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**SENATE BILL 5773**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Stanford, Keiser, Conway, Das, Dhingra, Frockt, Hasegawa, Hunt, Kuderer, Liiias, Lovelett, Mullet, Nguyen, Nobles, Randall, Saldaña, Van De Wege, and C. Wilson

Read first time 01/11/22. Referred to Committee on Labor, Commerce & Tribal Affairs.

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) In addition to the agencies defined in RCW 41.80.005 and  
9 except as otherwise provided, this chapter applies to all employees  
10 of the legislative branch of state government, including employees of  
11 the joint legislative audit and review committee, the statute law  
12 committee, the legislative ethics board, the legislative evaluation  
13 and accountability program committee, the office of the state  
14 actuary, the legislative service center, the office of legislative  
15 support services, the joint transportation committee, and the  
16 redistricting commission.

17 (2) This chapter does not apply to:

18 (a) Elected members of the legislature;

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

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

4 (d) Chiefs of staff and counsel for the house of representatives  
5 and the senate;

6 (e) Legislative employees who are supervisors, as defined in RCW  
7 41.80.005, including committee coordinators for the house of  
8 representatives and the senate; and

9 (f) Employees hired on a temporary or seasonal basis, except for  
10 legislative and committee assistants and session aids, temporarily  
11 hired by the house of representatives or the senate for the  
12 legislative session.

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

15 (1) Except as otherwise provided in this chapter, the matters  
16 subject to bargaining for legislative branch employees under section  
17 1 of this act include: Wages, hours, and other terms and conditions  
18 of employment, and the negotiation of any question arising under a  
19 collective bargaining agreement.

20 (2) The employer is not required to bargain over matters  
21 pertaining to any matters relating to retirement benefits, health  
22 care benefits, or other employee insurance benefits.

23 (3) The employer and the exclusive bargaining representative  
24 shall not bargain over matters pertaining to management rights  
25 established in RCW 41.80.040.

26 (4) Except as otherwise provided in this chapter, if a conflict  
27 exists between resolutions, concurrent resolutions, or policies  
28 adopted by the legislature, relating to wages, hours, and terms and  
29 conditions of employment and a collective bargaining agreement  
30 negotiated under this chapter, the collective bargaining agreement  
31 shall prevail. A provision of a collective bargaining agreement that  
32 conflicts with the terms of a statute is invalid and unenforceable.

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

35 For the purpose of negotiating agreements with the exclusive  
36 bargaining representative of employees of the legislative branch, as  
37 described in section 1 of this act, the secretary of the senate, the  
38 chief clerk of the house of representatives, the senate facilities

1 and operations committee, the house executive rules committee, and,  
2 if applicable, the directors or executive heads of the joint  
3 legislative audit and review committee, the statute law committee,  
4 the legislative ethics board, the legislative evaluation and  
5 accountability program committee, the office of the state actuary,  
6 the legislative service center, the office of legislative support  
7 services, the joint transportation committee, and the redistricting  
8 commission, shall coordinate with each other to:

9 (1) Select a negotiator or negotiators to negotiate on behalf of  
10 the legislative branch;

11 (2) Create a streamlined process for approving negotiated  
12 collective bargaining agreements on behalf of the legislative branch;  
13 and

14 (3) Create procedures for timely submitting requests for funding  
15 to the appropriate legislative committees if appropriations are  
16 necessary to implement provisions of the collective bargaining  
17 agreements.

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

20 (1) If appropriations are necessary to implement the compensation  
21 and fringe benefit provisions of a collective bargaining agreement  
22 reached between the legislative branch and exclusive bargaining  
23 representatives of legislative branch employees, a request for funds  
24 shall be submitted to the legislature according to procedures  
25 established as required under section 3 of this act.

26 (2) 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, all  
30 parties shall immediately enter into collective bargaining for a  
31 mutually agreed upon modification of the agreement.

32 (3) After the expiration date of a collective bargaining  
33 agreement negotiated under section 1 of this act, all of the terms  
34 and conditions specified in the collective bargaining agreement  
35 remain in effect until the effective date of a subsequently  
36 negotiated agreement, not to exceed one year from the expiration date  
37 stated in the agreement. Thereafter, the legislative branch employer  
38 may unilaterally implement according to law.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 41.80  
2 RCW to read as follows:

3        (1) Collective bargaining negotiations under section 1 of this  
4 act must commence no later than July 1st of each even-numbered year.

5        (2) Except as provided in subsection (3) of this section, the  
6 duration of any collective bargaining agreement under section 1 of  
7 this act shall not exceed one fiscal biennium.

8        (3) The duration of a collective bargaining agreement under  
9 section 1 of this act that is entered into after the effective date  
10 of this section but prior to October 1, 2023, shall not exceed the  
11 2023-2025 biennium.

12        **Sec. 6.**    RCW 41.80.005 and 2021 c 180 s 1 are each amended to  
13 read as follows:

14        Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16        (1) "Agency" means any agency as defined in RCW 41.06.020 and  
17 covered by chapter 41.06 RCW. "Agency" also includes the assistant  
18 attorneys general of the attorney general's office and the  
19 administrative law judges of the office of administrative hearings,  
20 regardless of whether those employees are exempt under chapter 41.06  
21 RCW. The employees of the legislative branch of state government, as  
22 described in section 1 of this act, are considered an "agency" for  
23 the sole purpose of collective bargaining, regardless of their  
24 exemption under chapter 41.06 RCW.

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

32        (3) "Commission" means the public employment relations  
33 commission.

34        (4) "Confidential employee" means an employee who, in the regular  
35 course of his or her duties, assists in a confidential capacity  
36 persons who formulate, determine, and effectuate management policies  
37 with regard to labor relations or who, in the regular course of his  
38 or her duties, has authorized access to information relating to the  
39 effectuation or review of the employer's collective bargaining

1 policies, or who assists or aids a manager. "Confidential employee"  
2 also includes employees who assist assistant attorneys general who  
3 advise and represent managers or confidential employees in personnel  
4 or labor relations matters.

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

7 (6) "Employee" means any employee, including employees whose work  
8 has ceased in connection with the pursuit of lawful activities  
9 protected by this chapter, covered by chapter 41.06 RCW. "Employee"  
10 includes assistant attorneys general of the office of the attorney  
11 general and administrative law judges of the office of administrative  
12 hearings, regardless of their exemption under chapter 41.06 RCW.  
13 "Employee" also includes employees of the legislative branch, as  
14 described in section 1 of this act, regardless of their exemption  
15 under chapter 41.06 RCW. "Employee" does not include:

16 (a) Employees covered for collective bargaining by chapter 41.56  
17 RCW;

18 (b) Confidential employees;

19 (c) Members of the Washington management service;

20 (d) Internal auditors in any agency; or

21 (e) Any employee of the commission, the office of financial  
22 management, or the office of risk management within the department of  
23 enterprise services.

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

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

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

32 (10) "Institutions of higher education" means the University of  
33 Washington, Washington State University, Central Washington  
34 University, Eastern Washington University, Western Washington  
35 University, The Evergreen State College, and the various state  
36 community colleges.

37 (11) "Labor dispute" means any controversy concerning terms,  
38 tenure, or conditions of employment, or concerning the association or  
39 representation of persons in negotiating, fixing, maintaining,  
40 changing, or seeking to arrange terms or conditions of employment

1 with respect to the subjects of bargaining provided in this chapter,  
2 regardless of whether the disputants stand in the proximate relation  
3 of employer and employee.

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

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

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

16 (15) "Uniformed personnel" means duly sworn police officers  
17 employed as members of a police force established pursuant to RCW  
18 28B.10.550.

19 **Sec. 7.** RCW 41.80.010 and 2021 c 334 s 968 are each amended to  
20 read as follows:

21 (1) For the purpose of negotiating collective bargaining  
22 agreements under this chapter, the employer shall be represented by  
23 the governor or governor's designee, except as provided for  
24 institutions of higher education in subsection (4) of this section  
25 and except as provided for in section 4 of this act for employees of  
26 the legislative branch.

27 (2) (a) (i) Except as otherwise provided, if an exclusive  
28 bargaining representative represents more than one bargaining unit,  
29 the exclusive bargaining representative shall negotiate with each  
30 employer representative as designated in subsection (1) of this  
31 section one master collective bargaining agreement on behalf of all  
32 the employees in bargaining units that the exclusive bargaining  
33 representative represents.

34 (ii) For those exclusive bargaining representatives who represent  
35 fewer than a total of five hundred employees each, negotiation shall  
36 be by a coalition of all those exclusive bargaining representatives.  
37 The coalition shall bargain for a master collective bargaining  
38 agreement covering all of the employees represented by the coalition.  
39 The governor's designee and the exclusive bargaining representative

1 or representatives are authorized to enter into supplemental  
2 bargaining of agency-specific issues for inclusion in or as an  
3 addendum to the master collective bargaining agreement, subject to  
4 the parties' agreement regarding the issues and procedures for  
5 supplemental bargaining. Exclusive bargaining representatives that  
6 represent employees covered under chapter 41.06 RCW and exclusive  
7 bargaining representatives that represent employees exempt under  
8 chapter 41.06 RCW shall constitute separate coalitions and must  
9 negotiate separate master collective bargaining agreements. This  
10 subsection does not prohibit cooperation and coordination of  
11 bargaining between two or more exclusive bargaining representatives.

12 (b) This subsection does not apply to exclusive bargaining  
13 representatives who represent employees of institutions of higher  
14 education, except when the institution of higher education has  
15 elected to exercise its option under subsection (4) of this section  
16 to have its negotiations conducted by the governor or governor's  
17 designee under the procedures provided for general government  
18 agencies in subsections (1) through (3) of this section. This  
19 subsection also does not apply to exclusive bargaining  
20 representatives who represent employees of the legislative branch, as  
21 described in section 1 of this act.

22 (c) If five hundred or more employees of an independent state  
23 elected official listed in RCW 43.01.010 are organized in a  
24 bargaining unit or bargaining units under RCW 41.80.070, the official  
25 shall be consulted by the governor or the governor's designee before  
26 any agreement is reached under (a) of this subsection concerning  
27 supplemental bargaining of agency specific issues affecting the  
28 employees in such bargaining unit.

29 (d) For assistant attorneys general, the governor or the  
30 governor's designee and an exclusive bargaining representative shall  
31 negotiate one master collective bargaining agreement.

32 (3) (a) The governor shall submit a request for funds necessary to  
33 implement the compensation and fringe benefit provisions in the  
34 master collective bargaining agreement or for legislation necessary  
35 to implement the agreement. Requests for funds necessary to implement  
36 the provisions of bargaining agreements shall not be submitted to the  
37 legislature by the governor unless such requests:

38 ~~((a))~~ (i) Have been submitted to the director of the office of  
39 financial management by October 1 prior to the legislative session at  
40 which the requests are to be considered; and

1       (~~(b)~~) (ii) Have been certified by the director of the office of  
2 financial management as being feasible financially for the state.

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

12       (b) This subsection does not apply to the employees of the  
13 legislative branch, as described in section 1 of this act.

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

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

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

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

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

36       (b) Prior to entering into negotiations under this chapter, the  
37 institutions of higher education or their designees shall consult  
38 with the director of the office of financial management regarding  
39 financial and budgetary issues that are likely to arise in the  
40 impending negotiations.



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

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

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

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

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

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

33 (C) If the director of the office of financial management does  
34 not certify a request under (c)(ii)(B) of this subsection as being  
35 feasible financially for the state, the parties shall enter into  
36 collective bargaining solely for the purpose of reaching a mutually  
37 agreed upon modification of the agreement necessary to address the  
38 absence of those requested funds. The legislature may act upon the  
39 compensation and fringe benefit provisions of the modified collective  
40 bargaining agreement if those provisions are agreed upon and

1 submitted to the office of financial management and legislative  
2 budget committees before final legislative action on the biennial or  
3 supplemental operating budget by the sitting legislature.

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

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

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

26 (7) (a) For the 2019-2021 fiscal biennium, the legislature may  
27 approve funding for a collective bargaining agreement negotiated by a  
28 higher education institution and the Washington federation of state  
29 employees and ratified by the exclusive bargaining representative  
30 before final legislative action on the omnibus appropriations act by  
31 the sitting legislature.

32 (b) Subsection (3) (a) (i) and (~~(b)~~) (ii) of this section do not  
33 apply to requests for funding made pursuant to this subsection.

34 (8) (a) For the 2021-2023 fiscal biennium, the legislature may  
35 approve funding for a collective bargaining agreement negotiated by  
36 the governor or governor's designee and the Washington public  
37 employees association community college coalition and the general  
38 government agencies and ratified by the exclusive bargaining  
39 representative before final legislative action on the omnibus  
40 appropriations act by the sitting legislature.

1           (b) For the 2021-2023 fiscal biennium, the legislature may  
2 approve funding for a collective bargaining agreement negotiated  
3 between Highline Community College and the Washington public  
4 employees association and ratified by the exclusive bargaining  
5 representative before final legislative action on the omnibus  
6 appropriations act by the sitting legislature.

7           (c) Subsection (3)(a) (i) and (~~(b)~~) (ii) of this section does  
8 not apply to requests for funding made pursuant to this subsection.

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