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**SENATE BILL 5231**

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

**By** Senators Sheldon, Dansel, Becker, and Hobbs

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

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

NEW SECTION. **Sec.**  The legislature recognizes the principle that a collective bargaining unit is and ought to be composed of workers who share a community of interests and common working conditions relative to job security, compensation, workload, opportunities for advancement, and that workers should not be part of a collective bargaining unit with other workers who do not share these common working conditions. The legislature also recognizes that in a two-tier workforce structure, where the upper tier may exercise, real or perceived, managerial or supervisory functions over the lower tier, such a dynamic may negatively influence both the individuals and the bargaining process and may induce a desire among individuals of the lower tier to align with the interests of the upper tier even when the alignment is counter to the interests of the lower tier. This dysfunction is exacerbated when, instead of a community of interests between the upper and lower tier, an actual conflict of interests exists.

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

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

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

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

As used in this chapter:

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

(2) "Academic employee" means any teacher, counselor, librarian, or department head((~~,~~)) who is employed by any college district((~~, whether full or part time~~)), with the exception of the chief administrative officer of, and any administrator in, each college district. Full-time tenured academic employees may join full-time tenured collective bargaining units. Part-time nontenured academic employees may join part-time faculty collective bargaining units.

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

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

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

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

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

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

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

(8) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment, such as procedures related to nonretention, dismissal, denial of tenure, and reduction in force. Prior law, practice, or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

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

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

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

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

(1) Upon filing with the employer the voluntary written authorization of a bargaining unit employee under this chapter, the full-time tenured academic employee organization or the part-time nontenured academic employee organization which is the exclusive bargaining representative of the bargaining unit of the respective full-time tenured or part-time nontenured academic employee organization shall have the right to have deducted from the salary of the bargaining unit employee the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable for a period of more than one year. Such dues and fees shall be deducted from the pay of all employees who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

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

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

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

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

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

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