H-0692.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2034**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Reykdal, Goodman, Kilduff, Appleton, Sells, and Ormsby

AN ACT Relating to collective bargaining for assistant attorneys general; amending RCW 43.10.070; adding a new section to chapter 41.56 RCW; adding new sections to chapter 43.10 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that the legal services provided by assistant attorneys general in the office of the attorney general are crucial to the ability of the state officials, agencies, colleges, boards, and commissions to function and fulfill their obligations to the citizens of the state. Assistant attorneys general are exempt from civil service under RCW 41.06.070. The assistant attorneys general currently have no mechanism through which to collectively bargain for salary increases. The legislature finds the office of the attorney general has experienced increased difficulty recruiting and retaining attorneys due to the disparity in wages paid to assistant attorneys general as compared to attorneys in other public sector positions. This type of turnover is costly to the office of the attorney general, negatively impacts morale, interferes with the ability of the office to succession plan, and ultimately harms the citizens of this state. Therefore, it is the legislature's intent to empower assistant attorneys general to collectively bargain for fair wages that will foster job satisfaction and the highest standards of professional competence among assistant attorneys general.

NEW SECTION. **Sec.**  A new section is added to chapter 41.56 RCW to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to assistant attorneys general as provided under sections 3 and 4 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.10 RCW to read as follows:

(1)(a) Assistant attorneys general who are not otherwise excluded from bargaining under (b) of this subsection are granted the right to collectively bargain. Collective bargaining between assistant attorneys general and the attorney general or his or her designee is governed by chapter 41.56 RCW, except as expressly limited by this chapter and other law.

(b) Senior assistant attorneys general, deputy attorneys general, the solicitor general, special assistant attorneys general, confidential employees as defined by RCW 41.80.005(4), and any assistant or deputy attorney general who reports directly to the attorney general are excluded from this section and section 4 of this act and do not have the right to collectively bargain.

(2)(a) The only unit appropriate for the purpose of collective bargaining under RCW 41.56.060 is a statewide unit of all assistant attorneys general not otherwise excluded from bargaining under this section and section 4 of this act.

(b) The exclusive bargaining representative of assistant attorneys general in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070.

(c) For the purposes of this section, the scope of collective bargaining for assistant attorneys general is solely limited to: (i) Compensation; and (ii) grievance procedure. By such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter or chapter 41.56 RCW.

(d) A collective bargaining agreement may contain a union security provision as provided in RCW 41.56.122.

(e) For purposes of this section, "compensation" means only the monthly or annual salary and does not include:

(i) Retirement plans and retirement benefits;

(ii) Health care benefits or other employee insurance benefits;

(iii) Travel and per diem reimbursements;

(iv) Paid leave; and

(v) Any other type of financial benefit.

(3) The attorney general or his or her designee and the exclusive bargaining representative may not bargain over rights of management that, in addition to all powers, duties, and rights established by constitutional provision or statute, include but are not limited to the following:

(a) The functions and programs of the office of the attorney general, the use of technology, and the structure of the organization;

(b) The office of the attorney general's budget and the size of its workforce, including determining the financial basis for layoffs;

(c) The right to direct and supervise employees;

(d) The right to take whatever actions are necessary to carry out the mission of the state and the attorney general's office during emergencies;

(e) Retirement plans and retirement benefits;

(f) Health care benefits or other employee insurance benefits; and

(g) The right of the attorney general to, at his or her pleasure, appoint or terminate assistants as provided in RCW 43.10.060 and 43.10.065.

(4) The mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

(a) With respect to commencement of negotiations between the attorney general, or his or her designee, and the bargaining representative of assistant attorneys general, negotiations shall be commenced by May 1st of any year prior to the year in which an existing collective bargaining agreement expires; and

(b) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and fringe benefit provisions of the arbitrated collective bargaining agreement, is not binding on the attorney general or the state.

(5) The attorney general may designate the governor, or the governor's designee, to bargain on his or her behalf.

(6) Assistant attorneys general do not have the right to strike.

NEW SECTION. **Sec.**  A new section is added to chapter 43.10 RCW to read as follows:

(1) Upon meeting the requirements of subsection (2) of this section, the governor must submit, as part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to implement the compensation provisions of a collective bargaining agreement entered into under section 3 of this act.

(2) A request for funds necessary to implement the compensation provisions of a collective bargaining agreement entered into under section 3 of this act shall not be submitted by the governor to the legislature unless such request:

(a) Has been submitted to the director of financial management by October 1st prior to the legislative session at which the request is to be considered; and

(b) Has been certified by the director of financial management as being feasible financially for the state.

(3) The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(4) The attorney general or his or her designee shall periodically consult with the joint committee on employment relations established by RCW 41.80.010 regarding appropriations necessary to implement the compensation provisions of any collective bargaining agreement and, upon completion of negotiations, advise the committee on the elements of the agreement and on any legislation necessary to implement such agreement.

(5) If, after the compensation provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

**Sec.**  RCW 43.10.070 and 1965 c 8 s 43.10.070 are each amended to read as follows:

Subject to any collective bargaining agreement, the attorney general shall fix the compensation of all assistants, attorneys, and employees, and in the event they are assigned to any department, board, or commission, such department, board, or commission shall pay the compensation as fixed by the attorney general, not however in excess of the amount made available to the department by law for legal services.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**