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**SUBSTITUTE SENATE BILL 5545**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Commerce, Labor & Sports (originally sponsored by Senators Wilson, Braun, Rossi, Angel, Schoesler, and Bailey)

AN ACT Relating to requiring public employee collective bargaining proposals, fiscal impact analyses, and agreements to be made public; amending RCW 42.56.280 and 41.80.010; adding a new section to chapter 41.56 RCW; adding a new section to chapter 28B.52 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 41.76 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 47.64 RCW; and adding a new section to chapter 49.39 RCW.

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

**Sec.**  RCW 42.56.280 and 2005 c 274 s 408 are each amended to read as follows:

Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this chapter, except that a specific record is not exempt when publicly cited by an agency in connection with any agency action and except that written proposals suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to, and is received from, any certified employee organization are not exempt.

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

(1) Unless bargaining sessions are conducted in open meetings that satisfy the requirements of chapter 42.30 RCW, public employers other than the state of Washington engaging in collective bargaining under subsection (2) of this section with employee organizations or their representatives must:

(a) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted by the governing body, provide to the governing body a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours;

(b) Unless the governing body of the public employer formally directs that a fiscal impact analysis shall not be obtained, prepare a fiscal impact analysis of any proposed final collective bargaining agreement, memorandum of understanding, or amendment to an agreement or memorandum of understanding. The analysis must be presented at the public meeting considering adoption of the agreement or memorandum of understanding; and

(c) Within thirty days of the final approval by the governing body of the public employer of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

(2) The state of Washington when engaging in collective bargaining with employee organizations or their representatives under RCW 41.56.026, 41.56.028, 41.56.029, and 41.56.510 must:

(a) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted, provide to the joint committee on employment relations established in RCW 41.80.010, a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours; and

(b) Within thirty days of the effective date of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.52 RCW to read as follows:

Unless bargaining sessions are conducted in open meetings that satisfy the requirements of chapter 42.30 RCW, public employers engaging in collective bargaining with employee organizations or their representatives must:

(1) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted by the governing body, provide to the governing body a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours;

(2) Unless the governing body of the public employer formally directs that a fiscal impact analysis shall not be obtained, prepare a fiscal impact analysis of any proposed final collective bargaining agreement, memorandum of understanding, or amendment to an agreement or memorandum of understanding. The analysis must be presented at the public meeting considering adoption of the agreement or memorandum of understanding; and

(3) Within thirty days of the final approval by the governing body of the public employer of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

NEW SECTION. **Sec.**  A new section is added to chapter 41.59 RCW to read as follows:

Unless bargaining sessions are conducted in open meetings that satisfy the requirements of chapter 42.30 RCW, public employers engaging in collective bargaining with employee organizations or their representatives must:

(1) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted by the governing body, provide to the governing body a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours;

(2) Unless the governing body of the public employer formally directs that a fiscal impact analysis shall not be obtained, prepare a fiscal impact analysis of any proposed final collective bargaining agreement, memorandum of understanding, or amendment to an agreement or memorandum of understanding. The analysis must be presented at the public meeting considering adoption of the agreement or memorandum of understanding; and

(3) Within thirty days of the final approval by the governing body of the public employer of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

NEW SECTION. **Sec.**  A new section is added to chapter 41.76 RCW to read as follows:

Unless bargaining sessions are conducted in open meetings that satisfy the requirements of chapter 42.30 RCW, public employers engaging in collective bargaining with employee organizations or their representatives must:

(1) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted by the governing body, provide to the governing body a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours;

(2) Unless the governing body of the public employer formally directs that a fiscal impact analysis shall not be obtained, prepare a fiscal impact analysis of any proposed final collective bargaining agreement, memorandum of understanding, or amendment to an agreement or memorandum of understanding. The analysis must be presented at the public meeting considering adoption of the agreement or memorandum of understanding; and

(3) Within thirty days of the final approval by the governing body of the public employer of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

NEW SECTION. **Sec.**  A new section is added to chapter 41.80 RCW to read as follows:

Public employers engaging in collective bargaining with employee organizations or their representatives must:

(1) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted, provide to the joint committee on employment relations established in RCW 41.80.010, a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours; and

(2) Within thirty days of the effective date of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

**Sec.**  RCW 41.80.010 and 2016 sp.s. c 36 s 923 are each amended to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under RCW 41.80.070, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

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

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

(4)(a)(i) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community colleges or a designee chosen by the board to negotiate on its behalf.

(ii) A governing board of a university or college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section, except that:

(A) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of a university or college that the representative represents; or

(B) If the parties mutually agree, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of more than one university or college that the representative represents.

(iii) A governing board of a community college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(b) Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations.

(c)(i) In the case of bargaining agreements reached between institutions of higher education other than the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in (c)(iii) of this subsection.

(ii) In the case of bargaining agreements reached between the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of a bargaining agreement, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in this subsection (4)(c)(ii) and as provided in (c)(iii) of this subsection.

(A) If appropriations of less than ten thousand dollars are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered.

(B) If appropriations of ten thousand dollars or more are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request:

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

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

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(iii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(5) There is hereby created a joint committee on employment relations, which consists of two members with leadership positions in the house of representatives, representing each of the two largest caucuses; the chair and ranking minority member of the house appropriations committee, or its successor, representing each of the two largest caucuses; two members with leadership positions in the senate, representing each of the two largest caucuses; and the chair and ranking minority member of the senate ways and means committee, or its successor, representing each of the two largest caucuses. The governor shall periodically consult with the committee regarding appropriations necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreements, and upon completion of negotiations, advise the committee on the elements of the agreements and on any legislation necessary to implement the agreements. The joint committee on employment relations must meet twice in the year a contract is being negotiated to review proposals provided as required by sections 2(2), 6, and 8 of this act and to make recommendations to the governor.

(6) If, after the compensation and fringe benefit 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.

(7) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) For the 2013‑2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee shall be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013‑2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating appropriations act by the sitting legislature.

(9)(a) For the 2015-2017 fiscal biennium, the governor may request funds to implement:

(i) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the service employees international union healthcare 1199nw, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(ii) Unilaterally implemented modifications to collective bargaining agreements, resulting from the employer being prohibited from negotiating with an exclusive bargaining representative due to a pending representation petition, necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(iii) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the union of physicians of Washington, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees. If the memorandum of understanding submitted to the legislature as part of the governor's budget document is rejected by the legislature, and the parties reach a new memorandum of understanding by June 30, 2016, within the funds, conditions, and limitations provided in section 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of understanding shall be considered approved by the legislature and may be retroactive to December 1, 2015.

(iv) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the teamsters union local 117, an exclusive bargaining representative, for salary adjustments for the state employee job classifications of psychiatrist, psychiatric social worker((~~[,]~~)), and psychologist.

(b) For the 2015-2017 fiscal biennium, the legislature may act upon the request for funds for modifications to a 2015-2017 collective bargaining agreement under (a)(i), (ii), (iii), and (iv) of this subsection if funds are requested by the governor before final legislative action on the supplemental omnibus appropriations act by the sitting legislature.

(c) The request for funding made under this subsection and any action by the legislature taken pursuant to this subsection is limited to the modifications described in this subsection and may not otherwise affect the original terms of the 2015-2017 collective bargaining agreement.

(d) ((~~Subsections [Subsection]~~)) Subsection (3)(a) and (b) of this section do not apply to requests for funding made pursuant to this subsection.

NEW SECTION. **Sec.**  A new section is added to chapter 47.64 RCW to read as follows:

Public employers engaging in collective bargaining with employee organizations or their representatives must:

(1) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted, provide to the joint committee on employment relations established in RCW 41.80.010, a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours; and

(2) Within thirty days of the final approval of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

NEW SECTION. **Sec.**  A new section is added to chapter 49.39 RCW to read as follows:

Unless bargaining sessions are conducted in open meetings that satisfy the requirements of chapter 42.30 RCW, public employers engaging in collective bargaining with employee organizations or their representatives must:

(1) Two weeks following the first bargaining session and every two weeks after that until a final agreement is adopted by the governing body, provide to the governing body a copy of the current written proposal suggesting new terms of a bargaining agreement or memorandum of understanding that is presented to and which is received from any certified employee organization. The proposal from the public employer and the proposal from the employee organization on that day must be made available to the public within twenty-four hours;

(2) Unless the governing body of the public employer formally directs that a fiscal impact analysis shall not be obtained, prepare a fiscal impact analysis of any proposed final collective bargaining agreement, memorandum of understanding, or amendment to an agreement or memorandum of understanding. The analysis must be presented at the public meeting considering adoption of the agreement or memorandum of understanding; and

(3) Within thirty days of the final approval by the governing body of the public employer of any collective bargaining agreement, submit a digital copy of the agreement to the commission.

**--- END ---**