

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1122

68th Legislature
2023 Regular Session

Passed by the House March 4, 2023
Yeas 88 Nays 8

**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2023
Yeas 40 Nays 9

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1122** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1122

Passed Legislature - 2023 Regular Session

State of Washington

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By House Appropriations (originally sponsored by Representatives Doglio, Berry, Reed, Ramel, Simmons, Reeves, Lekanoff, Bergquist, Kloba, Pollet, Donaghy, Fosse, and Ormsby)

READ FIRST TIME 02/23/23.

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 primary 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) (a) Except as provided in (b) of this subsection, the only
36 units that may be designated for the purpose of collective bargaining
37 under this chapter are a supervisory or nonsupervisory unit, as
38 determined by the commission, of all salary band 1 and salary band 2

1 Washington management service members within an agency that are not
2 otherwise excluded from bargaining under this section.

3 (b) Subject to the public employment relations commission's
4 review and to avoid excessive fragmentation, more than two bargaining
5 units that otherwise meet the parameters in (a) of this subsection
6 may be designated within a major administrative division of the
7 following agencies: The department of corrections, the department of
8 social and health services, the department of children, youth, and
9 families, the department of transportation, the department of health,
10 the state health care authority, the department of natural resources,
11 the department of enterprise services, the department of ecology, the
12 employment security department, and the department of fish and
13 wildlife.

14 (3) The governor or the governor's designee and an exclusive
15 bargaining representative shall negotiate for eligible Washington
16 management service members within the bargaining agreements under RCW
17 41.80.010(2)(a)(i).

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

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

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