
SENATE BILL 5844

State of Washington

63rd Legislature

2013 Regular Session

By Senators Sheldon and Roach

Read first time 02/21/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to modifying collective bargaining law to authorize
2 the right of state workers employed in the community and technical
3 college system as nontenured part-time academic employees to form a
4 collective bargaining unit for the protection of their common
5 interests; amending RCW 28B.52.010, 28B.52.020, 28B.52.025, 28B.52.045,
6 and 28B.52.070; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** The legislature recognizes the principle
9 that a collective bargaining unit is and ought to be composed of
10 workers who share a community of interests and common working
11 conditions relative to job security, compensation, workload,
12 opportunities for advancement, and that workers should not be part of
13 a collective bargaining unit with other workers who do not share these
14 common working conditions. The legislature also recognizes that in a
15 two-tier workforce structure, where the upper tier may exercise, real
16 or perceived, managerial or supervisory functions over the lower tier,
17 such a dynamic may negatively influence both the individuals and the
18 bargaining process and may induce a desire among individuals of the
19 lower tier to align with the interests of the upper tier even when the

1 alignment is counter to the interests of the lower tier. This
2 dysfunction is exacerbated when, instead of a community of interests
3 between the upper and lower tier, an actual conflict of interests
4 exists.

5 **Sec. 2.** RCW 28B.52.010 and 1991 c 238 s 145 are each amended to
6 read as follows:

7 It is the purpose of this chapter to strengthen methods of
8 administering employer-employee relations through the establishment of
9 orderly methods of communication between academic employees and the
10 college districts by which they are employed. The legislature intends
11 that collective bargaining units may be composed of either full-time
12 tenured academic employees or part-time nontenured academic employees
13 to strengthen the direct communication of these distinct employee types
14 with the employer.

15 It is the purpose of this chapter to promote cooperative efforts by
16 prescribing certain rights and obligations of the employees and
17 employers and by establishing orderly procedures governing the
18 relationship between the employees and their employers which procedures
19 are designed to meet the special requirements and needs of public
20 employment in higher education. It is the intent of this chapter to
21 promote activity that includes the elements of open communication and
22 access to information in a timely manner, with reasonable discussion
23 and interpretation of that information. It is the further intent that
24 such activity shall be characterized by mutual respect, integrity,
25 reasonableness, and a desire on the part of the parties to address and
26 resolve the points of concern.

27 **Sec. 3.** RCW 28B.52.020 and 1991 c 238 s 146 are each amended to
28 read as follows:

29 As used in this chapter:

30 (1) "Employee organization" means any organization which includes
31 as members the academic employees of a college district and which has
32 as one of its purposes the representation of the employees in their
33 employment relations with the college district.

34 (2) "Academic employee" means any teacher, counselor, librarian, or
35 department head(~~(7)~~) who is employed by any college district(~~(7, whether~~
36 ~~full or part time)~~), with the exception of the chief administrative

1 officer of, and any administrator in, each college district. Full-time
2 tenured academic employees may join full-time tenured collective
3 bargaining units. Part-time nontenured academic employees may join
4 part-time faculty collective bargaining units.

5 (3) "Administrator" means any person employed either full or part
6 time by the college district and who performs administrative functions
7 as at least fifty percent or more of his or her assignments, and has
8 responsibilities to hire, dismiss, or discipline other employees.
9 Administrators shall not be members of the bargaining unit unless a
10 majority of such administrators and a majority of the bargaining unit
11 elect by secret ballot for such inclusion pursuant to rules as adopted
12 in accordance with RCW 28B.52.080.

13 (4) "Commission" means the public employment relations commission.

14 (5) "Unfair labor practice" means any unfair labor practice listed
15 in RCW 28B.52.073.

16 (6) "Union security provision" means a provision in a collective
17 bargaining agreement under which some or all employees in the
18 bargaining unit may be required, as a condition of continued employment
19 on or after the thirtieth day following the beginning of such
20 employment or the effective date of the provision, whichever is later,
21 to become a member of the exclusive bargaining representative or pay an
22 agency fee equal to the periodic dues and initiation fees uniformly
23 required as a condition of acquiring or retaining membership in the
24 exclusive bargaining representative.

25 (7) "Exclusive bargaining representative" means any employee
26 organization which has:

27 (a) Been certified or recognized under this chapter as the
28 representative of the employees in an appropriate collective bargaining
29 unit; or

30 (b) Before July 26, 1987, been certified or recognized under a
31 predecessor statute as the representative of the employees in a
32 bargaining unit which continues to be appropriate under this chapter.

33 (8) "Collective bargaining" and "bargaining" mean the performance
34 of the mutual obligation of the representatives of the employer and the
35 exclusive bargaining representative to meet at reasonable times to
36 bargain in good faith in an effort to reach agreement with respect to
37 wages, hours, and other terms and conditions of employment, such as
38 procedures related to nonretention, dismissal, denial of tenure, and

1 reduction in force. Prior law, practice, or interpretation shall be
2 neither restrictive, expansive, nor determinative with respect to the
3 scope of bargaining. A written contract incorporating any agreements
4 reached shall be executed if requested by either party. The obligation
5 to bargain does not compel either party to agree to a proposal or to
6 make a concession.

7 In the event of a dispute between an employer and an exclusive
8 bargaining representative over the matters that are terms and
9 conditions of employment, the commission shall decide which items are
10 mandatory subjects for bargaining.

11 **Sec. 4.** RCW 28B.52.025 and 1987 c 314 s 5 are each amended to read
12 as follows:

13 Both full-time tenured academic employees and part-time nontenured
14 academic employees have the right to self-organization, to form, join,
15 or assist employee organizations, to bargain collectively through
16 representatives of their own choosing, and also have the right to
17 refrain from any or all of these activities except to the extent that
18 full-time tenured academic employees may be required to make payments
19 to an exclusive full-time tenured academic bargaining representative
20 while part-time nontenured academic employees may be required to make
21 payments to an exclusive part-time nontenured bargaining
22 representative, or charitable organization under a union security
23 provision authorized in this chapter.

24 **Sec. 5.** RCW 28B.52.045 and 1987 c 314 s 8 are each amended to read
25 as follows:

26 (1) Upon filing with the employer the voluntary written
27 authorization of a bargaining unit employee under this chapter, the
28 full-time tenured academic employee organization or the part-time
29 nontenured academic employee organization which is the exclusive
30 bargaining representative of the bargaining unit of the respective
31 full-time tenured or part-time nontenured academic employee
32 organization shall have the right to have deducted from the salary of
33 the bargaining unit employee the periodic dues and initiation fees
34 uniformly required as a condition of acquiring or retaining membership
35 in the exclusive bargaining representative. Such employee
36 authorization shall not be irrevocable for a period of more than one

1 year. Such dues and fees shall be deducted from the pay of all
2 employees who have given authorization for such deduction, and shall be
3 transmitted by the employer to the employee organization or to the
4 depository designated by the employee organization.

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

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

25 **Sec. 6.** RCW 28B.52.070 and 1991 c 238 s 151 are each amended to
26 read as follows:

27 (1) Boards of trustees of college districts or any administrative
28 officer thereof shall not discriminate against academic employees or
29 applicants for such positions because of their membership or
30 nonmembership in employee organizations or their exercise of other
31 rights under this chapter.

32 (2) Discrimination against part-time academic employees on the
33 basis of their part-time or nontenured employment status is a violation
34 of this chapter.

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