

E2SSB 6194 - H AMD 1268

By Representative Fitzgibbon

ADOPTED 03/07/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 44.90.020 and 2022 c 283 s 3 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Collective bargaining" means the performance of the mutual
8 obligations of the employer and the exclusive bargaining
9 representative to meet at reasonable times, except that neither party
10 may be compelled to negotiate during a legislative session or on
11 committee assembly days, to confer and negotiate in good faith, and
12 to execute a written agreement with respect to the subjects of
13 bargaining specified under RCW 44.90.090. The obligation to bargain
14 does not compel either party to agree to a proposal or to make a
15 concession unless otherwise provided in this chapter.

16 (2) "Commission" means the legislative commission created in
17 section 17 of this act at the public employment relations commission,
18 until the legislative commission expires on December 31, 2027. After
19 December 31, 2027, "commission" means the public employment relations
20 commission created under RCW 41.58.010(1).

21 ~~((2))~~ (3) "Confidential employee" means an employee designated
22 by the employer: (a) To assist in a confidential capacity, or serve
23 as counsel to, persons who formulate, determine, and effectuate
24 employer policies with regard to labor relations and personnel
25 matters; or (b) who as part of the employee's job duties has
26 authorized access to information that contributes to the development
27 of, or relates to the effectuation or review of, the employer's
28 collective bargaining policies, strategies, or process; or (c) who
29 assists or aids an employee with managerial authority.

30 (4) "Director" means the director of the office of state
31 legislative labor relations.

32 ~~((3))~~ (5) (a) "Employee" means:

1 (i) Any regular partisan employee of the house of representatives
2 or the senate who is covered by this chapter; and

3 (ii) Any regular employee who is staff of the:

4 (A) Office of legislative support services;

5 (B) Legislative service center;

6 (C) Office of the code reviser who, during any legislative
7 session, does not work full time on drafting and finalizing
8 legislative bills to be included in the Revised Code of Washington;
9 and

10 (D) House of representatives and senate administrations.

11 (b) "Employee" also includes temporary staff hired to perform
12 substantially similar work to that performed by employees included
13 under (a) of this subsection.

14 (c) All other regular employees and temporary employees,
15 including casual employees, interns, and pages, and employees in the
16 office of program research and senate committee services work groups
17 of the house of representatives and the senate are excluded from the
18 definition of "employee" for the purposes of this chapter.

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

23 ((+4)) (7) "Employee with managerial authority" means any
24 employee designated by the employer who, regardless of job title: (a)
25 Directs the staff who work for a legislative chamber, caucus, agency,
26 or subdivision thereof; (b) has substantial responsibility in
27 personnel administration, or the preparation and administration of
28 the employer's budgets; and (c) exercises authority that is not
29 merely routine or clerical in nature and requires the use of
30 independent judgment.

31 (8) "Employer" means:

32 (a) The chief clerk of the house of representatives, or the chief
33 clerk's designee, for employees of the house of representatives;

34 (b) The secretary of the senate, or the secretary's designee, for
35 employees of the senate; and

36 (c) The chief clerk of the house of representatives and the
37 secretary of the senate, acting jointly, or their designees, for the
38 regular employees who are staff of the office of legislative support
39 services, the legislative service center, and the office of the code
40 reviser.

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

4 ~~((+5))~~ (10) "Labor dispute" means any controversy concerning
5 terms, tenure, or conditions of employment, or concerning the
6 association or representation of persons in negotiating, fixing,
7 maintaining, changing, or seeking to arrange terms or conditions of
8 employment with respect to the subjects of bargaining provided in
9 this chapter, regardless of whether the disputants stand in the
10 proximate relation of employer and employee.

11 (11) "Legislative agencies" means the joint legislative audit and
12 review committee, the statute law committee, the legislative ethics
13 board, the legislative evaluation and accountability program
14 committee, the office of the state actuary, the legislative service
15 center, the office of legislative support services, the joint
16 transportation committee, and the redistricting commission.

17 ~~((+6))~~ (12) "Office" means the office of state legislative labor
18 relations.

19 (13) "Supervisor" means an employee designated by the employer to
20 provide supervision to legislative employees as part of the
21 employee's regular and usual job duties. Supervision includes
22 directing employees, approving and denying leave, and participating
23 in decisions to hire, transfer, suspend, lay off, recall, promote,
24 discharge, direct, reward, or discipline employees, or to adjust
25 employee grievances, when the exercise of the authority is not of a
26 merely routine nature but requires the exercise of individual
27 judgment, regardless of whether such duties are the employee's
28 primary duties and regardless of whether the employee spends a
29 preponderance of the employee's time exercising such duties. However,
30 "supervisor" does not include a legislative assistant to a legislator
31 of the senate or house of representatives.

32 NEW SECTION. Sec. 2. A new section is added to chapter 44.90
33 RCW to read as follows:

34 (1) This chapter does not apply to any legislative employee who
35 has managerial authority, is a confidential employee, or who does not
36 meet the definition of employee for the purpose of collective
37 bargaining.

38 (2) This chapter also does not apply to:

39 (a) Elected or appointed members of the legislature;

1 (b) Any person appointed to office under statute, ordinance, or
2 resolution for a specific term of office as a member of a multimember
3 board, commission, or committee;

4 (c) The deputy secretary of the senate and the deputy chief clerk
5 of the house of representatives;

6 (d) The senate human resources officer, the human resources
7 director of the house of representatives, and the human resources
8 officers or directors of the legislative support services,
9 legislative service center, and office of the code reviser;

10 (e) The senate director of accounting and the director of
11 accounting for the house of representatives, and the directors of
12 accounting for the legislative support services, legislative service
13 center, and office of the code reviser;

14 (f) Caucus chiefs of staff and caucus deputy chiefs of staff;

15 (g) The speaker's attorney, house counsel, and leadership counsel
16 to the minority caucus of the house of representatives;

17 (h) The counsels for the senate that provide direct legal advice
18 to the administration of the senate; and

19 (i) Any employee who provides direct administrative support to
20 the office of the secretary of the senate or chief clerk of the house
21 of representatives, or who conducts accounting, payroll, labor
22 management, collective bargaining, or human resources activities.

23 **Sec. 3.** RCW 44.90.030 and 2022 c 283 s 2 are each amended to
24 read as follows:

25 (1) The office of state legislative labor relations is created to
26 assist the house of representatives, the senate, and legislative
27 agencies in implementing and managing the process of collective
28 bargaining for employees of the legislative branch of state
29 government.

30 (2)(a) Subject to (b) of this subsection, the secretary of the
31 senate and the chief clerk of the house of representatives shall
32 employ a director of the office. The director serves at the pleasure
33 of the secretary of the senate and the chief clerk of the house of
34 representatives, who shall fix the director's salary.

35 (b) The secretary of the senate and the chief clerk of the house
36 of representatives shall, before employing a director, consult with
37 legislative employees, the senate facilities and operations
38 committee, the house executive rules committee, and the human

1 resources officers of the house of representatives, the senate, and
2 legislative agencies.

3 (c) The director serves as the executive and administrative head
4 of the office and may employ additional employees to assist in
5 carrying out the duties of the office. The duties of the office
6 include, but are not limited to, establishing bargaining teams and
7 conducting negotiations on behalf of the employer.

8 ~~((d) The director shall contract with an external consultant for~~
9 ~~the purposes of gathering input from legislative employees, taking~~
10 ~~into consideration RCW 42.52.020 and rules of the house of~~
11 ~~representatives and the senate. The gathering of input must be in the~~
12 ~~form of, at a minimum, surveys.~~

13 ~~(3) The director, in consultation with the secretary of the~~
14 ~~senate, the chief clerk of the house of representatives, and the~~
15 ~~administrative heads of legislative agencies shall:~~

16 ~~(a) Examine issues related to collective bargaining for employees~~
17 ~~of the house of representatives, the senate, and legislative~~
18 ~~agencies; and~~

19 ~~(b) After consultation with the external consultant, develop best~~
20 ~~practices and options for the legislature to consider in implementing~~
21 ~~and administering collective bargaining for employees of the house of~~
22 ~~representatives, the senate, and legislative agencies.~~

23 ~~(4) (a) By December 1, 2022, the director shall submit a~~
24 ~~preliminary report to the appropriate committees of the legislature~~
25 ~~that provides a progress report on the director's considerations.~~

26 ~~(b) By October 1, 2023, the director shall submit a final report~~
27 ~~to the appropriate committees of the legislature. At a minimum, the~~
28 ~~final report must address considerations on the following issues:~~

29 ~~(i) Which employees of the house of representatives, the senate,~~
30 ~~and legislative agencies for whom collective bargaining may be~~
31 ~~appropriate;~~

32 ~~(ii) Mandatory, permissive, and prohibited subjects of~~
33 ~~bargaining;~~

34 ~~(iii) Who would negotiate on behalf of the house of~~
35 ~~representatives, the senate, and legislative agencies, and which~~
36 ~~entity or entities would be considered the employer for purposes of~~
37 ~~bargaining;~~

38 ~~(iv) Definitions for relevant terms;~~

1 ~~(v) Common public employee collective bargaining agreement~~
2 ~~frameworks related to grievance procedures and processes for~~
3 ~~disciplinary actions;~~

4 ~~(vi) Procedures related to the commission certifying exclusive~~
5 ~~bargaining representatives, determining bargaining units,~~
6 ~~adjudicating unfair labor practices, determining representation~~
7 ~~questions, and coalition bargaining;~~

8 ~~(vii) The efficiency and feasibility of coalition bargaining;~~

9 ~~(viii) Procedures for approving negotiated collective bargaining~~
10 ~~agreements;~~

11 ~~(ix) Procedures for submitting requests for funding to the~~
12 ~~appropriate legislative committees if appropriations are necessary to~~
13 ~~implement provisions of the collective bargaining agreements; and~~

14 ~~(x) Approaches taken by other state legislatures that have~~
15 ~~authorized collective bargaining for legislative employees.~~

16 ~~(5) The report must include a summary of any statutory changes~~
17 ~~needed to address the considerations listed in subsection (4) of this~~
18 ~~section related to the collective bargaining process for legislative~~
19 ~~employees.))~~

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 44.90
21 RCW to read as follows:

22 (1) As provided by this chapter, the commission or the court
23 shall determine all questions described by this chapter as under the
24 commission's authority. However, such authority may not result in an
25 order or rule that intrudes upon or interferes with the legislature's
26 core function of efficient and effective law making or the essential
27 operation of the legislature, including that an order or rule may
28 not:

29 (a) Modify any matter relating to the qualifications and
30 elections of members of the legislature, or the holding of office of
31 members of the legislature;

32 (b) Modify any matter relating to the legislature or each house
33 thereof choosing its officers, adopting rules for its proceedings,
34 selecting committees necessary for the conduct of business,
35 considering or enacting legislation, or otherwise exercising the
36 legislative power of this state;

37 (c) Modify any matter relating to legislative calendars,
38 schedules, and deadlines of the legislature; or

1 (d) Modify laws, rules, policies, or procedures regarding ethics
2 or conflicts of interest.

3 (2) No member of the legislature may be compelled by subpoena or
4 other means to attend a proceeding related to matters covered by this
5 chapter during a legislative session, committee assembly days, or for
6 15 days before commencement of each session.

7 **Sec. 5.** RCW 44.90.050 and 2022 c 283 s 5 are each amended to
8 read as follows:

9 (1) Except as may be specifically limited by this chapter,
10 legislative employees shall have the right to self-organization, to
11 form, join, or assist employee organizations, and to bargain
12 collectively through representatives of their own choosing for the
13 purpose of collective bargaining free from interference, restraint,
14 or coercion. Legislative employees shall also have the right to
15 refrain from any or all such activities.

16 (2) Except as may be specifically limited by this chapter, the
17 commission shall determine all questions pertaining to ascertaining
18 exclusive bargaining representatives for legislative employees and
19 collectively bargaining under this chapter. However, no employee
20 organization shall be recognized or certified as the exclusive
21 bargaining representative of a bargaining unit of employees of the
22 legislative branch unless it receives the votes of a majority of
23 employees in the petitioned for bargaining unit voting in a secret
24 election (~~(by mail ballot)~~) administered by the commission. The
25 commission's process must allow for an employee, group of employees,
26 employee organizations, employer, or their agents to have the right
27 to petition on any question concerning representation.

28 ~~(3) ((The employer and the exclusive bargaining representative of~~
29 ~~a bargaining unit of legislative employees may not enter into a~~
30 ~~collective bargaining agreement that requires the employer to deduct,~~
31 ~~from the salary or wages of an employee, contributions for payments~~
32 ~~for political action committees sponsored by employee organizations~~
33 ~~with legislative employees as members.)) The commission must adopt~~
34 ~~rules that provide for at least the following:~~

35 (a) Secret balloting;

36 (b) Consulting with employee organizations;

37 (c) Access to lists of employees, job titles, work locations, and
38 home mailing addresses;

39 (d) Absentee voting;

1 (e) Procedures for the greatest possible participation in voting;
2 (f) Campaigning on the employer's property during working hours;
3 and

4 (g) Election observers.

5 (4) (a) If an employee organization has been certified as the
6 exclusive bargaining representative of the employees of multiple
7 bargaining units, the employee organization may act for and negotiate
8 a master collective bargaining agreement that includes within the
9 coverage of the agreement all covered employees in the bargaining
10 units.

11 (b) If a master collective bargaining agreement is in effect for
12 the newly certified exclusive bargaining representative, it applies
13 to the bargaining unit for which the new certification has been
14 issued. Nothing in this subsection (4) (b) requires the parties to
15 engage in new negotiations during the term of that agreement.

16 (5) The certified exclusive bargaining representative is
17 responsible for representing the interests of all the employees in
18 the bargaining unit. This section may not be construed to limit an
19 exclusive bargaining representative's right to exercise its
20 discretion to refuse to process grievances of employees that are
21 unmeritorious.

22 (6) No question concerning representation may be raised if:

23 (a) Fewer than 12 months have elapsed since the last
24 certification or election; or

25 (b) A valid collective bargaining agreement exists covering the
26 unit, except for that period of no more than 120 calendar days nor
27 less than 90 calendar days before the expiration of the contract.

28 NEW SECTION. Sec. 6. A new section is added to chapter 44.90
29 RCW to read as follows:

30 (1) The commission, after hearing upon reasonable notice to all
31 interested parties, shall decide, in each application for
32 certification as an exclusive bargaining representative, the unit
33 appropriate for certification. In determining the new units or
34 modifications of existing units, the commission must consider: The
35 duties, skills, and working conditions of the employees; the history
36 of collective bargaining; the extent of organization among the
37 employees; the desires of the employees; and the avoidance of
38 excessive fragmentation. However, a unit is not appropriate if it
39 includes:

1 (a) Both supervisors and nonsupervisory employees. A unit that
2 includes only supervisors may be considered appropriate if a majority
3 of the supervisory employees indicates by vote that they desire to be
4 included in such a unit;

5 (b) Both house of representatives and senate employees;

6 (c) Both partisan and nonpartisan employees;

7 (d) Employees of the majority party caucus and the minority party
8 caucus, unless a majority of the employees of each caucus indicate by
9 vote that they desire to be included together in the same unit; or

10 (e) Employees of the legislative service center, office of
11 legislative support services, and the office of the code reviser, in
12 any combination with each other or in any combination with employees
13 of the house of representatives or employees of the senate.

14 (2) If a single employee organization is the exclusive bargaining
15 representative for two or more units, upon petition by the employee
16 organization, the units may be consolidated into a single larger unit
17 if the commission considers the larger unit to be appropriate. If
18 consolidation is appropriate, the commission shall certify the
19 employee organization as the exclusive bargaining representative of
20 the new unit.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 44.90
22 RCW to read as follows:

23 (1) The parties to a collective bargaining agreement must reduce
24 the agreement to writing and both execute it.

25 (2) Except as provided in this chapter, a collective bargaining
26 agreement must contain provisions that provide for a grievance
27 procedure of all disputes arising over the interpretation or
28 application of the collective bargaining agreement and that is valid
29 and enforceable under its terms when entered into in accordance with
30 this chapter.

31 (3) RCW 41.56.037 applies to this chapter.

32 (4)(a) If a collective bargaining agreement between an employer
33 and an exclusive bargaining representative is concluded after the
34 termination date of the previous collective bargaining agreement
35 between the employer and an employee organization representing the
36 same bargaining units, the effective date of the collective
37 bargaining agreement may be the day after the termination of the
38 previous collective bargaining agreement, and all benefits included

1 in the new collective bargaining agreement, including wage or salary
2 increases, may accrue beginning with that effective date.

3 (b) If a collective bargaining agreement between an employer and
4 an exclusive bargaining representative is concluded after the
5 termination date of the previous collective bargaining agreement
6 between the employer and the exclusive bargaining representative
7 representing different bargaining units, the effective date of the
8 collective bargaining agreement may be the day after the termination
9 date of whichever previous collective bargaining agreement covering
10 one or more of the units terminated first, and all benefits included
11 in the new collective bargaining agreement, including wage or salary
12 increases, may accrue beginning with that effective date.

13 (5) The employer and the exclusive bargaining representative of a
14 bargaining unit of legislative employees may not enter into a
15 collective bargaining agreement that requires the employer to deduct,
16 from the salary or wages of an employee, contributions for payments
17 for political action committees sponsored by employee organizations
18 with legislative employees as members.

19 **Sec. 8.** RCW 44.90.060 and 2022 c 283 s 6 are each amended to
20 read as follows:

21 (~~During a legislative session or committee assembly days,~~
22 ~~nothing~~) Nothing contained in this chapter permits or grants to any
23 legislative employee the right to strike, participate in a work
24 stoppage, or refuse to perform their official duties.

25 **Sec. 9.** RCW 44.90.070 and 2022 c 283 s 7 are each amended to
26 read as follows:

27 (1) Collective bargaining negotiations under this chapter must
28 commence no later than July 1st of each even-numbered year after a
29 bargaining unit has been certified.

30 (2) The duration of any collective bargaining agreement shall not
31 exceed one fiscal biennium.

32 (3)(a) The director must submit ratified collective bargaining
33 agreements, with cost estimates, to the employer by October 1st
34 before the legislative session at which the request for funds is to
35 be considered. The transmission by the legislature to the governor
36 under RCW 43.88.090 must include a request for funds necessary to
37 implement the provisions of all collective bargaining agreements
38 covering legislative employees.

1 (b) If the legislature or governor fails to provide the funds for
2 a collective bargaining agreement for legislative employees, either
3 party may reopen all or part of the agreement or the exclusive
4 bargaining representative may seek to implement the procedures
5 provided for in section 10 of this act.

6 (4) Negotiation for economic terms will be by a coalition of all
7 exclusive bargaining representatives. Any such provisions agreed to
8 by the employer and the coalition must be included in all collective
9 bargaining agreements negotiated by the parties. The director and the
10 exclusive bargaining representative or representatives are authorized
11 to enter into supplemental bargaining of bargaining unit specific
12 issues for inclusion in the collective bargaining agreement, subject
13 to the parties' agreement regarding the issues and procedures for
14 supplemental bargaining. This subsection does not prohibit
15 cooperation and coordination of bargaining between two or more
16 exclusive bargaining representatives.

17 (5) If a significant revenue shortfall occurs resulting in
18 reduced appropriations, as declared by proclamation of the governor
19 or by resolution of the legislature, both parties must immediately
20 enter into collective bargaining for a mutually agreed upon
21 modification of the agreement.

22 NEW SECTION. Sec. 10. A new section is added to chapter 44.90
23 RCW to read as follows:

24 (1) Should the parties fail to reach agreement in negotiating a
25 collective bargaining agreement, either party may request of the
26 commission the assistance of an impartial third party to mediate the
27 negotiations. If a collective bargaining agreement previously
28 negotiated under this chapter expires while negotiations are
29 underway, the terms and conditions specified in the collective
30 bargaining agreement remain in effect for a period not to exceed one
31 year from the expiration date stated in the agreement. Thereafter,
32 the employer may unilaterally implement according to law.

33 (2) Nothing in this section may be construed to prohibit an
34 employer and an exclusive bargaining representative from agreeing to
35 substitute, at their own expense, their own procedure for resolving
36 impasses in collective bargaining for that provided in this section
37 or from agreeing to utilize for the purposes of this section any
38 other governmental or other agency or person in lieu of the
39 commission.

1 (3) The commission shall bear costs for mediator services.

2 **Sec. 11.** RCW 44.90.080 and 2022 c 283 s 8 are each amended to
3 read as follows:

4 (1) It is an unfair labor practice for an employer in the
5 legislative branch of state government:

6 (a) To interfere with, restrain, or coerce employees in the
7 exercise of the rights guaranteed by this chapter;

8 (b) To dominate or interfere with the formation or administration
9 of any employee organization or contribute financial or other support
10 to it: PROVIDED, That subject to rules adopted by the commission, an
11 employer shall not be prohibited from permitting employees to confer
12 with it or its representatives or agents during working hours without
13 loss of time or pay;

14 (c) To encourage or discourage membership in any employee
15 organization by discrimination in regard to hire, tenure of
16 employment, or any term or condition of employment;

17 (d) To discharge or discriminate otherwise against an employee
18 because that employee has filed charges or given testimony under this
19 chapter;

20 (e) To refuse to bargain collectively with the exclusive
21 bargaining representatives of its employees.

22 (2) Notwithstanding any other law, the expression of any views,
23 arguments, or opinions, or the dissemination thereof in any form, by
24 a member of the legislature related to this chapter or matters within
25 the scope of representation, shall not constitute, or be evidence of,
26 an unfair labor practice unless the employer has authorized the
27 member to express that view, argument, or opinion on behalf of the
28 employer or as an employer.

29 (3) It is an unfair labor practice for an employee organization:

30 (a) To restrain or coerce an employee in the exercise of the
31 rights guaranteed by this chapter: PROVIDED, That this subsection
32 shall not impair the right of an employee organization to prescribe
33 its own rules with respect to the acquisition or retention of
34 membership in the employee organization or to an employer in the
35 selection of its representatives for the purpose of bargaining or the
36 adjustment of grievances;

37 (b) To cause or attempt to cause an employer to discriminate
38 against an employee in violation of subsection (1)(c) of this
39 section;

1 (c) To discriminate against an employee because that employee has
2 filed charges or given testimony under this chapter;

3 (d) To refuse to bargain collectively with an employer.

4 (~~((3))~~) (4) The expressing of any views, arguments, or opinion,
5 or the dissemination thereof to the public, whether in written,
6 printed, graphic, or visual form, shall not constitute or be evidence
7 of an unfair labor practice under this chapter, if such expression
8 contains no threat of reprisal or force or promise of benefit.

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 44.90
10 RCW to read as follows:

11 (1) The commission is empowered and directed to prevent any
12 unfair labor practice and to issue appropriate remedial orders.
13 However, a complaint may not be processed for any unfair labor
14 practice occurring more than six months before the filing of the
15 complaint with the commission or in Thurston county superior court.
16 This power may not be affected or impaired by any means of
17 adjustment, mediation, or conciliation in labor disputes that have
18 been or may hereafter be established by law.

19 (2) Except as may be specifically limited by this chapter, if the
20 commission or court determines that any person has engaged in or is
21 engaging in an unfair labor practice, the commission or court shall
22 issue and cause to be served upon the person an order requiring the
23 person to cease and desist from such unfair labor practice, and to
24 take such affirmative action as will effectuate the purposes and
25 policy of this chapter, such as the payment of damages.

26 (3) The commission may petition the Thurston county superior
27 court for the enforcement of its order and for appropriate temporary
28 relief.

29 **Sec. 13.** RCW 44.90.090 and 2022 c 283 s 9 are each amended to
30 read as follows:

31 (1) Except as otherwise provided in this chapter, the matters
32 subject to bargaining include wages, hours, terms and conditions of
33 employment, and the negotiation of any question arising under a
34 collective bargaining agreement.

35 (2) The employer shall not bargain over rights of management
36 which, in addition to all powers, duties, and rights established by
37 constitutional provision or statute, shall include, but not be
38 limited to, the following:

1 (a) Any item listed in section 4(1) of this act;
2 (b) The functions and programs of the employer, the use of
3 technology, and the structure of the organization, including the size
4 and composition of standing committees;
5 ~~((b))~~ (c) The employer's budget and the size of the employer's
6 workforce, including determining the financial basis for layoffs;
7 ~~((e))~~ (d) The right to direct and supervise employees;
8 ~~((d))~~ (e) The hours of work during legislative session ((and
9 the cutoff calendar for a legislative session)) and committee
10 assembly days, and the hours of work during the 60 calendar days
11 before the first day of legislative session and during the 20
12 calendar days after the last day of legislative session. This
13 subsection (2)(e) does not prohibit bargaining over hours of work
14 during any other period and bargaining over compensation for hours of
15 work in excess of a 40-hour workweek, except that bargaining over
16 hours of work during periods not otherwise prohibited and
17 compensation for hours worked in excess of a 40-hour workweek may
18 only occur for agreements that take effect after July 1, 2027; ((and
19 e)) (f) The cutoff calendar for a legislative session;
20 (g) The employer's authority to: (i) Lay off employees when there
21 has been a change to the number of members in, or the makeup of, a
22 caucus due to an election or appointment that necessitates a change
23 in the number of staff; (ii) lay off an employee following an
24 election, appointment, or resignation of a legislator; and (iii)
25 terminate an employee for engaging in partisan activities that are
26 incompatible with the employee's job duties or position;
27 (h) Health care benefits and other employee insurance benefits.
28 The amount paid by a legislative employee for health care premiums
29 must be the same as that paid by a represented state employee covered
30 by RCW 41.80.020(3);
31 (i) The right to take whatever actions are deemed necessary to
32 carry out the mission of the legislature and its agencies during
33 emergencies; and
34 (j) Retirement plans and retirement benefits.
35 ~~((2))~~ (3) Except for an applicable code of conduct policy
36 adopted by a chamber of the legislature or a legislative agency, if a
37 conflict exists between policies adopted by the legislature relating
38 to wages, hours, and terms and conditions of employment and a
39 provision of a collective bargaining agreement negotiated under this
40 chapter, the collective bargaining agreement shall prevail. A

1 provision of a collective bargaining agreement that conflicts with a
2 statute or an applicable term of a code of conduct policy adopted by
3 a chamber of the legislature or a legislative agency is invalid and
4 unenforceable.

5 NEW SECTION. **Sec. 14.** A new section is added to chapter 44.90
6 RCW to read as follows:

7 (1) Upon authorization of an employee within the bargaining unit
8 and after the certification or recognition of the bargaining unit's
9 exclusive bargaining representative, the employer must deduct from
10 the payments to the employee the monthly amount of dues as certified
11 by the secretary of the exclusive bargaining representative and must
12 transmit the same to the treasurer of the exclusive bargaining
13 representative.

14 (2)(a) An employee's written, electronic, or recorded voice
15 authorization to have the employer deduct membership dues from the
16 employee's salary must be made by the employee to the exclusive
17 bargaining representative. If the employer receives a request for
18 authorization of deductions, the employer must, as soon as
19 practicable, forward the request to the exclusive bargaining
20 representative.

21 (b) Upon receiving notice of the employee's authorization, the
22 employer must deduct from the employee's salary membership dues and
23 remit the amounts to the exclusive bargaining representative.

24 (c) The employee's authorization remains in effect until
25 expressly revoked by the employee in accordance with the terms and
26 conditions of the authorization.

27 (d) An employee's request to revoke authorization for payroll
28 deductions must be in writing and submitted by the employee to the
29 exclusive bargaining representative in accordance with the terms and
30 conditions of the authorization.

31 (e) After the employer receives confirmation from the exclusive
32 bargaining representative that the employee has revoked authorization
33 for deductions, the employer must end the deduction no later than the
34 second payroll after receipt of the confirmation.

35 (f) The employer must rely on information provided by the
36 exclusive bargaining representative regarding the authorization and
37 revocation of deductions.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 44.90

2 RCW to read as follows:

3 (1) If the parties to a collective bargaining agreement
4 negotiated under this chapter agree to final and binding arbitration
5 under grievance procedures allowed by section 7 of this act, the
6 parties may agree on one or more permanent umpires to serve as
7 arbitrator, or may agree on any impartial person to serve as
8 arbitrator, or may agree to select arbitrators from any source
9 available to them, including federal and private agencies, in
10 addition to the staff and list of arbitrators maintained by the
11 commission. If the parties cannot agree to the selection of an
12 arbitrator, the commission must supply a list of names in accordance
13 with the procedures established by the commission.

14 (2) The authority of an arbitrator shall be subject to the limits
15 and restrictions specified under section 4 of this act.

16 (3) Except as limited by this chapter, an arbitrator may require
17 any person to attend as a witness and to bring with them any book,
18 record, document, or other evidence. The fees for such attendance
19 must be paid by the party requesting issuance of the subpoena and
20 must be the same as the fees of witnesses in the superior court.
21 Arbitrators may administer oaths. Subpoenas must issue and be signed
22 by the arbitrator and must be served in the same manner as subpoenas
23 to testify before a court of record in this state. If any person so
24 summoned to testify refuses or neglects to obey such subpoena, upon
25 petition authorized by the arbitrator, the superior court may compel
26 the attendance of the person before the arbitrator or punish the
27 person for contempt in the same manner provided for the attendance of
28 witnesses or the punishment of them in the courts of this state.

29 (4) Except as limited by this chapter, the arbitrator shall
30 appoint a time and place for the hearing and notify the parties
31 thereof, and may adjourn the hearing from time to time as may be
32 necessary, and, on application of either party and for good cause,
33 may postpone the hearing to a time not extending beyond the date
34 fixed by the collective bargaining agreement for making the award.
35 The arbitration award must be in writing and signed by the
36 arbitrator. The arbitrator must, promptly upon its rendition, serve a
37 true copy of the award on each of the parties or their attorneys of
38 record.

39 (5) If a party to a collective bargaining agreement negotiated
40 under this chapter that includes final and binding arbitration

1 refuses to submit a grievance for arbitration, the other party to the
2 collective bargaining agreement may invoke the jurisdiction of the
3 superior court of Thurston county and the court shall have
4 jurisdiction to issue an order compelling arbitration. Disputes
5 concerning compliance with grievance procedures shall be reserved for
6 determination by the arbitrator. Arbitration shall be ordered if the
7 grievance states a claim that on its face is covered by the
8 collective bargaining agreement. Doubts as to the coverage of the
9 arbitration clause shall be resolved in favor of arbitration.

10 (6) If a party to a collective bargaining agreement negotiated
11 under this chapter that includes final and binding arbitration
12 refuses to comply with the award of an arbitrator determining a
13 grievance arising under the collective bargaining agreement, the
14 other party to the collective bargaining agreement may invoke the
15 jurisdiction of the superior court of Thurston county and the court
16 shall have jurisdiction to issue an order enforcing the arbitration
17 award.

18 **Sec. 16.** RCW 41.58.010 and 2012 c 117 s 89 are each amended to
19 read as follows:

20 (1) There is hereby created the public employment relations
21 commission (hereafter called the "commission") to administer the
22 provisions of this chapter. ~~((The))~~ Notwithstanding section 17 of
23 this act, the commission shall consist of three members who shall be
24 citizens appointed by the governor by and with the advice and consent
25 of the senate. One of the original members shall be appointed for a
26 term of three years, one for a term of four years, and one for a term
27 of five years. Their successors shall be appointed for terms of five
28 years each, except that any person chosen to fill a vacancy shall be
29 appointed only for the unexpired term of the member whom he or she
30 succeeds. Commission members shall be eligible for reappointment. The
31 governor shall designate one member to serve as chair of the
32 commission. Any member of the commission may be removed by the
33 governor, upon notice and hearing, for neglect of duty or malfeasance
34 in office, but for no other cause. Commission members shall not be
35 eligible for state retirement under chapter 41.40 RCW by virtue of
36 their service on the commission.

37 (2) In making citizen member appointments initially, and
38 subsequently thereafter, the governor shall be cognizant of the

1 desirability of appointing persons knowledgeable in the area of labor
2 relations in the state.

3 (3) A vacancy in the commission shall not impair the right of the
4 remaining members to exercise all of the powers of the commission,
5 and two members of the commission shall, at all times, constitute a
6 quorum of the commission.

7 (4) The commission shall at the close of each fiscal year make a
8 report in writing to the legislature and to the governor stating the
9 cases it has heard, the decisions it has rendered, the names,
10 salaries, and duties of all employees and officers in the employ or
11 under the supervision of the commission, and an account of all moneys
12 it has disbursed.

13 NEW SECTION. **Sec. 17.** A new section is added to chapter 41.58
14 RCW to read as follows:

15 (1)(a) There is established a legislative commission (hereafter
16 called "the legislative commission") exclusively for the purpose of
17 certification of bargaining representatives, adjusting and settling
18 complaints, grievances, and disputes arising out of employer-employee
19 relations, and otherwise carrying out the duties required of the
20 commission under chapter 44.90 RCW.

21 (b) The legislative commission shall consist of three members who
22 shall be appointed as follows:

23 (i) One member shall be appointed by the speaker of the house of
24 representatives;

25 (ii) One member shall be appointed by the president of the
26 senate;

27 (iii) By mutual consent, the two appointed members shall appoint
28 the third member who shall be the chair of the legislative
29 commission.

30 (c) All appointments must be made by September 30, 2024. The
31 members of the legislative commission, and any person appointed to
32 fill a vacancy, are appointed for the entire term until the
33 legislative commission expires under subsection (9) of this section.

34 (d) Until all the members of the legislative commission are
35 appointed, the duties required of the legislative commission under
36 chapter 44.90 RCW shall be carried out by the commission created
37 under RCW 41.58.010(1).

38 (2) The commission may delegate to the executive director
39 authority with respect to, but not limited to, representation

1 proceedings, unfair labor practice proceedings, mediation, and, if
2 applicable, arbitration of disputes concerning the interpretation or
3 application of a collective bargaining agreement. Such delegation
4 shall not eliminate a party's right of appeal to the legislative
5 commission.

6 (3) Unless specifically provided, the legislative commission
7 shall not be considered part of the commission created under RCW
8 41.58.010(1). The powers and duties granted in this chapter to the
9 commission created under RCW 41.58.010(1) do not apply to the
10 legislative commission, unless specifically provided.

11 (4) A member of the legislative commission may be removed by the
12 speaker of the house of representatives and the president of the
13 senate acting jointly, upon notice and hearing, for neglect of duty
14 or malfeasance in office, but for no other cause.

15 (5) In making their appointments, the speaker of the house of
16 representatives and the president of the senate shall be cognizant of
17 the desirability of appointing a person who is knowledgeable in the
18 area of labor relations and of the legislature.

19 (6) Members of the legislative commission are not eligible for
20 state retirement under chapter 41.40 RCW by virtue of the member's
21 service as a commissioner.

22 (7) The compensation and travel reimbursement provision under RCW
23 41.58.015(1) shall apply to members of the legislative commission.

24 (8) The legislative commission shall at the close of each fiscal
25 year make a report in writing to the legislature stating the cases it
26 has heard and decisions it has rendered.

27 (9) (a) The legislative commission expires December 31, 2027.

28 (b) After December 31, 2027, the duties required of the
29 legislative commission under chapter 44.90 RCW shall be carried out
30 by the commission created under RCW 41.58.010(1).

31 **Sec. 18.** RCW 41.58.015 and 1984 c 287 s 71 are each amended to
32 read as follows:

33 (1) Each member of the commission shall be compensated in
34 accordance with RCW 43.03.250. Members of the commission shall also
35 be reimbursed for travel expenses incurred in the discharge of their
36 official duties on the same basis as is provided in RCW 43.03.050 and
37 43.03.060.

38 (2) The commission shall appoint an executive director whose
39 annual salary shall be determined under the provisions of RCW

1 43.03.028. The executive director shall perform such duties and have
2 such powers as the commission shall prescribe in order to implement
3 and enforce the provisions of this chapter. In addition to the
4 performance of administrative duties, the commission may delegate to
5 the executive director authority with respect to, but not limited to,
6 representation proceedings, unfair labor practice proceedings,
7 mediation of labor disputes, arbitration of disputes concerning the
8 interpretation or application of a collective bargaining agreement,
9 and, in certain cases, fact-finding or arbitration of disputes
10 concerning the terms of a collective bargaining agreement. Such
11 delegation shall not eliminate a party's right of appeal to the
12 commission. The executive director, with such assistance as may be
13 provided by the attorney general and such additional legal assistance
14 consistent with chapter 43.10 RCW, shall have authority on behalf of
15 the commission, when necessary to carry out or enforce any action or
16 decision of the commission, to petition any court of competent
17 jurisdiction for an order requiring compliance with the action or
18 decision.

19 (3) (a) The commission shall employ such employees as it may from
20 time to time find necessary for the proper performance of its duties,
21 consistent with the provisions of this chapter.

22 (b) The employees of the commission shall also provide staff
23 support to the legislative commission in carrying out the legislative
24 commission's duties under chapter 44.90 RCW until the legislative
25 commission expires on December 31, 2027, under section 17 of this
26 act.

27 (4) The payment of all of the expenses of the commission,
28 including travel expenses incurred by the members or employees of the
29 commission under its orders, shall be subject to the provisions of
30 RCW 43.03.050 and 43.03.060.

31 NEW SECTION. **Sec. 19.** A new section is added to chapter 44.90
32 RCW to read as follows:

33 (1) The following activities conducted by or on behalf of
34 legislative employees related to collective bargaining under this
35 chapter are exempt from the restrictions contained in RCW 42.52.020
36 and 42.52.160:

37 (a) Using paid time and public resources by an employee to
38 negotiate or administer a collective bargaining agreement under this
39 chapter when the employee is assigned to negotiate or administer the

1 collective bargaining agreement and the use of paid time and public
2 resources does not include state purchased supplies or equipment,
3 does not interfere with or distract from the conduct of state
4 business, and is consistent with the employer's policy on the use of
5 paid time;

6 (b) Lobbying conducted by an employee organization, lobbyist,
7 association, or third party on behalf of legislative employees
8 concerning legislation that directly impacts legislative workplace
9 conditions;

10 (c) Communication with a prospective employee organization during
11 nonwork hours and without the use of public resources; or

12 (d) Conducting the day-to-day work of organizing and representing
13 legislative employees in the workplace while serving in a legislative
14 employee organization leadership position.

15 (2)(a) Nothing in this section affects the application of the
16 prohibition against the use of special privileges under RCW
17 42.52.070, confidentiality requirements under RCW 42.52.050, or other
18 applicable provisions of chapter 42.52 RCW to legislative employees.

19 (b) Nothing in this section permits any direct lobbying by a
20 legislative employee.

21 (3) As used in this section, "lobby" and "lobbyist" have the
22 meanings provided in RCW 42.17A.005.

23 **Sec. 20.** RCW 42.52.020 and 1996 c 213 s 2 are each amended to
24 read as follows:

25 (1) No state officer or state employee may have an interest,
26 financial or otherwise, direct or indirect, or engage in a business
27 or transaction or professional activity, or incur an obligation of
28 any nature, that is in conflict with the proper discharge of the
29 state officer's or state employee's official duties.

30 (2) This section does not apply to activities conducted by
31 legislative employees authorized under section 19 of this act.

32 **Sec. 21.** RCW 42.52.160 and 2023 c 91 s 3 are each amended to
33 read as follows:

34 (1) No state officer or state employee may employ or use any
35 person, money, or property under the officer's or employee's official
36 control or direction, or in his or her official custody, for the
37 private benefit or gain of the officer, employee, or another.

1 (2) This section does not prohibit the use of public resources to
2 benefit others as part of a state officer's or state employee's
3 official duties. It is not a violation of this section for a
4 legislator or an appropriate legislative staff designee to engage in
5 activities listed under RCW 42.52.070(2) or 42.52.822.

6 (3) This section does not prohibit de minimis use of state
7 facilities to provide employees with information about (a) medical,
8 surgical, and hospital care; (b) life insurance or accident and
9 health disability insurance; or (c) individual retirement accounts,
10 by any person, firm, or corporation administering such program as
11 part of authorized payroll deductions pursuant to RCW 41.04.020.

12 (4) The appropriate ethics boards may adopt rules providing
13 exceptions to this section for occasional use of the state officer or
14 state employee, of de minimis cost and value, if the activity does
15 not result in interference with the proper performance of public
16 duties.

17 (5) This section does not apply to activities conducted by
18 legislative employees authorized under section 19 of this act.

19 NEW SECTION. **Sec. 22.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of
21 the state government and its existing public institutions, and takes
22 effect May 1, 2024."

23 Correct the title.

EFFECT: • Specifies that the collective bargaining statutes do not apply to: The Deputy Secretary of the Senate and Deputy Chief Clerk of the House; the Human Resources Officers and Directors of the Senate, House, LSS, LSC, and CRO; the Directors of Accounting for the House, Senate, LSS, LSC, and CRO; and any employee who provides direct administrative support to the offices of the Secretary of the Senate or Chief Clerk of the House or who conducts accounting, payroll, labor management, collective bargaining, or human resources activities.

• Amends the provision in the definition of "confidential employee" pertaining to an employee having authorized access to information related to the employer's collective bargaining policies, strategies, or process to: (1) Make it explicit that the access to information must be part of the employee's job duties; and (2) remove the qualifier that the access to information creates a conflict of interest.

• Amends the definition of "supervisor" to, among other things, provide that certain specified activities are "supervision" regardless of whether they are the employee's primary duties or whether the employee spends a preponderance of the employee's time

exercising such duties. Specifies that "supervisor" does not include legislative assistants.

- Allows bargaining over at will status, but prohibits bargaining over the employer's authority to: (1) Lay off employees when there has been a change to the number of members in, or the makeup of, a caucus due to an election or appointment that necessitates a change in the number of staff; (2) lay off an employee following an election, appointment, or resignation of a legislator; and (3) terminate an employee for engaging in partisan activities that are incompatible with the employee's job duties or position.

- Prohibits bargaining over hours of work during committee assembly days, during the 60 calendar days before session, and during the 20 calendar days after session.

- Specifies that bargaining over hours of work that is not otherwise prohibited may occur only for agreements taking effect after July 1, 2027.

- Prohibits bargaining units consisting of: (1) Partisan and nonpartisan staff; (2) LSC, LSS, and CRO staff in combination with each other or with House or Senate staff; and (3) the majority and minority caucus staff unless a majority of employees in each caucus vote to be in a combined unit.

- Amends the provision exempting the use of paid time and public resources for negotiating and administering a CBA from certain provisions of the Ethics Act to specify that such activities are exempt when the employee is assigned to negotiate or administer a CBA under the chapter and the use does not include state-purchased supplies or equipment, does not interfere with state business, and is consistent with the employer's policy on use of paid time.

- Creates a temporary three-member legislative commission within the PERC. Requires appointments to be made by September 30, 2024, and expires the legislative commission on December 31, 2027.

--- END ---