

SHB 1575 - S AMD TO LBRC COMM AMD (S-3309.1/19) **545**
By Senator Wagoner

NOT ADOPTED 04/11/2019

1 On page 3, line 16, after "certified" strike "or recognized" and
2 insert "~~((or recognized))~~"

3 On page 5, line 9, after "certification" strike "or recognition"
4 and insert "~~((or recognition))~~"

5 On page 6, beginning on line 12, after "by" strike all material
6 through "(c)" on line 15 and insert "~~((:—(a)—Examination—of
7 organization—membership—rolls;—(b)—comparison—of—signatures—on
8 organization bargaining authorization cards;—or—(c)))~~"

9 On page 6, beginning on line 27, strike all of section 8

10 Renumber the remaining sections consecutively and correct any
11 internal references accordingly.

12 On page 7, line 8, after "certification" strike "or recognition"
13 and insert "~~((or recognition))~~"

14 On page 8, line 21, after "certification" strike "or recognition"
15 and insert "~~((or recognition))~~"

16 On page 10, line 29, after "certification" strike "or
17 recognition" and insert "~~((or recognition))~~"

18 On page 12, line 32, after "certification" strike "or
19 recognition" and insert "~~((or recognition))~~"

20 Beginning on page 14, line 37, after "unit" strike all material
21 through "(6)" on page 15, line 18 and insert "~~((,—except—under—the
22 following—circumstances:~~

23 ~~(a) If only one employee organization is seeking certification as
24 exclusive bargaining representative of a bargaining unit for which
25 there is no incumbent exclusive bargaining representative, the
26 commission may, upon the concurrence of the employer and the employee
27 organization, determine the question concerning representation by~~

1 ~~conducting a cross-check comparing the employee organization's~~
2 ~~membership records or bargaining authorization cards against the~~
3 ~~employment records of the employer; or~~

4 ~~(b) If the commission determines that a serious unfair labor~~
5 ~~practice has been committed which interfered with the election~~
6 ~~process and precludes the holding of a fair election, the commission~~
7 ~~may determine the question concerning representation by conducting a~~
8 ~~cross-check comparing the employee organization's membership records~~
9 ~~or bargaining authorization cards against the employment records of~~
10 ~~the employer)) "~~

11 Correct any internal references accordingly.

12 On page 15, line 36, after "certification" strike "or
13 recognition" and insert "~~(or recognition)~~"

14 On page 17, beginning on line 26, strike all of section 16

15 Renumber the remaining sections consecutively and correct any
16 internal references accordingly.

17 On page 18, line 4, after "representation" insert "via secret
18 ballot elections"

19 On page 18, beginning on line 4, after "elections" strike "and
20 cross-check procedures,"

21 On page 18, beginning on line 6, after "elections" strike "and
22 cross-check procedures"

23 On page 18, line 20, after "unit" insert "pursuant to a secret
24 ballot election"

25 On page 19, line 36, after "certification" strike "or
26 recognition" and insert "~~(or recognition)~~"

27 On page 21, line 33, after "applicable;" insert "and"

28 Beginning on page 21, line 39, after "Washington" strike all
29 material through "employees." on page 22, line 10 and insert "~~(; and~~

30 ~~(c) Unless otherwise prohibited by federal or state law, a~~
31 ~~requirement that the benefit area and any contract with its~~
32 ~~subcontractors, on any questions concerning representation of~~

1 ~~employees for collective bargaining purposes, may be determined by~~
2 ~~conducting a cross-check comparing an employee organization's~~
3 ~~membership records or bargaining authorization cards against the~~
4 ~~employment records of the employer))."~~

5 Correct any internal references accordingly.

6 On page 22, line 23, after "applicable;" insert "and"

7 On page 22, beginning on line 29, after "Washington" strike all
8 material through "employer" on line 36 and insert "~~(; and~~
9 ~~(c) Unless otherwise prohibited by federal or state law, a~~
10 ~~requirement that the ferry district and any contract with its~~
11 ~~subcontractors, on any questions concerning representation of~~
12 ~~employees for collective bargaining purposes, may be determined by~~
13 ~~conducting a cross-check comparing an employee organization's~~
14 ~~membership records or bargaining authorization cards against the~~
15 ~~employment records of the employer))"~~

16 Correct any internal references accordingly.

17 On page 24, beginning on line 12, strike all of section 21

18 Renumber the remaining sections consecutively and correct any
19 internal references accordingly.

20 On page 24, line 28, after "certification" strike "or
21 recognition" and insert "~~(or recognition))"~~

22 On page 26, beginning on line 14, strike all of section 24 and
23 insert the following:

24 **"Sec. 24.** RCW 41.59.070 and 1975 1st ex.s. c 288 s 8 are each
25 amended to read as follows:

26 (1) Any employee organization may file a request with the
27 commission for ~~((recognition))~~ certification as the exclusive
28 representative. Such request shall allege that a majority of the
29 employees in an appropriate collective bargaining unit wish to be
30 represented for the purpose of collective bargaining by such
31 organization, shall describe the grouping of jobs or positions which
32 constitute the unit claimed to be appropriate, shall be supported by
33 credible evidence demonstrating that at least thirty percent of the

1 employees in the appropriate unit desire the organization requesting
2 (~~recognition~~) certification as their exclusive representative, and
3 shall indicate the name, address, and telephone number of any other
4 interested employee organization, if known to the requesting
5 organization.

6 (2) The commission shall determine the exclusive representative
7 by conducting an election by secret ballot, except under the
8 following circumstances:

9 (~~(a)~~) (~~In instances where a serious unfair labor practice has been~~
10 ~~committed which interfered with the election process and precluded~~
11 ~~the holding of a fair election, the commission shall determine the~~
12 ~~exclusive bargaining representative by an examination of organization~~
13 ~~membership rolls or a comparison of signatures on organization~~
14 ~~bargaining authorization cards.~~

15 (~~(b)~~) In instances where there is then in effect a lawful written
16 collective bargaining agreement between the employer and another
17 employee organization covering any employees included in the unit
18 described in the request for (~~recognition~~) certification, the
19 request for (~~recognition~~) certification shall not be entertained
20 unless it shall be filed within the time limits prescribed in
21 subsection (3) of this section for decertification or a new
22 (~~recognition~~) election.

23 (~~(c)~~) (~~(b)~~) In instances where within the previous twelve months
24 another employee organization has been lawfully (~~recognized or~~)
25 certified as the exclusive bargaining representative of any employees
26 included in the unit described in the request for (~~recognition~~)
27 certification, the request for (~~recognition~~) certification shall
28 not be entertained.

29 (~~(d)~~) (~~(c)~~) In instances where the commission has within the
30 previous twelve months conducted a secret ballot election involving
31 any employees included in the unit described in the request for
32 (~~recognition~~) certification in which a majority of the valid
33 ballots cast chose not to be represented by any employee
34 organization, the request for (~~recognition~~) certification shall not
35 be entertained.

36 (3) Whenever the commission conducts an election to ascertain the
37 exclusive bargaining representative, the ballot shall contain the
38 name of the proposed bargaining representative and of any other
39 bargaining representative showing written proof of at least ten
40 percent representation of the educational employees within the unit,

1 together with a choice for any educational employee to designate that
2 he or she does not desire to be represented by any bargaining agent.
3 Where more than one organization is on the ballot and neither of the
4 three or more choices receives a majority of the valid ballots cast
5 by the educational employees within the bargaining unit, a runoff
6 election shall be held. The runoff ballot shall contain the two
7 choices which receive the largest and second largest number of votes.
8 No question concerning representation may be raised within one year
9 of a certification or attempted certification. Where there is a valid
10 collective bargaining agreement in effect, no question of
11 representation may be raised except during the period not more than
12 ninety nor less than sixty days prior to the expiration date of the
13 agreement. In the event that a valid collective bargaining agreement,
14 together with any renewals or extensions thereof, has been or will be
15 in existence for three years, then the question of representation may
16 be raised not more than ninety nor less than sixty days prior to the
17 third anniversary date of the agreement or any renewals or extensions
18 thereof as long as such renewals and extensions do not exceed three
19 years; and if the exclusive bargaining representative is removed as a
20 result of such procedure, the then existing collective bargaining
21 agreement shall be terminable by the new exclusive bargaining
22 representative so selected within sixty days after its certification
23 or terminated on its expiration date, whichever is sooner, or if no
24 exclusive bargaining representative is so selected, then the
25 agreement shall be deemed to be terminated at its expiration date or
26 as of such third anniversary date, whichever is sooner.

27 (4) Within the time limits prescribed in subsection (3) of this
28 section, a petition may be filed signed by at least thirty percent of
29 the employees of a collective bargaining unit, then represented by an
30 exclusive bargaining representative, alleging that a majority of the
31 employees in that unit do not wish to be represented by an employee
32 organization, requesting that the exclusive bargaining representative
33 be decertified, and indicating the name, address and telephone number
34 of the exclusive bargaining representative and any other interested
35 employee organization, if known. Upon the verification of the
36 signatures on the petition, the commission shall conduct an election
37 by secret ballot as prescribed by subsection (3) of this section.

38 **Sec. 25.** RCW 47.64.011 and 2011 1st sp.s. c 16 s 24 are each
39 amended to read as follows:

1 As used in this chapter, unless the context otherwise requires,
2 the definitions in this section shall apply.

3 (1) "Collective bargaining representative" means the persons
4 designated by the governor and employee organizations to be the
5 exclusive representatives during collective bargaining negotiations.

6 (2) "Commission" means the public employment relations commission
7 created in RCW 41.58.010.

8 (3) "Department of transportation" means the department as
9 defined in RCW 47.01.021.

10 (4) "Employer" means the state of Washington.

11 (5) "Executive director" means the executive director of the
12 commission.

13 (6) "Ferry employee" means any employee of the marine
14 transportation division of the department of transportation who is a
15 member of a collective bargaining unit represented by a ferry
16 employee organization and does not include an exempt employee
17 pursuant to RCW 41.06.079.

18 (7) "Ferry employee organization" means any labor organization
19 (~~(recognized)~~) certified to represent a collective bargaining unit of
20 ferry employees.

21 (8) "Lockout" means the refusal of the employer to furnish work
22 to ferry employees in an effort to get ferry employee organizations
23 to make concessions during collective bargaining, grievance, or other
24 labor relation negotiations. Curtailment of employment of ferry
25 employees due to lack of work resulting from a strike or work
26 stoppage shall not be considered a lockout.

27 (9) "Office of financial management" means the office as created
28 in RCW 43.41.050.

29 (10) "Strike or work stoppage" means a ferry employee's refusal,
30 in concerted action with others, to report to duty, or his or her
31 willful absence from his or her position, or his or her stoppage or
32 slowdown of work, or his or her abstinence in whole or in part from
33 the full, faithful, and proper performance of the duties of
34 employment, for the purpose of inducing, influencing, or coercing a
35 change in conditions, compensation, rights, privileges, or
36 obligations of his, her, or any other ferry employee's employment. A
37 refusal, in good faith, to work under conditions which pose an
38 endangerment to the health and safety of ferry employees or the
39 public, as determined by the master of the vessel, shall not be
40 considered a strike for the purposes of this chapter.

1 **Sec. 26.** RCW 47.64.135 and 2011 1st sp.s. c 16 s 27 are each
2 amended to read as follows:

3 (1) The commission shall determine all questions pertaining to
4 representation via secret ballot elections and shall administer all
5 elections and be responsible for the processing and adjudication of
6 all disputes that arise as a consequence of elections. The commission
7 shall adopt rules that provide for at least the following:

8 (a) Secret balloting;

9 (b) Consulting with employee organizations;

10 (c) Access to lists of employees, job classification, work
11 locations, and home mailing addresses;

12 (d) Absentee voting;

13 (e) Procedures for the greatest possible participation in voting;

14 (f) Campaigning on the employer's property during working hours;

15 and

16 (g) Election observers.

17 (2) If an employee organization has been certified as the
18 exclusive bargaining representative of the employees of a bargaining
19 unit under a secret ballot election, the employee organization may
20 act for and negotiate master collective bargaining agreements that
21 will include within the coverage of the agreement all employees in
22 the bargaining unit.

23 (3) The certified exclusive bargaining representative is
24 responsible for representing the interests of all the employees in
25 the bargaining unit. This section shall not be construed to limit an
26 exclusive representative's right to exercise its discretion to refuse
27 to process grievances of employees that are unmeritorious.

28 (4) No question concerning representation may be raised if:

29 (a) Fewer than twelve months have elapsed since the last
30 certification or election; or

31 (b) A valid collective bargaining agreement exists covering the
32 unit, except for that period of no more than one hundred twenty
33 calendar days and no less than ninety calendar days before the
34 expiration of the contract.

35 **Sec. 27.** RCW 49.39.030 and 2010 c 6 s 4 are each amended to read
36 as follows:

37 The commission, upon reasonable notice, shall decide in each
38 application for certification as an exclusive bargaining
39 representative the unit appropriate for the purpose of collective

1 bargaining. In determining, modifying, or combining the bargaining
2 unit, the commission shall consider the duties, skills, and working
3 conditions of the symphony musicians; the history of collective
4 bargaining by the symphony musicians and their bargaining
5 representatives; the extent of organization among the symphony
6 musicians; and the desire of the symphony musicians. The commission
7 shall determine the bargaining representative by ~~((:-(1) Comparison of~~
8 ~~signatures on organization bargaining authorization cards; or (2))~~
9 conducting an election specifically therefor.

10 **Sec. 28.** RCW 49.39.040 and 2010 c 6 s 5 are each amended to read
11 as follows:

12 ~~((If the commission elects to conduct an election to ascertain~~
13 ~~the exclusive bargaining representative, and)) Upon the request of a
14 prospective bargaining representative showing written proof of at
15 least thirty percent representation of the symphony musicians within
16 the unit, the commission shall hold an election by secret ballot to
17 determine the issue. The ballot shall contain the name of the
18 bargaining representative and of any other bargaining representative
19 showing written proof of at least ten percent representation of the
20 symphony musicians within the unit, together with a choice for any
21 symphony musician to designate that he or she does not desire to be
22 represented by any bargaining agent. Where more than one organization
23 is on the ballot and neither of the three or more choices receives a
24 majority vote of valid ballots cast, a runoff election shall be held.
25 The runoff ballot shall contain the two choices which received the
26 largest and second-largest number of votes. No question concerning
27 representation may be raised within one year of a certification or
28 attempted certification. Where there is a valid collective bargaining
29 agreement in effect, no question of representation may be raised
30 except during the period not more than ninety nor less than sixty
31 days prior to the expiration date of the agreement. Any agreement
32 which contains a provision for automatic renewal or extension of the
33 agreement shall not be a valid agreement; nor shall any agreement be
34 valid if it provides for a term of existence for more than three
35 years."~~

36 Renumber the remaining sections consecutively and correct any
37 internal references accordingly.

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1 On page 27, line 5, after "49.39.090," strike "and 53.18.050" and
2 insert "41.59.070, 47.64.011, 47.64.135, 49.39.030, and 49.39.040"
3 and beginning on line 7 after "28B.52 RCW;" strike all material
4 through "49.39 RCW;" on line 9

EFFECT: Requires union certification through secret ballot elections and prohibits certification through cross-check and voluntary recognition.

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