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HOUSE BILL 2034

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State of Washington

64th Legislature

2015 Regular Session

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

Read first time 02/09/15. Referred to Committee on Labor.

1 AN ACT Relating to collective bargaining for assistant attorneys  
2 general; amending RCW 43.10.070; adding a new section to chapter  
3 41.56 RCW; adding new sections to chapter 43.10 RCW; and creating a  
4 new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the legal  
7 services provided by assistant attorneys general in the office of the  
8 attorney general are crucial to the ability of the state officials,  
9 agencies, colleges, boards, and commissions to function and fulfill  
10 their obligations to the citizens of the state. Assistant attorneys  
11 general are exempt from civil service under RCW 41.06.070. The  
12 assistant attorneys general currently have no mechanism through which  
13 to collectively bargain for salary increases. The legislature finds  
14 the office of the attorney general has experienced increased  
15 difficulty recruiting and retaining attorneys due to the disparity in  
16 wages paid to assistant attorneys general as compared to attorneys in  
17 other public sector positions. This type of turnover is costly to the  
18 office of the attorney general, negatively impacts morale, interferes  
19 with the ability of the office to succession plan, and ultimately  
20 harms the citizens of this state. Therefore, it is the legislature's  
21 intent to empower assistant attorneys general to collectively bargain

1 for fair wages that will foster job satisfaction and the highest  
2 standards of professional competence among assistant attorneys  
3 general.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.56  
5 RCW to read as follows:

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

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.10  
10 RCW to read as follows:

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

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

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

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

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

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

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

- 3 (i) Retirement plans and retirement benefits;
- 4 (ii) Health care benefits or other employee insurance benefits;
- 5 (iii) Travel and per diem reimbursements;
- 6 (iv) Paid leave; and
- 7 (v) Any other type of financial benefit.

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

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

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

18 (c) The right to direct and supervise employees;

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

22 (e) Retirement plans and retirement benefits;

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

24 and

25 (g) The right of the attorney general to, at his or her pleasure,  
26 appoint or terminate assistants as provided in RCW 43.10.060 and  
27 43.10.065.

28 (4) The mediation and interest arbitration provisions of RCW  
29 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

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

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

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

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

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.10  
5 RCW to read as follows:

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

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

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

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

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

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

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

1       **Sec. 5.** RCW 43.10.070 and 1965 c 8 s 43.10.070 are each amended  
2 to read as follows:

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

10       NEW SECTION.   **Sec. 6.** If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

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