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**SENATE BILL 5691**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Saldaña, Lias, Hunt, Wellman, Keiser, Conway, Dhingra, and Frockt

Read first time 01/28/19. Referred to Committee on Labor & Commerce.

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 the state  
10 government, the joint legislative audit and review committee, and the  
11 statute law committee.

12 (2) This chapter does not apply to:

13 (a) Elected members of the legislature;

14 (b) The chief clerk, deputy chief clerk, secretary of the senate,  
15 and deputy secretary of the senate;

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

17 (d) Directors and assistant directors of legislative staff work  
18 groups; or

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

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

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Agency" means any agency as defined in RCW 41.06.020 and  
6 covered by chapter 41.06 RCW. "Agency" includes the legislative  
7 branch of the state government, as described in section 1 of this  
8 act, regardless of whether the employees of that agency are covered  
9 by chapter 41.06 RCW.

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

17       (3) "Commission" means the public employment relations  
18 commission.

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

30       (5) "Director" means the director of the public employment  
31 relations commission.

32       (6) "Employee" means any employee, including employees whose work  
33 has ceased in connection with the pursuit of lawful activities  
34 protected by this chapter, covered by chapter 41.06 RCW, except:

35       (a) Employees covered for collective bargaining by chapter 41.56  
36 RCW;

37       (b) Confidential employees;

38       (c) Members of the Washington management service;

39       (d) Internal auditors in any agency; or

1 (e) Any employee of the commission, the office of financial  
2 management, or the office of risk management within the department of  
3 enterprise services.

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

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

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

12 (10) "Institutions of higher education" means the University of  
13 Washington, Washington State University, Central Washington  
14 University, Eastern Washington University, Western Washington  
15 University, The Evergreen State College, and the various state  
16 community colleges.

17 (11) "Labor dispute" means any controversy concerning terms,  
18 tenure, or conditions of employment, or concerning the association or  
19 representation of persons in negotiating, fixing, maintaining,  
20 changing, or seeking to arrange terms or conditions of employment  
21 with respect to the subjects of bargaining provided in this chapter,  
22 regardless of whether the disputants stand in the proximate relation  
23 of employer and employee.

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

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

34 (14) "Unfair labor practice" means any unfair labor practice  
35 listed in RCW 41.80.110.

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

38 (1) For the purpose of negotiating collective bargaining  
39 agreements under this chapter, the employer shall be represented by

1 the governor or governor's designee, except as provided for  
2 institutions of higher education in subsection (4) of this section  
3 and for legislative employees in section 4 of this act.

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

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

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

37 (3) The governor shall submit a request for funds necessary to  
38 implement the compensation and fringe benefit provisions in the  
39 master collective bargaining agreement or for legislation necessary  
40 to implement the agreement. Requests for funds necessary to implement

1 the provisions of bargaining agreements shall not be submitted to the  
2 legislature by the governor unless such requests:

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

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

8 The legislature shall approve or reject the submission of the  
9 request for funds as a whole. The legislature shall not consider a  
10 request for funds to implement a collective bargaining agreement  
11 unless the request is transmitted to the legislature as part of the  
12 governor's budget document submitted under RCW 43.88.030 and  
13 43.88.060. If the legislature rejects or fails to act on the  
14 submission, either party may reopen all or part of the agreement or  
15 the exclusive bargaining representative may seek to implement the  
16 procedures provided for in RCW 41.80.090.

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

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

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

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

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

39 (b) Prior to entering into negotiations under this chapter, the  
40 institutions of higher education or their designees shall consult

1 with the director of the office of financial management regarding  
2 financial and budgetary issues that are likely to arise in the  
3 impending negotiations.

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

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

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

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

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

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

36 (C) If the director of the office of financial management does  
37 not certify a request under (c)(ii)(B) of this subsection as being  
38 feasible financially for the state, the parties shall enter into  
39 collective bargaining solely for the purpose of reaching a mutually  
40 agreed upon modification of the agreement necessary to address the

1 absence of those requested funds. The legislature may act upon the  
2 compensation and fringe benefit provisions of the modified collective  
3 bargaining agreement if those provisions are agreed upon and  
4 submitted to the office of financial management and legislative  
5 budget committees before final legislative action on the biennial or  
6 supplemental operating budget by the sitting legislature.

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

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

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

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

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

3 (i) Modifications to collective bargaining agreements as set  
4 forth in a memorandum of understanding negotiated between the  
5 employer and the service employees international union healthcare  
6 1199nw, an exclusive bargaining representative, that was necessitated  
7 by an emergency situation or an imminent jeopardy determination by  
8 the center for medicare and medicaid services that relates to the  
9 safety or health of the clients, employees, or both the clients and  
10 employees.

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

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

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

38 (b) For the 2015-2017 fiscal biennium, the legislature may act  
39 upon the request for funds for modifications to a 2015-2017  
40 collective bargaining agreement under (a)(i), (ii), (iii), and (iv)



1 of this subsection if funds are requested by the governor before  
2 final legislative action on the supplemental omnibus appropriations  
3 act by the sitting legislature.

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

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

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

13 For the purpose of negotiating agreements for legislative  
14 employees that may collectively bargain as provided under section 1  
15 of this act, the employer shall be a designee chosen by the  
16 legislature to negotiate on its behalf.

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