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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

Read first time 01/16/15. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to modifying collective bargaining law to  
2 authorize the right of state workers employed in the community and  
3 technical college system as nontenured part-time academic employees  
4 to form a collective bargaining unit for the protection of their  
5 common interests; amending RCW 28B.52.010, 28B.52.020, 28B.52.025,  
6 28B.52.045, 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  
14 these common working conditions. The legislature also recognizes that  
15 in a two-tier workforce structure, where the upper tier may exercise,  
16 real or perceived, managerial or supervisory functions over the lower  
17 tier, such a dynamic may negatively influence both the individuals  
18 and the bargaining process and may induce a desire among individuals  
19 of the lower tier to align with the interests of the upper tier even  
20 when the alignment is counter to the interests of the lower tier.  
21 This dysfunction is exacerbated when, instead of a community of

1 interests between the upper and lower tier, an actual conflict of  
2 interests exists.

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

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

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

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

27 As used in this chapter:

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

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

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

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

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

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

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

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

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

31 (8) "Collective bargaining" and "bargaining" mean the performance  
32 of the mutual obligation of the representatives of the employer and  
33 the exclusive bargaining representative to meet at reasonable times  
34 to bargain in good faith in an effort to reach agreement with respect  
35 to wages, hours, and other terms and conditions of employment, such  
36 as procedures related to nonretention, dismissal, denial of tenure,  
37 and reduction in force. Prior law, practice, or interpretation shall  
38 be neither restrictive, expansive, nor determinative with respect to  
39 the scope of bargaining. A written contract incorporating any  
40 agreements reached shall be executed if requested by either party.

1 The obligation to bargain does not compel either party to agree to a  
2 proposal or to make a concession.

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

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

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

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

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

37 (2) A collective bargaining agreement may include union security  
38 provisions, but not a closed shop. If an agency shop or other union

1 security provision is agreed to, the employer shall enforce any such  
2 provision by deductions from the salary of bargaining unit employees  
3 affected thereby and shall transmit such funds to the employee  
4 organization or to the depository designated by the employee  
5 organization.

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

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

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

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

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