
SENATE BILL 6082

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By Senators Hasegawa, Conway, Saldaña, Chase, Keiser, Ranker, Darneille, Wellman, Nelson, McCoy, Rolfes, Takko, Kuderer, Cleveland, Mullet, Van De Wege, Carlyle, and Hunt

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1 AN ACT Relating to ensuring the neutrality of public employers
2 and state contractors with regard to employees exercising their
3 rights to collectively bargain; amending RCW 28B.52.073, 39.04.350,
4 39.26.160, 41.56.140, 41.59.140, 41.76.050, 41.80.110, 47.64.130,
5 49.39.120, and 49.66.040; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** It is declared the policy of the state of
8 Washington to encourage the practice and procedure of collective
9 bargaining by all workers whose rights are not otherwise preempted by
10 federal law, and to protect the exercise by these workers of full
11 freedom of association, self-organization, and designation of
12 representatives of their own choosing, for the purpose of negotiating
13 the terms and conditions of their employment or other mutual aid or
14 protection.

15 **Sec. 2.** RCW 28B.52.073 and 1987 c 314 s 11 are each amended to
16 read as follows:

17 (1) It shall be an unfair labor practice for an employer:

18 (a) To interfere with, restrain, or coerce employees in the
19 exercise of the rights guaranteed by this chapter;

1 (b) To dominate or interfere with the formation or administration
2 of any employee organization or contribute financial or other support
3 to it: PROVIDED, That subject to rules adopted by the commission, an
4 employer shall not be prohibited from permitting employees to confer
5 with it or its representatives or agents during working hours without
6 loss of time or pay;

7 (c) To encourage or discourage membership in any employee
8 organization by discrimination in regard to hire, tenure of
9 employment, or any term or condition of employment;

10 (d) To discharge or discriminate otherwise against an employee
11 because that employee has filed charges or given testimony under this
12 chapter;

13 (e) To refuse to bargain collectively with the representatives of
14 its employees;

15 (f) To not maintain neutrality in practices, policies, and
16 activity with regard to employees seeking to exercise rights
17 guaranteed by this chapter. For the purposes of this subsection
18 (1)(f), examples of when an employer does not maintain neutrality are
19 if it:

20 (i) Unless otherwise required by this chapter, distributes
21 literature, letters, emails, or postings to employees regarding the
22 exercise of the rights guaranteed by this chapter. This subsection
23 (1)(f)(i) does not prohibit communications mutually agreed to by the
24 employer and an exclusive bargaining representative already certified
25 under this chapter; or

26 (ii) Funds external organizations or external legal counsel to
27 influence employees seeking to exercise the rights guaranteed by this
28 chapter. This subsection (1)(f)(ii) does not prohibit an employer
29 from hiring external legal counsel to negotiate a collective
30 bargaining agreement with an exclusive bargaining representative, but
31 the legal counsel must also maintain neutrality.

32 (2) It shall be an unfair labor practice for an employee
33 organization:

34 (a) To restrain or coerce an employee in the exercise of the
35 rights guaranteed by this chapter: PROVIDED, That this subsection
36 shall not impair the right of an employee organization to prescribe
37 its own rules with respect to the acquisition or retention of
38 membership in the employee organization or to an employer in the
39 selection of its representatives for the purpose of bargaining or the
40 adjustment of grievances;

1 (b) To cause or attempt to cause an employer to discriminate
2 against an employee in violation of subsection (1)(c) of this
3 section;

4 (c) To discriminate against an employee because that employee has
5 filed charges or given testimony under this chapter;

6 (d) To refuse to bargain collectively with an employer.

7 (3) Except for an unfair labor practice under subsection (1)(f)
8 of this section, the expressing of any views, arguments, or opinion,
9 or the dissemination thereof to the public, whether in written,
10 printed, graphic, or visual form, shall not constitute or be evidence
11 of an unfair labor practice under this chapter, if such expression
12 contains no threat of reprisal or force or promise of benefit.

13 **Sec. 3.** RCW 39.04.350 and 2017 c 258 s 2 are each amended to
14 read as follows:

15 (1) Before award of a public works contract, a bidder must meet
16 the following responsibility criteria to be considered a responsible
17 bidder and qualified to be awarded a public works project. The bidder
18 must:

19 (a) At the time of bid submittal, have a certificate of
20 registration in compliance with chapter 18.27 RCW;

21 (b) Have a current state unified business identifier number;

22 (c) If applicable, have industrial insurance coverage for the
23 bidder's employees working in Washington as required in Title 51 RCW;
24 an employment security department number as required in Title 50 RCW;
25 and a state excise tax registration number as required in Title 82
26 RCW;

27 (d) Not be disqualified from bidding on any public works contract
28 under RCW 39.06.010 or 39.12.065(3);

29 (e) If bidding on a public works project subject to the
30 apprenticeship utilization requirements in RCW 39.04.320, not have
31 been found out of compliance by the Washington state apprenticeship
32 and training council for working apprentices out of ratio, without
33 appropriate supervision, or outside their approved work processes as
34 outlined in their standards of apprenticeship under chapter 49.04 RCW
35 for the one-year period immediately preceding the date of the bid
36 solicitation;

37 (f) Until December 31, 2013, not have violated RCW 39.04.370 more
38 than one time as determined by the department of labor and
39 industries; ((and))

1 (g) Within the three-year period immediately preceding the date
2 of the bid solicitation, not have been determined by a final and
3 binding citation and notice of assessment issued by the department of
4 labor and industries or through a civil judgment entered by a court
5 of limited or general jurisdiction to have willfully violated, as
6 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or
7 49.52 RCW; and

8 (h) Certify that the bidder will not influence its employees
9 seeking to exercise rights guaranteed by the national labor relations
10 act (29 U.S.C. Sec. 151 et seq.).

11 (2) Before award of a public works contract, a bidder shall
12 submit to the contracting agency a signed statement in accordance
13 with RCW 9A.72.085 verifying under penalty of perjury that the bidder
14 is in compliance with the responsible bidder criteria requirement of
15 subsection (1)(g) of this section. A contracting agency may award a
16 contract in reasonable reliance upon such a sworn statement.

17 (3) In addition to the bidder responsibility criteria in
18 subsection (1) of this section, the state or municipality may adopt
19 relevant supplemental criteria for determining bidder responsibility
20 applicable to a particular project which the bidder must meet.

21 (a) Supplemental criteria for determining bidder responsibility,
22 including the basis for evaluation and the deadline for appealing a
23 determination that a bidder is not responsible, must be provided in
24 the invitation to bid or bidding documents.

25 (b) In a timely manner before the bid submittal deadline, a
26 potential bidder may request that the state or municipality modify
27 the supplemental criteria. The state or municipality must evaluate
28 the information submitted by the potential bidder and respond before
29 the bid submittal deadline. If the evaluation results in a change of
30 the criteria, the state or municipality must issue an addendum to the
31 bidding documents identifying the new criteria.

32 (c) If the bidder fails to supply information requested
33 concerning responsibility within the time and manner specified in the
34 bid documents, the state or municipality may base its determination
35 of responsibility upon any available information related to the
36 supplemental criteria or may find the bidder not responsible.

37 (d) If the state or municipality determines a bidder to be not
38 responsible, the state or municipality must provide, in writing, the
39 reasons for the determination. The bidder may appeal the
40 determination within the time period specified in the bidding

1 documents by presenting additional information to the state or
2 municipality. The state or municipality must consider the additional
3 information before issuing its final determination. If the final
4 determination affirms that the bidder is not responsible, the state
5 or municipality may not execute a contract with any other bidder
6 until two business days after the bidder determined to be not
7 responsible has received the final determination.

8 (4) The capital projects advisory review board created in RCW
9 39.10.220 shall develop suggested guidelines to assist the state and
10 municipalities in developing supplemental bidder responsibility
11 criteria. The guidelines must be posted on the board's web site.

12 **Sec. 4.** RCW 39.26.160 and 2017 c 258 s 3 are each amended to
13 read as follows:

14 (1)(a) After bids that are submitted in response to a competitive
15 solicitation process are reviewed by the awarding agency, the
16 awarding agency may:

17 (i) Reject all bids and rebid or cancel the competitive
18 solicitation;

19 (ii) Request best and final offers from responsive and
20 responsible bidders; or

21 (iii) Award the purchase or contract to the lowest responsive and
22 responsible bidder.

23 (b) The agency may award one or more contracts from a competitive
24 solicitation.

25 (2) In determining whether the bidder is a responsible bidder,
26 the agency must consider the following elements:

27 (a) The ability, capacity, and skill of the bidder to perform the
28 contract or provide the service required;

29 (b) The character, integrity, reputation, judgment, experience,
30 and efficiency of the bidder;

31 (c) Whether the bidder can perform the contract within the time
32 specified;

33 (d) The quality of performance of previous contracts or services;

34 (e) The previous and existing compliance by the bidder with laws
35 relating to the contract or services;

36 (f) Whether, within the three-year period immediately preceding
37 the date of the bid solicitation, the bidder has been determined by a
38 final and binding citation and notice of assessment issued by the
39 department of labor and industries or through a civil judgment

1 entered by a court of limited or general jurisdiction to have
2 willfully violated, as defined in RCW 49.48.082, any provision of
3 chapter 49.46, 49.48, or 49.52 RCW; (~~and~~)

4 (g) Whether the bidder has certified that it will not influence
5 its employees seeking to exercise rights guaranteed by the national
6 labor relations act (29 U.S.C. Sec. 151 et seq.); and

7 (h) Such other information as may be secured having a bearing on
8 the decision to award the contract.

9 (3) In determining the lowest responsive and responsible bidder,
10 an agency may consider best value criteria, including but not limited
11 to:

12 (a) Whether the bid satisfies the needs of the state as specified
13 in the solicitation documents;

14 (b) Whether the bid encourages diverse contractor participation;

15 (c) Whether the bid provides competitive pricing, economies, and
16 efficiencies;

17 (d) Whether the bid considers human health and environmental
18 impacts;

19 (e) Whether the bid appropriately weighs cost and noncost
20 considerations; and

21 (f) Life-cycle cost.

22 (4) The solicitation document must clearly set forth the
23 requirements and criteria that the agency will apply in evaluating
24 bid submissions. Before award of a contract, a bidder shall submit to
25 the contracting agency a signed statement in accordance with RCW
26 9A.72.085 verifying under penalty of perjury that the bidder is in
27 compliance with the responsible bidder criteria requirement of
28 subsection (2)(f) of this section. A contracting agency may award a
29 contract in reasonable reliance upon such a sworn statement.

30 (5) The awarding agency may at its discretion reject the bid of
31 any contractor who has failed to perform satisfactorily on a previous
32 contract with the state.

33 (6) After reviewing all bid submissions, an agency may enter into
34 negotiations with the lowest responsive and responsible bidder in
35 order to determine if the bid may be improved. An agency may not use
36 this negotiation opportunity to permit a bidder to change a
37 nonresponsive bid into a responsive bid.

38 (7) The procuring agency must enter into the state's enterprise
39 vendor registration and bid notification system the name of each
40 bidder and an indication as to the successful bidder.

1 **Sec. 5.** RCW 41.56.140 and 2011 c 222 s 2 are each amended to
2 read as follows:

3 It shall be an unfair labor practice for a public employer:

4 (1) To interfere with, restrain, or coerce public employees in
5 the exercise of their rights guaranteed by this chapter;

6 (2) To control, dominate, or interfere with a bargaining
7 representative;

8 (3) To discriminate against a public employee who has filed an
9 unfair labor practice charge;

10 (4) To refuse to engage in collective bargaining with the
11 certified exclusive bargaining representative;

12 (5) To not maintain neutrality in practices, policies, and
13 activity with regard to employees seeking to exercise rights
14 guaranteed by this chapter. For the purposes of this subsection (5),
15 examples of when an employer does not maintain neutrality are if it:

16 (a) Unless otherwise required by this chapter, distributes
17 literature, letters, emails, or postings to employees regarding the
18 exercise of the rights guaranteed by this chapter. This subsection
19 (5)(a) does not prohibit communications mutually agreed to by the
20 employer and an exclusive bargaining representative already certified
21 under this chapter; or

22 (b) Funds external organizations or external legal counsel to
23 influence employees seeking to exercise the rights guaranteed by this
24 chapter. This subsection (5)(b) does not prohibit an employer from
25 hiring external legal counsel to negotiate a collective bargaining
26 agreement with an exclusive bargaining representative, but the legal
27 counsel must also maintain neutrality.

28 **Sec. 6.** RCW 41.59.140 and 2012 c 117 s 93 are each amended to
29 read as follows:

30 (1) It shall be an unfair labor practice for an employer:

31 (a) To interfere with, restrain, or coerce employees in the
32 exercise of the rights guaranteed in RCW 41.59.060;

33 (b) To dominate or interfere with the formation or administration
34 of any employee organization or contribute financial or other support
35 to it: PROVIDED, That subject to rules and regulations made by the
36 commission pursuant to RCW 41.59.110, an employer shall not be
37 prohibited from permitting employees to confer with it or its
38 representatives or agents during working hours without loss of time
39 or pay;

1 (c) To encourage or discourage membership in any employee
2 organization by discrimination in regard to hire, tenure of
3 employment or any term or condition of employment, but nothing
4 contained in this subsection shall prevent an employer from
5 requiring, as a condition of continued employment, payment of
6 periodic dues and fees uniformly required to an exclusive bargaining
7 representative pursuant to RCW 41.59.100;

8 (d) To discharge or otherwise discriminate against an employee
9 because he or she has filed charges or given testimony under this
10 chapter;

11 (e) To refuse to bargain collectively with the representatives of
12 its employees;

13 (f) To not maintain neutrality in practices, policies, and
14 activity with regard to employees seeking to exercise rights
15 guaranteed by this chapter. For the purposes of this subsection
16 (1)(f), examples of when an employer does not maintain neutrality are
17 if it:

18 (i) Unless otherwise required by this chapter, distributes
19 literature, letters, emails, or postings to employees regarding the
20 exercise of the rights guaranteed by this chapter. This subsection
21 (1)(f)(i) does not prohibit communications mutually agreed to by the
22 employer and an exclusive bargaining representative already certified
23 under this chapter; or

24 (ii) Funds external organizations or external legal counsel to
25 influence employees seeking to exercise the rights guaranteed by this
26 chapter. This subsection (1)(f)(ii) does not prohibit an employer
27 from hiring external legal counsel to negotiate a collective
28 bargaining agreement with an exclusive bargaining representative, but
29 the legal counsel must also maintain neutrality.

30 (2) It shall be an unfair labor practice for an employee
31 organization:

32 (a) To restrain or coerce (i) employees in the exercise of the
33 rights guaranteed in RCW 41.59.060: PROVIDED, That this ((paragraph))
34 subsection (2)(a) shall not impair the right of an employee
35 organization to prescribe its own rules with respect to the
36 acquisition or retention of membership therein; or (ii) an employer
37 in the selection of his or her representatives for the purposes of
38 collective bargaining or the adjustment of grievances;

1 (b) To cause or attempt to cause an employer to discriminate
2 against an employee in violation of subsection (1)(c) of this
3 section;

4 (c) To refuse to bargain collectively with an employer, provided
5 it is the representative of its employees subject to RCW 41.59.090.

6 (3) Except for an unfair labor practice under subsection (1)(f)
7 of this section, the expressing of any views, argument, or opinion,
8 or the dissemination thereof to the public, whether in written,
9 printed, graphic, or visual form, shall not constitute or be evidence
10 of an unfair labor practice under any of the provisions of this
11 chapter, if such expression contains no threat of reprisal or force
12 or promise of benefit.

13 **Sec. 7.** RCW 41.76.050 and 2002 c 356 s 13 are each amended to
14 read as follows:

15 (1) It is an unfair labor practice for an employer to:

16 (a) Interfere with, restrain, or coerce faculty members in the
17 exercise of the rights guaranteed by this chapter;

18 (b) Dominate or interfere with the formation or administration of
19 any employee organization or contribute financial or other support to
20 it: PROVIDED, That subject to rules adopted by the commission, an
21 employer is not prohibited from permitting faculty members to confer
22 with it or its representatives or agents during working hours without
23 loss of time or pay;

24 (c) Encourage or discourage membership in any employee
25 organization by discrimination in regard to hire, tenure of
26 employment, or any term or condition of employment;

27 (d) Discharge or discriminate otherwise against a faculty member
28 because that faculty member has filed charges or given testimony
29 under this chapter;

30 (e) Refuse to bargain collectively with the exclusive bargaining
31 representative of its faculty;

32 (f) Not maintain neutrality in practices, policies, and activity
33 with regard to employees seeking to exercise rights guaranteed by
34 this chapter. For the purposes of this subsection (1)(f), examples of
35 when an employer does not maintain neutrality are if it:

36 (i) Unless otherwise required by this chapter, distributes
37 literature, letters, emails, or postings to employees regarding the
38 exercise of the rights guaranteed by this chapter. This subsection
39 (1)(f)(i) does not prohibit communications mutually agreed to by the

1 employer and an exclusive bargaining representative already certified
2 under this chapter; or

3 (ii) Funds external organizations or external legal counsel to
4 influence employees seeking to exercise the rights guaranteed by this
5 chapter. This subsection (1)(f)(ii) does not prohibit an employer
6 from hiring external legal counsel to negotiate a collective
7 bargaining agreement with an exclusive bargaining representative, but
8 the legal counsel must also maintain neutrality.

9 (2) It is an unfair labor practice for an employee organization
10 to:

11 (a) Restrain or coerce a faculty member in the exercise of the
12 rights guaranteed by this chapter: PROVIDED, That this subsection
13 does not impair the rights of (i) an employee organization to
14 prescribe its own rules with respect to the acquisition or retention
15 of membership in the employee organization or (ii) to the rights of
16 an employer in the selection of its representatives for the purpose
17 of bargaining or the adjustment of grievances;

18 (b) Cause or attempt to cause an employer to discriminate against
19 a faculty member in violation of subsection (1)(c) of this section;

20 (c) Discriminate against a faculty member because that faculty
21 member has filed charges or given testimony under this chapter;

22 (d) Refuse to bargain collectively with an employer.

23 (3) Except for an unfair labor practice under subsection (1)(f)
24 of this section, the expressing of any view, arguments, or opinion,
25 or the dissemination thereof to the public, whether in written,
26 printed, graphic, or visual form, shall not constitute or be evidence
27 of an unfair labor practice under this chapter, if such expression
28 contains no threat of reprisal or force or promise of benefit.

29 **Sec. 8.** RCW 41.80.110 and 2002 c 354 s 312 are each amended to
30 read as follows:

31 (1) It is an unfair labor practice for an employer:

32 (a) To interfere with, restrain, or coerce employees in the
33 exercise of the rights guaranteed by this chapter;

34 (b) To dominate or interfere with the formation or administration
35 of any employee organization or contribute financial or other support
36 to it: PROVIDED, That subject to rules adopted by the commission, an
37 employer shall not be prohibited from permitting employees to confer
38 with it or its representatives or agents during working hours without
39 loss of time or pay;

1 (c) To encourage or discourage membership in any employee
2 organization by discrimination in regard to hire, tenure of
3 employment, or any term or condition of employment;

4 (d) To discharge or discriminate otherwise against an employee
5 because that employee has filed charges or given testimony under this
6 chapter;

7 (e) To refuse to bargain collectively with the representatives of
8 its employees;

9 (f) To not maintain neutrality in practices, policies, and
10 activity with regard to employees seeking to exercise rights
11 guaranteed by this chapter. For the purposes of this subsection
12 (1)(f), examples of when an employer does not maintain neutrality are
13 if it:

14 (i) Unless otherwise required by this chapter, distributes
15 literature, letters, emails, or postings to employees regarding the
16 exercise of the rights guaranteed by this chapter. This subsection
17 (1)(f)(i) does not prohibit communications mutually agreed to by the
18 employer and an exclusive bargaining representative already certified
19 under this chapter; or

20 (ii) Funds external organizations or external legal counsel to
21 influence employees seeking to exercise the rights guaranteed by this
22 chapter. This subsection (1)(f)(ii) does not prohibit an employer
23 from hiring external legal counsel to negotiate a collective
24 bargaining agreement with an exclusive bargaining representative, but
25 the legal counsel must also maintain neutrality.

26 (2) It is an unfair labor practice for an employee organization:

27 (a) To restrain or coerce an employee in the exercise of the
28 rights guaranteed by this chapter: PROVIDED, That this subsection
29 shall not impair the right of an employee organization to prescribe
30 its own rules with respect to the acquisition or retention of
31 membership in the employee organization or to an employer in the
32 selection of its representatives for the purpose of bargaining or the
33 adjustment of grievances;

34 (b) To cause or attempt to cause an employer to discriminate
35 against an employee in violation of subsection (1)(c) of this
36 section;

37 (c) To discriminate against an employee because that employee has
38 filed charges or given testimony under this chapter;

39 (d) To refuse to bargain collectively with an employer.

1 (3) Except for an unfair labor practice under subsection (1)(f)
2 of this section, the expressing of any views, arguments, or opinion,
3 or the dissemination thereof to the public, whether in written,
4 printed, graphic, or visual form, shall not constitute or be evidence
5 of an unfair labor practice under this chapter, if such expression
6 contains no threat of reprisal or force or promise of benefit.

7 **Sec. 9.** RCW 47.64.130 and 2011 1st sp.s. c 16 s 19 are each
8 amended to read as follows:

9 (1) It is an unfair labor practice for the employer or its
10 representatives:

11 (a) To interfere with, restrain, or coerce employees in the
12 exercise of the rights guaranteed by this chapter;

13 (b) To dominate or interfere with the formation or administration
14 of any employee organization or contribute financial or other support
15 to it. However, subject to rules made by the public employment
16 relations commission pursuant to RCW 41.58.050, an employer shall not
17 be prohibited from permitting employees to confer with it or its
18 representatives or agents during working hours without loss of time
19 or pay;

20 (c) To encourage or discourage membership in any employee
21 organization by discrimination in regard to hiring, tenure of
22 employment, or any term or condition of employment, but nothing
23 contained in this subsection prevents an employer from requiring, as
24 a condition of continued employment, payment of periodic dues and
25 fees uniformly required to an exclusive bargaining representative
26 pursuant to RCW 47.64.160. However, nothing prohibits the employer
27 from agreeing to obtain employees by referral from a lawful hiring
28 hall operated by or participated in by a labor organization;

29 (d) To discharge or otherwise discriminate against an employee
30 because he or she has filed charges or given testimony under this
31 chapter;

32 (e) To refuse to bargain collectively with the representatives of
33 its employees;

34 (f) To not maintain neutrality in practices, policies, and
35 activity with regard to employees seeking to exercise rights
36 guaranteed by this chapter. For the purposes of this subsection
37 (1)(f), examples of when an employer does not maintain neutrality are
38 if it:

1 (i) Unless otherwise required by this chapter, distributes
2 literature, letters, emails, or postings to employees regarding the
3 exercise of the rights guaranteed by this chapter. This subsection
4 (1)(f)(i) does not prohibit communications mutually agreed to by the
5 employer and an exclusive bargaining representative already certified
6 under this chapter; or

7 (ii) Funds external organizations or external legal counsel to
8 influence employees seeking to exercise the rights guaranteed by this
9 chapter. This subsection (1)(f)(ii) does not prohibit an employer
10 from hiring external legal counsel to negotiate a collective
11 bargaining agreement with an exclusive bargaining representative, but
12 the legal counsel must also maintain neutrality.

13 (2) It is an unfair labor practice for an employee organization:

14 (a) To restrain or coerce (i) employees in the exercise of the
15 rights guaranteed by this chapter. However, this subsection does not
16 impair the right of an employee organization to prescribe its own
17 rules with respect to the acquisition or retention of membership
18 therein, or (ii) an employer in the selection of his or her
19 representatives for the purposes of collective bargaining or the
20 adjustment of grievances;

21 (b) To cause or attempt to cause an employer to discriminate
22 against an employee in violation of subsection (1)(c) of this
23 section;

24 (c) To refuse to bargain collectively with an employer.

25 (3) Except for an unfair labor practice under subsection (1)(f)
26 of this section, the expression of any view, argument, or opinion, or
27 the dissemination thereof to the public, whether in written, printed,
28 graphic, or visual form, shall not constitute or be evidence of an
29 unfair labor practice under any of the provisions of this chapter, if
30 the expression contains no threat of reprisal or force or promise of
31 benefit.

32 **Sec. 10.** RCW 49.39.120 and 2010 c 6 s 13 are each amended to
33 read as follows:

34 It is an unfair labor practice for an employer:

35 (1) To interfere with, restrain, or coerce symphony musicians in
36 the exercise of their rights guaranteed by this chapter;

37 (2) To control, dominate, or interfere with a bargaining
38 representative;

1 (3) To discriminate against a symphony musician who has filed an
2 unfair labor practice charge or who has given testimony under this
3 chapter;

4 (4) To refuse to engage in collective bargaining;

5 (5) To not maintain neutrality in practices, policies, and
6 activity with regard to employees seeking to exercise rights
7 guaranteed by this chapter. For the purposes of this subsection (5),
8 examples of when an employer does not maintain neutrality are if it:

9 (a) Unless otherwise required by this chapter, distributes
10 literature, letters, emails, or postings to employees regarding the
11 exercise of the rights guaranteed by this chapter. This subsection
12 (5)(a) does not prohibit communications mutually agreed to by the
13 employer and an exclusive bargaining representative already certified
14 under this chapter; or

15 (b) Funds external organizations or external legal counsel to
16 influence employees seeking to exercise the rights guaranteed by this
17 chapter. This subsection (5)(b) does not prohibit an employer from
18 hiring external legal counsel to negotiate a collective bargaining
19 agreement with an exclusive bargaining representative, but the legal
20 counsel must also maintain neutrality.

21 **Sec. 11.** RCW 49.66.040 and 1972 ex.s. c 156 s 4 are each amended
22 to read as follows:

23 It shall be deemed an unfair labor practice, and unlawful, for
24 any health care activity to:

25 (1) Interfere with, restrain or coerce employees in any manner in
26 the exercise of their right of self-organization: PROVIDED, That,
27 except for an unfair labor practice under subsection (5) of this
28 section, the expressing of any views, argument, or opinion, or the
29 dissemination thereof, whether in written, printed, graphic or visual
30 form, shall not constitute or be evidence of an unfair labor practice
31 under any of the provisions of this chapter, if such expression
32 contains no threat of reprisal or force or promise of benefit;

33 (2) Initiate, create, dominate, contribute to or interfere with
34 the formation or administration of any employee organization having
35 bargaining as one of its functions;

36 (3) Discriminate in regard to hire, terms, or conditions of
37 employment in order to discourage membership in any employee
38 organization having collective bargaining as one of its functions;

1 (4) Refuse to meet and bargain in good faith with the duly
2 designated representatives of an appropriate bargaining unit of
3 employees; and it shall be a requirement of good faith bargaining
4 that the parties be willing to reduce to writing, and have their
5 representatives sign, any agreement arrived at through negotiation
6 and discussion;

7 (5) Not maintain neutrality in practices, policies, and activity
8 with regard to employees seeking to exercise rights guaranteed by
9 this chapter. For the purposes of this subsection (5), examples of
10 when an employer does not maintain neutrality are if it:

11 (a) Unless otherwise required by this chapter, distributes
12 literature, letters, emails, or postings to employees regarding the
13 exercise of the rights guaranteed by this chapter. This subsection
14 (5)(a) does not prohibit communications mutually agreed to by the
15 employer and an exclusive bargaining representative already certified
16 under this chapter; or

17 (b) Funds external organizations or external legal counsel to
18 influence employees seeking to exercise the rights guaranteed by this
19 chapter. This subsection (5)(b) does not prohibit an employer from
20 hiring external legal counsel to negotiate a collective bargaining
21 agreement with an exclusive bargaining representative, but the legal
22 counsel must also maintain neutrality.

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