

# Initiative Measure No. 1608, filed February 15, 2018

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BILL REQUEST - CODE REVISER'S OFFICE

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BILL REQ. #: I-3492.1/18

ATTY/TYPIST: LL:akl

BRIEF DESCRIPTION: Increasing the transparency of collective bargaining involving government unions and public employers.

# Initiative Measure No. 1608, filed February 15, 2018

AN ACT Relating to increasing the transparency of collective bargaining involving government unions and public employers; amending RCW 41.58.020, 47.64.170, and 42.30.140; adding a new section to chapter 42.30 RCW; adding a new section to chapter 42.56 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 28B.52 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 41.76 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 47.64 RCW; and creating a new section.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The people of the state of Washington recognize the significant role played by collective bargaining between government unions and public employers in determining the size, cost, and services of government. The people further recognize that conducting collective bargaining negotiations between public employers and government unions openly will promote honest, fair and responsible negotiations. In addition, transparent collective bargaining will reduce the appearance of corruption and increase awareness of the bargaining process among taxpayers, public employees, journalists, and recipients of government services. It is therefore the intent of this initiative to strengthen the open public meetings act and public records act and to make the process of collective bargaining involving government unions and public employers as transparent as possible by permitting public observation of collective bargaining sessions, requiring public employers to make exchanged bargaining proposals publicly available, and by creating a library of negotiated collective bargaining agreements.

NEW SECTION. **Sec. 2.** A new section is added to chapter 42.30 RCW to read as follows:

(1) Collective bargaining sessions with employee organizations involving contract negotiations must be open for public observation and recording.

(2) This section does not require a public employer to permit public comment opportunities during collective bargaining negotiations.

(3) Collective bargaining negotiations must follow the requirements of RCW 42.30.035, 42.30.050, and 42.30.080.

(4) Any video recordings made by either party of the collective bargaining negotiations must be made available online within twenty-four hours.

NEW SECTION. **Sec. 3.** A new section is added to chapter 42.56 RCW to read as follows:

Public employers must make bargaining proposals made in the course of collective bargaining with employee organizations available to the public by:

(1) Posting bargaining proposals online within two business days of their transmission to or receipt from an employee organization; or

(2) Fulfilling requests for exchanged bargaining proposals within two business days.

**Sec. 4.** RCW 41.58.020 and 1993 c 379 s 303 are each amended to read as follows:

(1) It shall be the duty of the commission, in order to prevent or minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute arising under a collective bargaining statute administered by the commission, either upon its own motion or upon the request of one or more of the parties to the dispute,

whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

(3) If the director is not able to bring the parties to agreement by mediation within a reasonable time, the director shall seek to induce the parties to voluntarily seek other means of settling the dispute without resort to strike or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort.

(5) It is the duty of the commission to maintain a publicly accessible internet library of collective bargaining agreements negotiated under chapters 41.56, 28B.52, 41.59, 41.76, 41.80, 49.39, and 47.64 RCW.

NEW SECTION. **Sec. 5.** A new section is added to chapter 41.56 RCW to read as follows:

(1) Collective bargaining sessions between bargaining representatives and public employers, or their respective representatives, involving contract negotiations under this chapter must be open for public observation and recording, in accordance with section 2 of this act. This section does not require a public employer to permit public comment opportunities during collective bargaining negotiations.

(2) Public employers must make bargaining proposals available to the public in accordance with section 3 of this act by:

(a) Posting bargaining proposals online within two business days of their transmission to or receipt from a bargaining representative; or

(b) Fulfilling requests for exchanged bargaining proposals within two business days.

(3) Once a public employer's governing body has approved a collective bargaining agreement, the public employer must submit a digital copy of the agreement to the commission within thirty days.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.52 RCW to read as follows:

(1) Collective bargaining sessions between employee organizations and public employers, or their respective representatives, involving contract negotiations under this chapter must be open for public observation and recording, in accordance with section 2 of this act. This section does not require a public employer to permit public comment opportunities during collective bargaining negotiations.

(2) Public employers must make bargaining proposals available to the public in accordance with section 3 of this act by:

(a) Posting bargaining proposals online within two business days of their transmission to or receipt from an employee organization; or

(b) Fulfilling requests for exchanged bargaining proposals within two business days.

(3) Once a public employer's governing body has approved a collective bargaining agreement, the public employer must submit a digital copy of the agreement to the commission within thirty days.

NEW SECTION. **Sec. 7.** A new section is added to chapter 41.59 RCW to read as follows:

(1) Collective bargaining sessions between employee organizations and public employers, or their respective representatives, involving contract negotiations under this chapter

must be open for public observation and recording, in accordance with section 2 of this act. This section does not require a public employer to permit public comment opportunities during collective bargaining negotiations.

(2) Public employers must make bargaining proposals available to the public in accordance with section 3 of this act by:

(a) Posting bargaining proposals online within two business days of their transmission to or receipt from an employee organization; or

(b) Fulfilling requests for exchanged bargaining proposals within two business days.

(3) Once a public employer's governing body has approved a collective bargaining agreement, the public employer must submit a digital copy of the agreement to the commission within thirty days.

NEW SECTION. **Sec. 8.** A new section is added to chapter 41.76 RCW to read as follows:

(1) Collective bargaining sessions between employee organizations and public employers, or their respective representatives, involving contract negotiations under this chapter must be open for public observation and recording, in accordance with section 2 of this act. This section does not require a public employer to permit public comment opportunities during collective bargaining negotiations.

(2) Public employers must make bargaining proposals available to the public in accordance with section 3 of this act by:

(a) Posting bargaining proposals online within two business days of their transmission to or receipt from an employee organization; or

(b) Fulfilling requests for exchanged bargaining proposals within two business days.

(3) Once a public employer's governing body has approved a collective bargaining agreement, the public employer must submit a digital copy of the agreement to the commission within thirty days.

NEW SECTION. **Sec. 9.** A new section is added to chapter 41.80 RCW to read as follows:

(1) Collective bargaining sessions between employee organizations and public employers, or their respective representatives, involving contract negotiations under this chapter must be open for public observation and recording, in accordance with section 2 of this act. This section does not require a public employer to permit public comment opportunities during collective bargaining negotiations.

(2) Public employers must make bargaining proposals available to the public in accordance with section 3 of this act by:

(a) Posting bargaining proposals online within two business days of their transmission to or receipt from an employee organization; or

(b) Fulfilling requests for exchanged bargaining proposals within two business days.

(3) Once a public employer's governing body has approved a collective bargaining agreement, the public employer must submit a digital copy of the agreement to the commission within thirty days.

NEW SECTION. **Sec. 10.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Collective bargaining sessions between ferry employee organizations and public employers, or their respective representatives, involving contract negotiations under this chapter must be open for public observation and recording, in accordance with section 2 of this act. This section does not require a public employer to permit public comment opportunities during collective bargaining negotiations.

(2) Public employers must make bargaining proposals available to the public in accordance with section 3 of this act by:

(a) Posting bargaining proposals online within two business days of their transmission to or receipt from a ferry employee organization; or

(b) Fulfilling requests for exchanged bargaining proposals within two business days.

(3) Once a public employer's governing body has approved a collective bargaining agreement, the public employer must submit a digital copy of the agreement to the commission within thirty days.

**Sec. 11.** RCW 47.64.170 and 2015 3rd sp.s. c 1 s 305 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) (~~(Negotiating sessions, including)~~) Strategy meetings of the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators



from the federal mediation and conciliation service. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial

budget year, as defined by RCW 43.88.020(7), to the extent practical. It is further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect. After the expiration date of a collective bargaining agreement negotiated under this chapter, except to the extent provided in subsection (11) of this section and RCW 47.64.270(4), all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) The office of financial management shall conduct a salary survey, for use in collective bargaining and arbitration.

(9) Except as provided in subsection (11) of this section:

(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

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

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

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

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

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

(11)(a) For the collective bargaining agreements negotiated for the 2011-2013 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement even if the request for funds was not received by the office of financial management by October 1st and was not transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

(b) For the 2013-2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee must

be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013-2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(c) For the collective bargaining agreements negotiated for the 2013-2015 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement reached after October 1st after a determination of financial infeasibility by the director of the office of financial management if the request for funds is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

**Sec. 12.** RCW 42.30.140 and 1990 c 98 s 1 are each amended to read as follows:

If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) (~~Collective bargaining sessions with employee organizations, including contract negotiations,~~) Grievance meetings(~~(7)~~) with employee organizations and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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