits.

18 (2) Upon ratification of bargaining agreements, ferry employees are
19 entitled to an amount equivalent to the interest earned on retroactive

1 compensation increases. For purposes of this section, the interest
2 earned on retroactive compensation increases is the same monthly rate
3 of interest that was earned on the amount of the compensation increases
4 while held in the state treasury. The interest will be computed for
5 each employee until the date the retroactive compensation is paid, and
6 must be allocated in accordance with appropriation authority. The
7 interest earned on retroactive compensation is not considered part of
8 the ongoing compensation obligation of the state and is not
9 compensation earnable for the purposes of chapter 41.40 RCW.
10 Negotiations shall also include grievance procedures for resolving any
11 questions arising under the agreement, which shall be embodied in a
12 written agreement and signed by the parties.

13 (3) Except as otherwise provided in this chapter, if a conflict
14 exists between an executive order, administrative rule, or agency
15 policy relating to wages, hours, and terms and conditions of employment
16 and a collective bargaining agreement negotiated under this chapter,
17 the collective bargaining agreement shall prevail. A provision of a
18 collective bargaining agreement that conflicts with the terms of a
19 statute is invalid and unenforceable.

20 **Sec. 2.** RCW 47.64.270 and 2006 c 164 s 17 are each amended to read
21 as follows:

22 (1) The employer and one coalition of all the exclusive bargaining
23 representatives subject to this chapter and chapter 41.80 RCW shall
24 conduct negotiations regarding the dollar amount expended on behalf of
25 each employee for health care benefits.

26 (2) Absent a collective bargaining agreement to the contrary, the
27 department of transportation shall provide contributions to insurance
28 and health care plans for ferry system employees and dependents, as
29 determined by the state health care authority, under chapter 41.05
30 RCW(~~(+and)~~).

31 (3) The employer and employee organizations may collectively
32 bargain for (~~(other)~~) insurance (~~(and health care)~~) plans other than
33 health care benefits, and employer contributions may exceed that of
34 other state agencies as provided in RCW 41.05.050. (~~(To the extent~~
35 that ferry employees by bargaining unit have absorbed the required
36 offset of wage increases by the amount that the employer's contribution
37 for employees' and dependents' insurance and health care plans exceeds

1 ~~that of other state general government employees in the 1985-87 fiscal~~
2 ~~biennium, employees shall not be required to absorb a further offset~~
3 ~~except to the extent the differential between employer contributions~~
4 ~~for those employees and all other state general government employees~~
5 ~~increases during any subsequent fiscal biennium. If such differential~~
6 ~~increases in the 1987-89 fiscal biennium or the 1985-87 offset by~~
7 ~~bargaining unit is insufficient to meet the required deduction, the~~
8 ~~amount available for compensation shall be reduced by bargaining unit~~
9 ~~by the amount of such increase or the 1985-87 shortage in the required~~
10 ~~offset. Compensation shall include all wages and employee benefits.))~~

11 **Sec. 3.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read
12 as follows:

13 (1) The mediator, arbitrator, or arbitration panel may consider
14 only matters that are subject to bargaining under this chapter, except
15 that health care benefits are not subject to interest arbitration.

16 (2) The decision of an arbitrator or arbitration panel is not
17 binding on the legislature and, if the legislature does not approve the
18 funds necessary to implement provisions pertaining to compensation and
19 fringe benefit provisions of an arbitrated collective bargaining
20 agreement, is not binding on the state, the department of
21 transportation, or the ferry employee organization.

22 (3) In making its determination, the arbitrator or arbitration
23 panel shall be mindful of the legislative purpose under RCW 47.64.005
24 and 47.64.006 and, as additional standards or guidelines to aid it in
25 reaching a decision, shall take into consideration the following
26 factors:

27 (a) Past collective bargaining contracts between the parties
28 including the bargaining that led up to the contracts;

29 (b) The constitutional and statutory authority of the employer;

30 (c) Stipulations of the parties;

31 (d) The results of the salary survey as required in RCW 47.64.220;

32 (e) Comparison of wages, hours, employee benefits, and conditions
33 of employment of the involved ferry employees with those of public and
34 private sector employees in states along the west coast of the United
35 States, including Alaska, and in British Columbia doing directly
36 comparable but not necessarily identical work, giving consideration to
37 factors peculiar to the area and the classifications involved;

1 (f) Changes in any of the foregoing circumstances during the
2 pendency of the proceedings;

3 (g) The limitations on ferry toll increases and operating subsidies
4 as may be imposed by the legislature; and

5 (h) Other factors that are normally or traditionally taken into
6 consideration in the determination of matters that are subject to
7 bargaining under this chapter.

8 **Sec. 4.** RCW 41.80.020 and 2002 c 354 s 303 are each amended to
9 read as follows:

10 (1) Except as otherwise provided in this chapter, the matters
11 subject to bargaining include wages, hours, and other terms and
12 conditions of employment, and the negotiation of any question arising
13 under a collective bargaining agreement.

14 (2) The employer is not required to bargain over matters pertaining
15 to:

16 (a) Health care benefits or other employee insurance benefits,
17 except as required in subsection (3) of this section;

18 (b) Any retirement system or retirement benefit; or

19 (c) Rules of the director of personnel or the Washington personnel
20 resources board adopted under section 203, chapter 354, Laws of 2002.

21 (3) Matters subject to bargaining include the number of names to be
22 certified for vacancies, promotional preferences, and the dollar amount
23 expended on behalf of each employee for health care benefits. However,
24 except as provided otherwise in this subsection for institutions of
25 higher education, negotiations regarding the number of names to be
26 certified for vacancies, promotional preferences, and the dollar amount
27 expended on behalf of each employee for health care benefits shall be
28 conducted between the employer and one coalition of all the exclusive
29 bargaining representatives subject to this chapter. The exclusive
30 bargaining representatives for employees that are subject to chapter
31 47.64 RCW shall bargain the dollar amount expended on behalf of each
32 employee for health care benefits with the employer as part of the
33 coalition under this subsection. Any such provision agreed to by the
34 employer and the coalition shall be included in all master collective
35 bargaining agreements negotiated by the parties. For institutions of
36 higher education, promotional preferences and the number of names to be

1 certified for vacancies shall be bargained under the provisions of RCW
2 41.80.010(4).

3 (4) The employer and the exclusive bargaining representative shall
4 not agree to any proposal that would prevent the implementation of
5 approved affirmative action plans or that would be inconsistent with
6 the comparable worth agreement that provided the basis for the salary
7 changes implemented beginning with the 1983-1985 biennium to achieve
8 comparable worth.

9 (5) The employer and the exclusive bargaining representative shall
10 not bargain over matters pertaining to management rights established in
11 RCW 41.80.040.

12 (6) Except as otherwise provided in this chapter, if a conflict
13 exists between an executive order, administrative rule, or agency
14 policy relating to wages, hours, and terms and conditions of employment
15 and a collective bargaining agreement negotiated under this chapter,
16 the collective bargaining agreement shall prevail. A provision of a
17 collective bargaining agreement that conflicts with the terms of a
18 statute is invalid and unenforceable.

19 (7) This section does not prohibit bargaining that affects
20 contracts authorized by RCW 41.06.142.

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