
HOUSE BILL 2017

State of Washington

66th Legislature

2019 Regular Session

By Representatives Frame, Dolan, Fitzgibbon, Stanford, Kilduff, Macri, Ryu, Valdez, Tarleton, and Pollet

Read first time 02/12/19. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to collective bargaining for administrative law
2 judges; amending RCW 41.80.005, 34.12.030, and 34.12.100; adding a
3 new section to chapter 41.80 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the independent
6 adjudication services provided by administrative law judges of the
7 office of administrative hearings are crucial to the due process
8 rights of the citizens of this state and the just functioning of the
9 government. Administrative law judges of the office of administrative
10 hearings are exempt from civil service under RCW 34.12.030(5). These
11 administrative law judges currently have no mechanism through which
12 to collectively bargain for salary increases. The legislature finds
13 the office of administrative hearings has experienced increased
14 difficulty recruiting and retaining administrative law judges due to
15 the disparity in wages paid to administrative law judges as compared
16 to similar public sector positions. This type of turnover is costly
17 to the office of administrative hearings, negatively impacts morale,
18 interferes with the ability of the office to succession plan, and
19 ultimately harms the citizens of this state. Therefore, it is the
20 legislature's intent to empower these administrative law judges to
21 collectively bargain for fair wages that will foster job satisfaction

1 and the highest standards of professional competence among
2 administrative law judges.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.80
4 RCW to read as follows:

5 (1) In addition to the agencies defined in RCW 41.80.005 and
6 subject to the provisions of this section, this chapter applies to
7 administrative law judges of the office of administrative hearings
8 appointed under RCW 34.12.030(1).

9 (2)(a) Administrative law judges of the office of administrative
10 hearings who are not otherwise excluded from bargaining under (b) of
11 this subsection are granted the right to collectively bargain.

12 (b) Administrative law judges in supervisory positions,
13 administrative law judges serving on a contractual basis under RCW
14 34.12.030(2), confidential employees as defined in RCW 41.80.005, and
15 any administrative law judge who reports directly to the chief
16 administrative law judge are excluded from this section and do not
17 have the right to collectively bargain.

18 (3) The only unit appropriate for the purpose of collective
19 bargaining under this chapter is a statewide unit of all
20 administrative law judges of the office of administrative hearings
21 not otherwise excluded from bargaining.

22 **Sec. 3.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each
23 amended to read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Agency" means any agency as defined in RCW 41.06.020 and
27 covered by chapter 41.06 RCW. "Agency" also includes the
28 administrative law judges of the office of administrative hearings,
29 regardless of their exemption under chapter 41.06 RCW.

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

37 (3) "Commission" means the public employment relations
38 commission.

1 (4) "Confidential employee" means an employee who, in the regular
2 course of his or her duties, assists in a confidential capacity
3 persons who formulate, determine, and effectuate management policies
4 with regard to labor relations or who, in the regular course of his
5 or her duties, has authorized access to information relating to the
6 effectuation or review of the employer's collective bargaining
7 policies, or who assists or aids a manager. "Confidential employee"
8 also includes employees who assist assistant attorneys general who
9 advise and represent managers or confidential employees in personnel
10 or labor relations matters, or who advise or represent the state in
11 tort actions.

12 (5) "Director" means the director of the public employment
13 relations commission.

14 (6) "Employee" means any employee, including employees whose work
15 has ceased in connection with the pursuit of lawful activities
16 protected by this chapter, covered by chapter 41.06 RCW(~~(, except)~~).
17 "Employee" includes administrative law judges of the office of
18 administrative hearings, regardless of their exemption under chapter
19 41.06 RCW. "Employee" does not include:

20 (a) Employees covered for collective bargaining by chapter 41.56
21 RCW;

22 (b) Confidential employees;

23 (c) Members of the Washington management service;

24 (d) Internal auditors in any agency; or

25 (e) Any employee of the commission, the office of financial
26 management, or the office of risk management within the department of
27 enterprise services.

28 (7) "Employee organization" means any organization, union, or
29 association in which employees participate and that exists for the
30 purpose, in whole or in part, of collective bargaining with
31 employers.

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

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

36 (10) "Institutions of higher education" means the University of
37 Washington, Washington State University, Central Washington
38 University, Eastern Washington University, Western Washington
39 University, The Evergreen State College, and the various state
40 community colleges.

1 (11) "Labor dispute" means any controversy concerning terms,
2 tenure, or conditions of employment, or concerning the association or
3 representation of persons in negotiating, fixing, maintaining,
4 changing, or seeking to arrange terms or conditions of employment
5 with respect to the subjects of bargaining provided in this chapter,
6 regardless of whether the disputants stand in the proximate relation
7 of employer and employee.

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

9 (13) "Supervisor" means an employee who has authority, in the
10 interest of the employer, to hire, transfer, suspend, lay off,
11 recall, promote, discharge, direct, reward, or discipline employees,
12 or to adjust employee grievances, or effectively to recommend such
13 action, if the exercise of the authority is not of a merely routine
14 nature but requires the consistent exercise of individual judgment.
15 However, no employee who is a member of the Washington management
16 service may be included in a collective bargaining unit established
17 under this section.

18 (14) "Unfair labor practice" means any unfair labor practice
19 listed in RCW 41.80.110.

20 **Sec. 4.** RCW 34.12.030 and 1981 c 67 s 3 are each amended to read
21 as follows:

22 (1) The chief administrative law judge shall appoint
23 administrative law judges to fulfill the duties prescribed in this
24 chapter. All administrative law judges shall have a demonstrated
25 knowledge of administrative law and procedures. The chief
26 administrative law judge may establish different levels of
27 administrative law judge positions.

28 (2) The chief administrative law judge may also contract with
29 qualified individuals to serve as administrative law judges for
30 specified hearings. Such individuals shall be compensated for their
31 services on a contractual basis for each hearing, in accordance with
32 chapter 43.88 RCW. The chief administrative law judge may not
33 contract with any individual who is at that time an employee of the
34 state.

35 (3) The chief administrative law judge may appoint such clerical
36 and other specialized or technical personnel as may be necessary to
37 carry on the work of this chapter.

38 (4) Subject to any collective bargaining agreement, the
39 administrative law judges appointed under subsection (1) of this

1 section are subject to discipline and termination, for cause, by the
2 chief administrative law judge. Upon written request by the person so
3 disciplined or terminated, the chief administrative law judge shall
4 forthwith put the reasons for such action in writing. The person
5 affected has a right of review by the superior court of Thurston
6 county on petition for reinstatement or other remedy filed within
7 thirty days of receipt of such written reasons.

8 (5) All employees of the office except the chief administrative
9 law judge and the administrative law judges are subject to chapter
10 41.06 RCW.

11 (6) Administrative law judges appointed under subsection (1) of
12 this section have the right to collectively bargain under chapter
13 41.80 RCW, regardless of their exemption from chapter 41.06 RCW.

14 (7) The office may adopt rules for its own operation and in
15 furtherance of this chapter in accordance with chapter 34.05 RCW.

16 **Sec. 5.** RCW 34.12.100 and 2015 3rd sp.s. c 1 s 310 are each
17 amended to read as follows:

18 The chief administrative law judge shall be paid a salary fixed
19 by the governor after recommendation of the director of financial
20 management. Subject to any collective bargaining agreement, the
21 salaries of administrative law judges appointed under the terms of
22 this chapter shall be determined by the chief administrative law
23 judge after recommendation of the director of financial management.

--- END ---