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**SUBSTITUTE HOUSE BILL 1452**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Riccelli, Macri, Doglio, Jenkins, Peterson, Stonier, Dolan, Frame, Robinson, Sells, Fitzgibbon, Tarleton, Gregerson, Valdez, Lekanoff, Walen, Kloba, Chapman, Stanford, Bergquist, and Ormsby)

READ FIRST TIME 02/12/19.

1 AN ACT Relating to extending collective bargaining rights to  
2 employees of the legislative branch of state government; amending RCW  
3 41.80.005 and 41.80.010; and adding new sections to chapter 41.80  
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.80  
7 RCW to read as follows:

8 (1) Except as otherwise provided, this chapter applies to  
9 permanent employees of the legislative branch of state government,  
10 including employees of the joint legislative audit and review  
11 committee, the statute law committee, the legislative ethics board,  
12 the legislative evaluation and accountability program committee, the  
13 office of the state actuary, the legislative service center, the  
14 office of legislative support services, and the joint transportation  
15 committee.

16 (2) This chapter does not apply to:

17 (a) Elected members of the legislature;

18 (b) The chief clerk, deputy chief clerk, secretary of the senate,  
19 and deputy secretary of the senate;

20 (c) Counsel for the house of representatives and senate;

1 (d) Directors and assistant directors of legislative staff work  
2 groups and administrators and directors of committees, boards, and  
3 commissions; or

4 (e) Employees hired on a temporary or seasonal basis.

5 **Sec. 2.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each  
6 amended to read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Agency" means any agency as defined in RCW 41.06.020 and  
10 covered by chapter 41.06 RCW. The employees of the legislative branch  
11 of state government, as described in section 1 of this act, are  
12 considered an "agency" for the sole purpose of collective bargaining,  
13 regardless of the employees exemption under chapter 41.06 RCW.

14 (2) "Collective bargaining" means the performance of the mutual  
15 obligation of the representatives of the employer and the exclusive  
16 bargaining representative to meet at reasonable times and to bargain  
17 in good faith in an effort to reach agreement with respect to the  
18 subjects of bargaining specified under RCW 41.80.020. The obligation  
19 to bargain does not compel either party to agree to a proposal or to  
20 make a concession, except as otherwise provided in this chapter.

21 (3) "Commission" means the public employment relations  
22 commission.

23 (4) "Confidential employee" means an employee who, in the regular  
24 course of his or her duties, assists in a confidential capacity  
25 persons who formulate, determine, and effectuate management policies  
26 with regard to labor relations or who, in the regular course of his  
27 or her duties, has authorized access to information relating to the  
28 effectuation or review of the employer's collective bargaining  
29 policies, or who assists or aids a manager. "Confidential employee"  
30 also includes employees who assist assistant attorneys general who  
31 advise and represent managers or confidential employees in personnel  
32 or labor relations matters, or who advise or represent the state in  
33 tort actions.

34 (5) "Director" means the director of the public employment  
35 relations commission.

36 (6) "Employee" means any employee, including employees whose work  
37 has ceased in connection with the pursuit of lawful activities  
38 protected by this chapter, covered by chapter 41.06 RCW(~~(, except)~~).  
39 "Employee" includes employees of the legislative branch of state

1 government as provided under section 1 of this act. "Employee" does  
2 not include:

3 (a) Employees covered for collective bargaining by chapter 41.56  
4 RCW;

5 (b) Confidential employees;

6 (c) Members of the Washington management service;

7 (d) Internal auditors in any agency; or

8 (e) Any employee of the commission, the office of financial  
9 management, or the office of risk management within the department of  
10 enterprise services.

11 (7) "Employee organization" means any organization, union, or  
12 association in which employees participate and that exists for the  
13 purpose, in whole or in part, of collective bargaining with  
14 employers.

15 (8) "Employer" means the state of Washington.

16 (9) "Exclusive bargaining representative" means any employee  
17 organization that has been certified under this chapter as the  
18 representative of the employees in an appropriate bargaining unit.

19 (10) "Institutions of higher education" means the University of  
20 Washington, Washington State University, Central Washington  
21 University, Eastern Washington University, Western Washington  
22 University, The Evergreen State College, and the various state  
23 community colleges.

24 (11) "Labor dispute" means any controversy concerning terms,  
25 tenure, or conditions of employment, or concerning the association or  
26 representation of persons in negotiating, fixing, maintaining,  
27 changing, or seeking to arrange terms or conditions of employment  
28 with respect to the subjects of bargaining provided in this chapter,  
29 regardless of whether the disputants stand in the proximate relation  
30 of employer and employee.

31 (12) "Manager" means "manager" as defined in RCW 41.06.022.

32 (13) "Supervisor" means an employee who has authority, in the  
33 interest of the employer, to hire, transfer, suspend, lay off,  
34 recall, promote, discharge, direct, reward, or discipline employees,  
35 or to adjust employee grievances, or effectively to recommend such  
36 action, if the exercise of the authority is not of a merely routine  
37 nature but requires the consistent exercise of individual judgment.  
38 However, no employee who is a member of the Washington management  
39 service may be included in a collective bargaining unit established  
40 under this section.

1 (14) "Unfair labor practice" means any unfair labor practice  
2 listed in RCW 41.80.110.

3 **Sec. 3.** RCW 41.80.010 and 2017 3rd sp.s. c 23 s 3 are each  
4 amended to read as follows:

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

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

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

36 (c) If five hundred or more employees of an independent state  
37 elected official listed in RCW 43.01.010 are organized in a  
38 bargaining unit or bargaining units under RCW 41.80.070, the official  
39 shall be consulted by the governor or the governor's designee before

1 any agreement is reached under (a) of this subsection concerning  
2 supplemental bargaining of agency specific issues affecting the  
3 employees in such bargaining unit.

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

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

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

15 The legislature shall approve or reject the submission of the  
16 request for funds as a whole. The legislature shall not consider a  
17 request for funds to implement a collective bargaining agreement  
18 unless the request is transmitted to the legislature as part of the  
19 governor's budget document submitted under RCW 43.88.030 and  
20 43.88.060. If the legislature rejects or fails to act on the  
21 submission, either party may reopen all or part of the agreement or  
22 the exclusive bargaining representative may seek to implement the  
23 procedures provided for in RCW 41.80.090.

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

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

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

37 (B) If the parties mutually agree, the governor or the governor's  
38 designee and an exclusive bargaining representative shall negotiate  
39 one master collective bargaining agreement for all of the bargaining

1 units of employees of more than one university or college that the  
2 representative represents.

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

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

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

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

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

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

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

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

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

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

26 (5) If, after the compensation and fringe benefit provisions of  
27 an agreement are approved by the legislature, a significant revenue  
28 shortfall occurs resulting in reduced appropriations, as declared by  
29 proclamation of the governor or by resolution of the legislature,  
30 both parties shall immediately enter into collective bargaining for a  
31 mutually agreed upon modification of the agreement.

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

39 (7) For the 2013-2015 fiscal biennium, a collective bargaining  
40 agreement related to employee health care benefits negotiated between

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

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

12 (i) Modifications to collective bargaining agreements as set  
13 forth in a memorandum of understanding negotiated between the  
14 employer and the service employees international union healthcare  
15 1199nw, an exclusive bargaining representative, that was necessitated  
16 by an emergency situation or an imminent jeopardy determination by  
17 the center for medicare and medicaid services that relates to the  
18 safety or health of the clients, employees, or both the clients and  
19 employees.

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

27 (iii) Modifications to collective bargaining agreements as set  
28 forth in a memorandum of understanding negotiated between the  
29 employer and the union of physicians of Washington, an exclusive  
30 bargaining representative, that was necessitated by an emergency  
31 situation or an imminent jeopardy determination by the center for  
32 medicare and medicaid services that relates to the safety or health  
33 of the clients, employees, or both the clients and employees. If the  
34 memorandum of understanding submitted to the legislature as part of  
35 the governor's budget document is rejected by the legislature, and  
36 the parties reach a new memorandum of understanding by June 30, 2016,  
37 within the funds, conditions, and limitations provided in section  
38 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of  
39 understanding shall be considered approved by the legislature and may  
40 be retroactive to December 1, 2015.



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

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

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

18 (d) Subsection (3)(a) and (b) of this section do not apply to  
19 requests for funding made pursuant to this subsection.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.80  
21 RCW to read as follows:

22 For the purpose of negotiating agreements with the exclusive  
23 bargaining representative of legislative employees, the secretary of  
24 the senate, the chief clerk of the house of representatives, the  
25 senate facilities and operations committee, and the house executive  
26 rules committee, shall select a negotiator or negotiators to  
27 negotiate on behalf of the legislative branch.

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