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**SECOND SUBSTITUTE HOUSE BILL 1764**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Sells, Berry, Bateman, Bronoske, Macri, Simmons, Slatter, Pollet, Ormsby, Frame, and Harris-Talley)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to collective bargaining for resident and fellow  
2 physicians employed by certain institutions of higher education;  
3 amending RCW 41.56.513; adding new sections to chapter 41.56 RCW; and  
4 creating a new section.

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

6 **Sec. 1.** RCW 41.56.513 and 2012 c 255 s 1 are each amended to  
7 read as follows:

8 In addition to the entities listed in RCW 41.56.020, this chapter  
9 applies to (~~postdoctoral~~):

10 (1) Postdoctoral and clinical employees as excluded in chapter  
11 41.76 RCW at the University of Washington and at Washington State  
12 University; and

13 (2) The resident and fellow physicians at medical schools  
14 operated by institutions of higher education.

15 NEW SECTION. **Sec. 2.** (1) It is the intent and purpose of  
16 section 3 of this act to recognize that:

17 (a) There exists a public policy in the state of Washington  
18 against strikes by resident and fellow physicians employed by medical  
19 schools operated by institutions of higher education as a means of  
20 settling labor disputes;

1 (b) The uninterrupted and dedicated service of the resident and  
2 fellow physicians is vital to the health and welfare of the state and  
3 citizens of the state; and

4 (c) A medical school operated by an institution of higher  
5 education has an intention to recruit and retain resident and fellow  
6 physicians from racially and socioeconomically diverse backgrounds,  
7 for the long-term goal of ensuring equitable representation of  
8 providers in all communities of the county.

9 (2) Therefore, to promote uninterrupted performance of medical  
10 services offered by medical schools operated by institutions of  
11 higher education, there should exist an effective and adequate  
12 alternative means of settling disputes.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.56  
14 RCW to read as follows:

15 (1) This section applies only to the resident and fellow  
16 physicians employed by medical schools operated by institutions of  
17 higher education who have the right to collective bargaining pursuant  
18 to RCW 41.56.513.

19 (2) The provisions of RCW 41.56.440 through 41.56.452 and  
20 41.56.470, 41.56.480, and 41.56.490 apply to resident and fellow  
21 physicians of medical schools operated by institutions of higher  
22 education, subject to the provisions of this section.

23 (3) Within 10 working days after the first Monday in September of  
24 every odd-numbered year, the bargaining representative for the  
25 institution of higher education and the bargaining representative for  
26 the appropriate bargaining unit shall attempt to agree on an interest  
27 arbitration panel consisting of three members to be used if the  
28 parties are not successful in negotiating a comprehensive collective  
29 bargaining agreement. Each party shall name one person to serve as  
30 its arbitrator on the arbitration panel. The two members so appointed  
31 shall meet within seven days following the appointment of the later  
32 appointed member to attempt to choose a third member to act as the  
33 neutral chair of the arbitration panel. Upon the failure of the  
34 arbitrators to select a neutral chair within seven days, the two  
35 appointed members shall use one of the two following options in the  
36 appointment of the third member, who shall act as chair of the panel:  
37 (a) By mutual consent, the two appointed members may jointly request  
38 the commission to, and the commission shall, appoint a third member  
39 within two days of such a request. Costs of each party's appointee

1 shall be borne by each party respectively; other costs of the  
2 arbitration proceedings shall be borne by the commission; or (b)  
3 either party may apply to the commission, the federal mediation and  
4 conciliation service, or the American arbitration association to  
5 provide a list of five qualified arbitrators from which the neutral  
6 chair shall be chosen. Each party shall pay the fees and expenses of  
7 its arbitrator, and the fees and expenses of the neutral chair shall  
8 be shared equally between the parties. Immediately upon selecting an  
9 interest arbitration panel, the parties shall cooperate to reserve  
10 dates with the arbitration panel for potential arbitration between  
11 August 1st and September 15th of the following even-numbered year.  
12 The parties shall also prepare a schedule of at least five  
13 negotiation dates for the following year, absent an agreement to the  
14 contrary. The parties shall execute a written agreement before  
15 November 1st of each odd-numbered year setting forth the names of the  
16 members of the arbitration panel and the dates reserved for  
17 bargaining and arbitration. This subsection imposes minimum  
18 obligations only and is not intended to define or limit a party's  
19 full, good faith bargaining obligation under other sections of this  
20 chapter.

21 (4) The arbitration panel may consider only matters that are  
22 subject to bargaining under this chapter. The arbitration panel may  
23 not consider those subjects listed under RCW 41.80.040.

24 (5) The decision of the arbitration panel is not binding on the  
25 legislature. The institution of higher education must fund increases  
26 in compensation and fringe benefits from lidded grants and  
27 nonappropriated funds dedicated to the medical programs. Funding from  
28 other sources, including from the general fund state and tuition, may  
29 not be assumed in negotiation or arbitration and may not be requested  
30 for the collective bargaining agreement by the institution as part of  
31 the state operating budget process, as provided in chapter 41.80 RCW.

32 (6) In making its determination, the arbitration panel shall be  
33 mindful of the legislative purpose enumerated in section 2 of this  
34 act. As additional standards or guidelines to aid the arbitration  
35 panel in reaching a decision, the arbitration panel shall take into  
36 consideration the following factors:

37 (a) The constitutional and statutory authority of the employer;

38 (b) Stipulations of the parties;

1 (c) The financial ability of the institution of higher education  
2 to pay for the compensation and benefit provisions of a collective  
3 bargaining agreement;

4 (d) Comparison of the wages, hours, and conditions of employment  
5 of personnel involved in the proceedings with the wages, hours, and  
6 conditions of employment of personnel of public hospital residency  
7 programs of similar size on the west coast of the United States;

8 (e) The intention of recruiting and retaining resident and fellow  
9 physicians from racially and socioeconomically diverse backgrounds,  
10 for the long-term goal of ensuring equitable representation of  
11 providers in all communities of the county;

12 (f) Changes in any of the foregoing circumstances during the  
13 pendency of the proceedings; and

14 (g) Such other factors, not confined to the foregoing, which are  
15 normally or traditionally taken into consideration in the  
16 determination of matters that are subject to bargaining.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.56  
18 RCW to read as follows:

19 (1) This section applies only to the resident and fellow  
20 physicians employed by institutions of higher education who have the  
21 right to collective bargaining pursuant to RCW 41.56.513.

22 (2) For the purpose of providing uninterrupted medical services  
23 to patients of the medical school and associated facilities,  
24 negotiations for a collective bargaining agreement between the  
25 parties must occur on dates and at times, such as weekends and  
26 evenings, that least conflict with the working hours of the  
27 bargaining representatives who are resident and fellow physicians.

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