
SUBSTITUTE SENATE BILL 5545

State of Washington

65th Legislature

2017 Regular Session

By Senate Commerce, Labor & Sports (originally sponsored by Senators Wilson, Braun, Rossi, Angel, Schoesler, and Bailey)

1 AN ACT Relating to requiring public employee collective
2 bargaining proposals, fiscal impact analyses, and agreements to be
3 made public; amending RCW 42.56.280 and 41.80.010; adding a new
4 section to chapter 41.56 RCW; adding a new section to chapter 28B.52
5 RCW; adding a new section to chapter 41.59 RCW; adding a new section
6 to chapter 41.76 RCW; adding a new section to chapter 41.80 RCW;
7 adding a new section to chapter 47.64 RCW; and adding a new section
8 to chapter 49.39 RCW.

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

10 **Sec. 1.** RCW 42.56.280 and 2005 c 274 s 408 are each amended to
11 read as follows:

12 Preliminary drafts, notes, recommendations, and intra-agency
13 memorandums in which opinions are expressed or policies formulated or
14 recommended are exempt under this chapter, except that a specific
15 record is not exempt when publicly cited by an agency in connection
16 with any agency action and except that written proposals suggesting
17 new terms of a bargaining agreement or memorandum of understanding
18 that is presented to, and is received from, any certified employee
19 organization are not exempt.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.56
2 RCW to read as follows:

3 (1) Unless bargaining sessions are conducted in open meetings
4 that satisfy the requirements of chapter 42.30 RCW, public employers
5 other than the state of Washington engaging in collective bargaining
6 under subsection (2) of this section with employee organizations or
7 their representatives must:

8 (a) Two weeks following the first bargaining session and every
9 two weeks after that until a final agreement is adopted by the
10 governing body, provide to the governing body a copy of the current
11 written proposal suggesting new terms of a bargaining agreement or
12 memorandum of understanding that is presented to and which is
13 received from any certified employee organization. The proposal from
14 the public employer and the proposal from the employee organization
15 on that day must be made available to the public within twenty-four
16 hours;

17 (b) Unless the governing body of the public employer formally
18 directs that a fiscal impact analysis shall not be obtained, prepare
19 a fiscal impact analysis of any proposed final collective bargaining
20 agreement, memorandum of understanding, or amendment to an agreement
21 or memorandum of understanding. The analysis must be presented at the
22 public meeting considering adoption of the agreement or memorandum of
23 understanding; and

24 (c) Within thirty days of the final approval by the governing
25 body of the public employer of any collective bargaining agreement,
26 submit a digital copy of the agreement to the commission.

27 (2) The state of Washington when engaging in collective
28 bargaining with employee organizations or their representatives under
29 RCW 41.56.026, 41.56.028, 41.56.029, and 41.56.510 must:

30 (a) Two weeks following the first bargaining session and every
31 two weeks after that until a final agreement is adopted, provide to
32 the joint committee on employment relations established in RCW
33 41.80.010, a copy of the current written proposal suggesting new
34 terms of a bargaining agreement or memorandum of understanding that
35 is presented to and which is received from any certified employee
36 organization. The proposal from the public employer and the proposal
37 from the employee organization on that day must be made available to
38 the public within twenty-four hours; and

1 (b) Within thirty days of the effective date of any collective
2 bargaining agreement, submit a digital copy of the agreement to the
3 commission.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.52
5 RCW to read as follows:

6 Unless bargaining sessions are conducted in open meetings that
7 satisfy the requirements of chapter 42.30 RCW, public employers
8 engaging in collective bargaining with employee organizations or
9 their representatives must:

10 (1) Two weeks following the first bargaining session and every
11 two weeks after that until a final agreement is adopted by the
12 governing body, provide to the governing body a copy of the current
13 written proposal suggesting new terms of a bargaining agreement or
14 memorandum of understanding that is presented to and which is
15 received from any certified employee organization. The proposal from
16 the public employer and the proposal from the employee organization
17 on that day must be made available to the public within twenty-four
18 hours;

19 (2) Unless the governing body of the public employer formally
20 directs that a fiscal impact analysis shall not be obtained, prepare
21 a fiscal impact analysis of any proposed final collective bargaining
22 agreement, memorandum of understanding, or amendment to an agreement
23 or memorandum of understanding. The analysis must be presented at the
24 public meeting considering adoption of the agreement or memorandum of
25 understanding; and

26 (3) Within thirty days of the final approval by the governing
27 body of the public employer of any collective bargaining agreement,
28 submit a digital copy of the agreement to the commission.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.59
30 RCW to read as follows:

31 Unless bargaining sessions are conducted in open meetings that
32 satisfy the requirements of chapter 42.30 RCW, public employers
33 engaging in collective bargaining with employee organizations or
34 their representatives must:

35 (1) Two weeks following the first bargaining session and every
36 two weeks after that until a final agreement is adopted by the
37 governing body, provide to the governing body a copy of the current
38 written proposal suggesting new terms of a bargaining agreement or

1 memorandum of understanding that is presented to and which is
2 received from any certified employee organization. The proposal from
3 the public employer and the proposal from the employee organization
4 on that day must be made available to the public within twenty-four
5 hours;

6 (2) Unless the governing body of the public employer formally
7 directs that a fiscal impact analysis shall not be obtained, prepare
8 a fiscal impact analysis of any proposed final collective bargaining
9 agreement, memorandum of understanding, or amendment to an agreement
10 or memorandum of understanding. The analysis must be presented at the
11 public meeting considering adoption of the agreement or memorandum of
12 understanding; and

13 (3) Within thirty days of the final approval by the governing
14 body of the public employer of any collective bargaining agreement,
15 submit a digital copy of the agreement to the commission.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.76
17 RCW to read as follows:

18 Unless bargaining sessions are conducted in open meetings that
19 satisfy the requirements of chapter 42.30 RCW, public employers
20 engaging in collective bargaining with employee organizations or
21 their representatives must:

22 (1) Two weeks following the first bargaining session and every
23 two weeks after that until a final agreement is adopted by the
24 governing body, provide to the governing body a copy of the current
25 written proposal suggesting new terms of a bargaining agreement or
26 memorandum of understanding that is presented to and which is
27 received from any certified employee organization. The proposal from
28 the public employer and the proposal from the employee organization
29 on that day must be made available to the public within twenty-four
30 hours;

31 (2) Unless the governing body of the public employer formally
32 directs that a fiscal impact analysis shall not be obtained, prepare
33 a fiscal impact analysis of any proposed final collective bargaining
34 agreement, memorandum of understanding, or amendment to an agreement
35 or memorandum of understanding. The analysis must be presented at the
36 public meeting considering adoption of the agreement or memorandum of
37 understanding; and

1 (3) Within thirty days of the final approval by the governing
2 body of the public employer of any collective bargaining agreement,
3 submit a digital copy of the agreement to the commission.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.80
5 RCW to read as follows:

6 Public employers engaging in collective bargaining with employee
7 organizations or their representatives must:

8 (1) Two weeks following the first bargaining session and every
9 two weeks after that until a final agreement is adopted, provide to
10 the joint committee on employment relations established in RCW
11 41.80.010, a copy of the current written proposal suggesting new
12 terms of a bargaining agreement or memorandum of understanding that
13 is presented to and which is received from any certified employee
14 organization. The proposal from the public employer and the proposal
15 from the employee organization on that day must be made available to
16 the public within twenty-four hours; and

17 (2) Within thirty days of the effective date of any collective
18 bargaining agreement, submit a digital copy of the agreement to the
19 commission.

20 **Sec. 7.** RCW 41.80.010 and 2016 sp.s. c 36 s 923 are each amended
21 to read as follows:

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

26 (2)(a) If an exclusive bargaining representative represents more
27 than one bargaining unit, the exclusive bargaining representative
28 shall negotiate with each employer representative as designated in
29 subsection (1) of this section one master collective bargaining
30 agreement on behalf of all the employees in bargaining units that the
31 exclusive bargaining representative represents. For those exclusive
32 bargaining representatives who represent fewer than a total of five
33 hundred employees each, negotiation shall be by a coalition of all
34 those exclusive bargaining representatives. The coalition shall
35 bargain for a master collective bargaining agreement covering all of
36 the employees represented by the coalition. The governor's designee
37 and the exclusive bargaining representative or representatives are
38 authorized to enter into supplemental bargaining of agency-specific

1 issues for inclusion in or as an addendum to the master collective
2 bargaining agreement, subject to the parties' agreement regarding the
3 issues and procedures for supplemental bargaining. This section does
4 not prohibit cooperation and coordination of bargaining between two
5 or more exclusive bargaining representatives.

6 (b) This subsection (2) does not apply to exclusive bargaining
7 representatives who represent employees of institutions of higher
8 education, except when the institution of higher education has
9 elected to exercise its option under subsection (4) of this section
10 to have its negotiations conducted by the governor or governor's
11 designee under the procedures provided for general government
12 agencies in subsections (1) through (3) of this section.

13 (c) If five hundred or more employees of an independent state
14 elected official listed in RCW 43.01.010 are organized in a
15 bargaining unit or bargaining units under RCW 41.80.070, the official
16 shall be consulted by the governor or the governor's designee before
17 any agreement is reached under (a) of this subsection concerning
18 supplemental bargaining of agency specific issues affecting the
19 employees in such bargaining unit.

20 (3) The governor shall submit a request for funds necessary to
21 implement the compensation and fringe benefit provisions in the
22 master collective bargaining agreement or for legislation necessary
23 to implement the agreement. Requests for funds necessary to implement
24 the provisions of bargaining agreements shall not be submitted to the
25 legislature by the governor unless such requests:

26 (a) Have been submitted to the director of the office of
27 financial management by October 1 prior to the legislative session at
28 which the requests are to be considered; and

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

31 The legislature shall approve or reject the submission of the
32 request for funds as a whole. The legislature shall not consider a
33 request for funds to implement a collective bargaining agreement
34 unless the request is transmitted to the legislature as part of the
35 governor's budget document submitted under RCW 43.88.030 and
36 43.88.060. If the legislature rejects or fails to act on the
37 submission, either party may reopen all or part of the agreement or
38 the exclusive bargaining representative may seek to implement the
39 procedures provided for in RCW 41.80.090.

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

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

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

14 (B) If the parties mutually agree, the governor or the governor's
15 designee and an exclusive bargaining representative shall negotiate
16 one master collective bargaining agreement for all of the bargaining
17 units of employees of more than one university or college that the
18 representative represents.

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

23 (b) Prior to entering into negotiations under this chapter, the
24 institutions of higher education or their designees shall consult
25 with the director of the office of financial management regarding
26 financial and budgetary issues that are likely to arise in the
27 impending negotiations.

28 (c)(i) In the case of bargaining agreements reached between
29 institutions of higher education other than the University of
30 Washington and exclusive bargaining representatives agreed to under
31 the provisions of this chapter, if appropriations are necessary to
32 implement the compensation and fringe benefit provisions of the
33 bargaining agreements, the governor shall submit a request for such
34 funds to the legislature according to the provisions of subsection
35 (3) of this section, except as provided in (c)(iii) of this
36 subsection.

37 (ii) In the case of bargaining agreements reached between the
38 University of Washington and exclusive bargaining representatives
39 agreed to under the provisions of this chapter, if appropriations are
40 necessary to implement the compensation and fringe benefit provisions

1 of a bargaining agreement, the governor shall submit a request for
2 such funds to the legislature according to the provisions of
3 subsection (3) of this section, except as provided in this subsection
4 (4)(c)(ii) and as provided in (c)(iii) of this subsection.

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

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

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

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

20 (C) If the director of the office of financial management does
21 not certify a request under (c)(ii)(B) of this subsection as being
22 feasible financially for the state, the parties shall enter into
23 collective bargaining solely for the purpose of reaching a mutually
24 agreed upon modification of the agreement necessary to address the
25 absence of those requested funds. The legislature may act upon the
26 compensation and fringe benefit provisions of the modified collective
27 bargaining agreement if those provisions are agreed upon and
28 submitted to the office of financial management and legislative
29 budget committees before final legislative action on the biennial or
30 supplemental operating budget by the sitting legislature.

31 (iii) In the case of a bargaining unit of employees of
32 institutions of higher education in which the exclusive bargaining
33 representative is certified during or after the conclusion of a
34 legislative session, the legislature may act upon the compensation
35 and fringe benefit provisions of the unit's initial collective
36 bargaining agreement if those provisions are agreed upon and
37 submitted to the office of financial management and legislative
38 budget committees before final legislative action on the biennial or
39 supplemental operating budget by the sitting legislature.

1 (5) There is hereby created a joint committee on employment
2 relations, which consists of two members with leadership positions in
3 the house of representatives, representing each of the two largest
4 caucuses; the chair and ranking minority member of the house
5 appropriations committee, or its successor, representing each of the
6 two largest caucuses; two members with leadership positions in the
7 senate, representing each of the two largest caucuses; and the chair
8 and ranking minority member of the senate ways and means committee,
9 or its successor, representing each of the two largest caucuses. The
10 governor shall periodically consult with the committee regarding
11 appropriations necessary to implement the compensation and fringe
12 benefit provisions in the master collective bargaining agreements,
13 and upon completion of negotiations, advise the committee on the
14 elements of the agreements and on any legislation necessary to
15 implement the agreements. The joint committee on employment relations
16 must meet twice in the year a contract is being negotiated to review
17 proposals provided as required by sections 2(2), 6, and 8 of this act
18 and to make recommendations to the governor.

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

25 (7) After the expiration date of a collective bargaining
26 agreement negotiated under this chapter, all of the terms and
27 conditions specified in the collective bargaining agreement remain in
28 effect until the effective date of a subsequently negotiated
29 agreement, not to exceed one year from the expiration date stated in
30 the agreement. Thereafter, the employer may unilaterally implement
31 according to law.

32 (8) For the 2013-2015 fiscal biennium, a collective bargaining
33 agreement related to employee health care benefits negotiated between
34 the employer and coalition pursuant to RCW 41.80.020(3) regarding the
35 dollar amount expended on behalf of each employee shall be a separate
36 agreement for which the governor may request funds necessary to
37 implement the agreement. The legislature may act upon a 2013-2015
38 collective bargaining agreement related to employee health care
39 benefits if an agreement is reached and submitted to the office of
40 financial management and legislative budget committees before final

1 legislative action on the biennial or supplemental operating
2 appropriations act by the sitting legislature.

3 (9)(a) For the 2015-2017 fiscal biennium, the governor may
4 request funds to implement:

5 (i) Modifications to collective bargaining agreements as set
6 forth in a memorandum of understanding negotiated between the
7 employer and the service employees international union healthcare
8 1199nw, an exclusive bargaining representative, that was necessitated
9 by an emergency situation or an imminent jeopardy determination by
10 the center for medicare and medicaid services that relates to the
11 safety or health of the clients, employees, or both the clients and
12 employees.

13 (ii) Unilaterally implemented modifications to collective
14 bargaining agreements, resulting from the employer being prohibited
15 from negotiating with an exclusive bargaining representative due to a
16 pending representation petition, necessitated by an emergency
17 situation or an imminent jeopardy determination by the center for
18 medicare and medicaid services that relates to the safety or health
19 of the clients, employees, or both the clients and employees.

20 (iii) Modifications to collective bargaining agreements as set
21 forth in a memorandum of understanding negotiated between the
22 employer and the union of physicians of Washington, an exclusive
23 bargaining representative, that was necessitated by an emergency
24 situation or an imminent jeopardy determination by the center for
25 medicare and medicaid services that relates to the safety or health
26 of the clients, employees, or both the clients and employees. If the
27 memorandum of understanding submitted to the legislature as part of
28 the governor's budget document is rejected by the legislature, and
29 the parties reach a new memorandum of understanding by June 30, 2016,
30 within the funds, conditions, and limitations provided in section
31 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of
32 understanding shall be considered approved by the legislature and may
33 be retroactive to December 1, 2015.

34 (iv) Modifications to collective bargaining agreements as set
35 forth in a memorandum of understanding negotiated between the
36 employer and the teamsters union local 117, an exclusive bargaining
37 representative, for salary adjustments for the state employee job
38 classifications of psychiatrist, psychiatric social worker(~~([+])~~),
39 and psychologist.

1 (b) For the 2015-2017 fiscal biennium, the legislature may act
2 upon the request for funds for modifications to a 2015-2017
3 collective bargaining agreement under (a)(i), (ii), (iii), and (iv)
4 of this subsection if funds are requested by the governor before
5 final legislative action on the supplemental omnibus appropriations
6 act by the sitting legislature.

7 (c) The request for funding made under this subsection and any
8 action by the legislature taken pursuant to this subsection is
9 limited to the modifications described in this subsection and may not
10 otherwise affect the original terms of the 2015-2017 collective
11 bargaining agreement.

12 (d) (~~Subsections~~ [~~Subsection~~]) Subsection (3)(a) and (b) of
13 this section do not apply to requests for funding made pursuant to
14 this subsection.

15 NEW SECTION. Sec. 8. A new section is added to chapter 47.64
16 RCW to read as follows:

17 Public employers engaging in collective bargaining with employee
18 organizations or their representatives must:

19 (1) Two weeks following the first bargaining session and every
20 two weeks after that until a final agreement is adopted, provide to
21 the joint committee on employment relations established in RCW
22 41.80.010, a copy of the current written proposal suggesting new
23 terms of a bargaining agreement or memorandum of understanding that
24 is presented to and which is received from any certified employee
25 organization. The proposal from the public employer and the proposal
26 from the employee organization on that day must be made available to
27 the public within twenty-four hours; and

28 (2) Within thirty days of the final approval of any collective
29 bargaining agreement, submit a digital copy of the agreement to the
30 commission.

31 NEW SECTION. Sec. 9. A new section is added to chapter 49.39
32 RCW to read as follows:

33 Unless bargaining sessions are conducted in open meetings that
34 satisfy the requirements of chapter 42.30 RCW, public employers
35 engaging in collective bargaining with employee organizations or
36 their representatives must:

37 (1) Two weeks following the first bargaining session and every
38 two weeks after that until a final agreement is adopted by the

1 governing body, provide to the governing body a copy of the current
2 written proposal suggesting new terms of a bargaining agreement or
3 memorandum of understanding that is presented to and which is
4 received from any certified employee organization. The proposal from
5 the public employer and the proposal from the employee organization
6 on that day must be made available to the public within twenty-four
7 hours;

8 (2) Unless the governing body of the public employer formally
9 directs that a fiscal impact analysis shall not be obtained, prepare
10 a fiscal impact analysis of any proposed final collective bargaining
11 agreement, memorandum of understanding, or amendment to an agreement
12 or memorandum of understanding. The analysis must be presented at the
13 public meeting considering adoption of the agreement or memorandum of
14 understanding; and

15 (3) Within thirty days of the final approval by the governing
16 body of the public employer of any collective bargaining agreement,
17 submit a digital copy of the agreement to the commission.

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