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**SUBSTITUTE HOUSE BILL 1122**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Doglio, Berry, Reed, Ramel, Simmons, Reeves, Lekanoff, Bergquist, Kloba, Pollet, Donaghy, Fosse, and Ormsby)

READ FIRST TIME 01/24/23.

1 AN ACT Relating to granting Washington management service  
2 employees the right to collectively bargain; amending RCW 41.06.022  
3 and 41.80.005; adding a new section to chapter 41.80 RCW; and  
4 providing an effective date.

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

6 **Sec. 1.** RCW 41.06.022 and 2002 c 354 s 207 are each amended to  
7 read as follows:

8 For purposes of this chapter, "manager" means any employee who:

9 (1) Formulates statewide policy or directs the work of an agency  
10 or agency subdivision;

11 (2) Is responsible to administer one or more statewide policies  
12 or programs of an agency or agency subdivision;

13 (3) Manages, administers, and controls a local branch office of  
14 an agency or agency subdivision, including the physical, financial,  
15 or personnel resources;

16 (4) Has substantial responsibility in personnel administration,  
17 legislative relations, public information, or the preparation and  
18 administration of budgets; or

19 (5) Functionally is above the first level of supervision and  
20 exercises authority that is not merely routine or clerical in nature  
21 and requires the consistent use of independent judgment.

1       (~~No employee who is a member~~) Members of the Washington  
2 management service may be included in a collective bargaining unit  
3 established under (~~RCW 41.80.001 and 41.80.010 through 41.80.130~~)  
4 chapter 41.80 RCW, except as provided in section 3 of this act.

5       **Sec. 2.** RCW 41.80.005 and 2022 c 71 s 10 are each amended to  
6 read as follows:

7       Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9       (1) "Agency" means any agency as defined in RCW 41.06.020 and  
10 covered by chapter 41.06 RCW. "Agency" also includes the assistant  
11 attorneys general of the attorney general's office and the  
12 administrative law judges of the office of administrative hearings,  
13 regardless of whether those employees are exempt under chapter 41.06  
14 RCW. "Agency" does not include a comprehensive cancer center  
15 participating in a collaborative arrangement as defined in RCW  
16 28B.10.930 that is operated in conformance with RCW 28B.10.930.

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

24       (3) "Commission" means the public employment relations  
25 commission.

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

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

38       (6) "Employee" means any employee, including employees whose work  
39 has ceased in connection with the pursuit of lawful activities

1 protected by this chapter, covered by chapter 41.06 RCW. "Employee"  
2 includes assistant attorneys general of the office of the attorney  
3 general and administrative law judges of the office of administrative  
4 hearings, regardless of their exemption under chapter 41.06 RCW.  
5 "Employee" does not include:

6 (a) Employees covered for collective bargaining by chapter 41.56  
7 RCW;

8 (b) Confidential employees;

9 (c) Members of the Washington management service excluded from  
10 collective bargaining under section 3 of this act;

11 (d) Internal auditors in any agency; or

12 (e) Any employee of the commission, the office of financial  
13 management, or the office of risk management within the department of  
14 enterprise services.

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

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

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

23 (10) "Institutions of higher education" means the University of  
24 Washington, Washington State University, Central Washington  
25 University, Eastern Washington University, Western Washington  
26 University, The Evergreen State College, and the various state  
27 community colleges.

28 (11) "Labor dispute" means any controversy concerning terms,  
29 tenure, or conditions of employment, or concerning the association or  
30 representation of persons in negotiating, fixing, maintaining,  
31 changing, or seeking to arrange terms or conditions of employment  
32 with respect to the subjects of bargaining provided in this chapter,  
33 regardless of whether the disputants stand in the proximate relation  
34 of employer and employee.

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

36 (13) "Supervisor" means an employee who has authority, in the  
37 interest of the employer, to hire, transfer, suspend, lay off,  
38 recall, promote, discharge, direct, reward, or discipline employees,  
39 or to adjust employee grievances, or effectively to recommend such  
40 action, if the exercise of the authority is not of a merely routine

1 nature but requires the consistent exercise of individual judgment.  
2 (~~However, no employee who is a member of the Washington management~~  
3 ~~service may be included in a collective bargaining unit established~~  
4 ~~under this section.~~)

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

7 (15) "Uniformed personnel" means duly sworn police officers  
8 employed as members of a police force established pursuant to RCW  
9 28B.10.550.

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

12 (1) (a) Washington management service members who are not  
13 otherwise excluded from bargaining under (b) of this subsection are  
14 granted the right to collectively bargain.

15 (b) The following Washington management service members are  
16 excluded from bargaining:

17 (i) Employees in positions within Washington management salary  
18 band 3, salary band 4, and medical band, as defined by the office of  
19 financial management;

20 (ii) Human resource managers;

21 (iii) Budget managers;

22 (iv) Risk and litigation managers;

23 (v) Employees in positions whose official duties include  
24 conducting employee-related investigations including, but not limited  
25 to, a possible unfair practice under chapter 49.60 RCW, a possible  
26 violation of other federal, state, or local laws or an employing  
27 agency's internal policies, and employee misconduct or performance;

28 (vi) Employees in positions that report directly to an assistant  
29 secretary, deputy secretary, agency director, or equivalent, of an  
30 agency; and

31 (vii) Employees in positions excluded under RCW 41.80.005(6).

32 (c) Bargaining over wages will be limited to Washington  
33 management service salary band levels, not individual Washington  
34 management service classifications or positions.

35 (2) The only units that may be designated for the purpose of  
36 collective bargaining under this chapter are a supervisory or  
37 nonsupervisory unit, as determined by the commission, of all salary  
38 band 1 and salary band 2 Washington management service members within

1 an agency that are not otherwise excluded from bargaining under this  
2 section.

3 (3) The governor or the governor's designee and an exclusive  
4 bargaining representative shall negotiate for eligible Washington  
5 management service members within the bargaining agreements under RCW  
6 41.80.010(2)(a)(i).

7 (4) No collective bargaining agreement entered into under this  
8 section with an exclusive bargaining representative of members of the  
9 Washington management service may take effect prior to July 1, 2025.

10 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2024.

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