
SENATE BILL 6106

State of Washington

61st Legislature

2009 Regular Session

By Senators Haugen and Swecker

Read first time 02/26/09. Referred to Committee on Transportation.

1 AN ACT Relating to collective bargaining for marine employees of
2 the department of transportation; amending RCW 47.64.006, 47.64.120,
3 47.64.270, 47.64.280, 47.64.320, and 41.80.020; and repealing RCW
4 47.64.220.

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

6 **Sec. 1.** RCW 47.64.006 and 1989 c 327 s 1 are each amended to read
7 as follows:

8 The legislature declares that it is the public policy of the state
9 of Washington to: (1) Provide continuous operation of the Washington
10 state ferry system at reasonable cost to users; (2) efficiently provide
11 levels of ferry service consistent with trends and forecasts of ferry
12 usage; (3) promote harmonious and cooperative relationships between the
13 ferry system and its employees by permitting ferry employees to
14 organize and bargain collectively; (4) protect the citizens of this
15 state by assuring effective and orderly operation of the ferry system
16 in providing for their health, safety, and welfare; (5) prohibit and
17 prevent all strikes or work stoppages by ferry employees; (6) protect
18 the rights of ferry employees with respect to employee organizations;
19 and (7) promote just and fair compensation, benefits, and working

1 conditions for ferry system employees (~~as compared with public and~~
2 ~~private sector employees in states along the west coast of the United~~
3 ~~States, including Alaska, and in British Columbia in directly~~
4 ~~comparable but not necessarily identical positions~~)).

5 **Sec. 2.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read
6 as follows:

7 (1) Except as otherwise provided in this chapter, the employer and
8 ferry system employee organizations, through their collective
9 bargaining representatives, shall meet at reasonable times((7)) to
10 negotiate in good faith with respect to wages, hours, and working
11 conditions((, insurance, and health care benefits as limited by RCW
12 47.64.270, and other matters mutually agreed upon. Employer funded
13 retirement benefits shall be provided under the public employees
14 retirement system under chapter 41.40 RCW and shall not be included in
15 the scope of collective bargaining.

16 (2) ~~Upon ratification of bargaining agreements, ferry employees are~~
17 ~~entitled to an amount equivalent to the interest earned on retroactive~~
18 ~~compensation increases. For purposes of this section, the interest~~
19 ~~earned on retroactive compensation increases is the same monthly rate~~
20 ~~of interest that was earned on the amount of the compensation increases~~
21 ~~while held in the state treasury. The interest will be computed for~~
22 ~~each employee until the date the retroactive compensation is paid, and~~
23 ~~must be allocated in accordance with appropriation authority. The~~
24 ~~interest earned on retroactive compensation is not considered part of~~
25 ~~the ongoing compensation obligation of the state and is not~~
26 ~~compensation earnable for the purposes of chapter 41.40 RCW)).~~

27 (2) Except as provided under RCW 47.64.270, the employer is not
28 required to bargain over health care benefits or other employee
29 insurance benefits.

30 (3) The employer shall not bargain over retirement plans and
31 retirement benefits. Employer funded retirement benefits are provided
32 under the public employees' retirement system under chapter 41.40 RCW.

33 (4) Negotiations shall also include grievance procedures for
34 resolving any questions arising under the agreement, which shall be
35 embodied in a written agreement and signed by the parties.

36 ((+3)) (5) Except as otherwise provided in this chapter, if a
37 conflict exists between an executive order, administrative rule, or

1 agency policy relating to wages, hours, and terms and conditions of
2 employment and a collective bargaining agreement negotiated under this
3 chapter, the collective bargaining agreement shall prevail. A
4 provision of a collective bargaining agreement that conflicts with the
5 terms of a statute is invalid and unenforceable.

6 **Sec. 3.** RCW 47.64.270 and 2006 c 164 s 17 are each amended to read
7 as follows:

8 ~~((Absent a collective bargaining agreement to the contrary, the
9 department of transportation shall provide contributions to insurance
10 and health care plans for ferry system employees and dependents, as
11 determined by the state health care authority, under chapter 41.05 RCW;
12 and the employer and employee organizations may collectively bargain
13 for other insurance and health care plans, and employer contributions
14 may exceed that of other state agencies as provided in RCW 41.05.050.
15 To the extent that ferry employees by bargaining unit have absorbed the
16 required offset of wage increases by the amount that the employer's
17 contribution for employees' and dependents' insurance and health care
18 plans exceeds that of other state general government employees in the
19 1985-87 fiscal biennium, employees shall not be required to absorb a
20 further offset except to the extent the differential between employer
21 contributions for those employees and all other state general
22 government employees increases during any subsequent fiscal biennium.
23 If such differential increases in the 1987-89 fiscal biennium or the
24 1985-87 offset by bargaining unit is insufficient to meet the required
25 deduction, the amount available for compensation shall be reduced by
26 bargaining unit by the amount of such increase or the 1985-87 shortage
27 in the required offset. Compensation shall include all wages and
28 employee benefits.)) The employer and one coalition of all the
29 exclusive bargaining representatives shall conduct negotiations
30 regarding the dollar amount expended on behalf of each employee for
31 health care benefits, subject to this chapter and chapter 41.80 RCW.~~

32 **Sec. 4.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to read
33 as follows:

34 (1) There is created the marine employees' commission. The
35 governor shall appoint the commission with the consent of the senate.
36 The commission shall consist of three members: One member to be

1 appointed from labor, one member from industry, and one member from the
2 public who has significant knowledge of maritime affairs. The public
3 member shall be chair of the commission. One of the original members
4 shall be appointed for a term of three years, one for a term of four
5 years, and one for a term of five years. Their successors shall be
6 appointed for terms of five years each, except that any person chosen
7 to fill a vacancy shall be appointed only for the unexpired term of the
8 member whom he or she succeeds. Commission members are eligible for
9 reappointment. Any member of the commission may be removed by the
10 governor, upon notice and hearing, for neglect of duty or malfeasance
11 in office, but for no other cause. Commission members are not eligible
12 for state retirement under chapter 41.40 RCW by virtue of their service
13 on the commission. Members of the commission shall be compensated in
14 accordance with RCW 43.03.250 and shall receive reimbursement for
15 official travel and other expenses at the same rate and on the same
16 terms as provided for the transportation commission by RCW 47.01.061.
17 The payments shall be made from the Puget Sound ferry operations
18 account.

19 (2) The commission shall: (a) Adjust all complaints, grievances,
20 and disputes between labor and management arising out of the operation
21 of the ferry system as provided in RCW 47.64.150; (b) provide for
22 impasse mediation as required in RCW 47.64.210; ~~((c) provide salary
23 surveys as required in RCW 47.64.220+))~~ and ~~((d))~~ (c) perform those
24 duties required in RCW 47.64.300.

25 (3)(a) In adjudicating all complaints, grievances, and disputes,
26 the party claiming labor disputes shall, in writing, notify the
27 commission, which shall make careful inquiry into the cause thereof and
28 issue an order advising the ferry employee, or the ferry employee
29 organization representing him or her, and the department of
30 transportation, as to the decision of the commission.

31 (b) The parties are entitled to offer evidence relating to disputes
32 at all hearings conducted by the commission. The orders and awards of
33 the commission are final and binding upon any ferry employee or
34 employees or their representative affected thereby and upon the
35 department.

36 (c) The commission shall adopt rules of procedure under chapter
37 34.05 RCW.

1 (d) The commission has the authority to subpoena any ferry employee
2 or employees, or their representatives, and any member or
3 representative of the department, and any witnesses. The commission
4 may require attendance of witnesses and the production of all pertinent
5 records at any hearings held by the commission. The subpoenas of the
6 commission are enforceable by order of any superior court in the state
7 of Washington for the county within which the proceeding may be
8 pending. The commission may hire staff as necessary, appoint
9 consultants, enter into contracts, and conduct studies as reasonably
10 necessary to carry out this chapter.

11 **Sec. 5.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read
12 as follows:

13 (1) The mediator, arbitrator, or arbitration panel may consider
14 only matters that are subject to bargaining under this chapter, except
15 that health care benefits are not subject to interest arbitration.

16 (2) The decision of an arbitrator or arbitration panel is not
17 binding on the legislature and, if the legislature does not approve the
18 funds necessary to implement provisions pertaining to compensation and
19 fringe benefit provisions of an arbitrated collective bargaining
20 agreement, is not binding on the state, the department of
21 transportation, or the ferry employee organization.

22 (3) In making its determination, the arbitrator or arbitration
23 panel shall be mindful of the legislative purpose under RCW 47.64.005
24 and 47.64.006 and, as additional standards or guidelines to aid it in
25 reaching a decision, shall take into consideration the following
26 factors:

27 (a) The financial ability of the state to pay for the compensation
28 and fringe benefit provisions of a collective bargaining agreement;

29 (b) Past collective bargaining contracts between the parties
30 including the bargaining that led up to the contracts;

31 ~~((b))~~ (c) The constitutional and statutory authority of the
32 employer;

33 ~~((e))~~ (d) Stipulations of the parties;

34 ~~((d) The results of the salary survey as required in RCW~~
35 ~~47.64.220;))~~

36 (e) Comparison of wages, hours, employee benefits, and conditions
37 of employment of the involved ferry employees with those of public and

1 private sector employees in states along the west coast of the United
2 States, including Alaska, (~~and in British Columbia~~) doing directly
3 comparable but not necessarily identical work, giving consideration to
4 factors peculiar to the area and the classifications involved;

5 (f) Changes in any of the foregoing circumstances during the
6 pendency of the proceedings;

7 (g) The limitations on ferry toll increases and operating subsidies
8 as may be imposed by the legislature; (~~and~~)

9 (h) The ability of the state to retain ferry employees;

10 (i) Comparison of wages, hours, employee benefits, and conditions
11 of employment of the involved ferry employees with those of other
12 public employees in the state;

13 (j) The overall compensation presently received by the ferry
14 employees, including direct wage compensation, vacations, holidays and
15 other paid excused time, pensions, insurance benefits, and all other
16 direct or indirect monetary benefits received;

17 (k) The implicit price deflator for personal consumption index; and

18 (l) Other factors that are normally or traditionally taken into
19 consideration in the determination of matters that are subject to
20 bargaining under this chapter.

21 **Sec. 6.** RCW 41.80.020 and 2002 c 354 s 303 are each amended to
22 read as follows:

23 (1) Except as otherwise provided in this chapter, the matters
24 subject to bargaining include wages, hours, and other terms and
25 conditions of employment, and the negotiation of any question arising
26 under a collective bargaining agreement.

27 (2) The employer is not required to bargain over matters pertaining
28 to:

29 (a) Health care benefits or other employee insurance benefits,
30 except as required in subsection (3) of this section;

31 (b) Any retirement system or retirement benefit; or

32 (c) Rules of the director of personnel or the Washington personnel
33 resources board adopted under section 203, chapter 354, Laws of 2002.

34 (3) Matters subject to bargaining include the number of names to be
35 certified for vacancies, promotional preferences, and the dollar amount
36 expended on behalf of each employee for health care benefits. However,
37 except as provided otherwise in this subsection for institutions of

1 higher education, negotiations regarding the number of names to be
2 certified for vacancies, promotional preferences, and the dollar amount
3 expended on behalf of each employee for health care benefits shall be
4 conducted between the employer and one coalition of all the exclusive
5 bargaining representatives subject to this chapter. The exclusive
6 bargaining representatives for employees that are subject to chapter
7 47.64 RCW shall bargain the dollar amount expended on behalf of each
8 employee for health care benefits with the employer as part of the
9 coalition under this subsection. Any such provision agreed to by the
10 employer and the coalition shall be included in all master collective
11 bargaining agreements negotiated by the parties. For institutions of
12 higher education, promotional preferences and the number of names to be
13 certified for vacancies shall be bargained under the provisions of RCW
14 41.80.010(4).

15 (4) The employer and the exclusive bargaining representative shall
16 not agree to any proposal that would prevent the implementation of
17 approved affirmative action plans or that would be inconsistent with
18 the comparable worth agreement that provided the basis for the salary
19 changes implemented beginning with the 1983-1985 biennium to achieve
20 comparable worth.

21 (5) The employer and the exclusive bargaining representative shall
22 not bargain over matters pertaining to management rights established in
23 RCW 41.80.040.

24 (6) Except as otherwise provided in this chapter, if a conflict
25 exists between an executive order, administrative rule, or agency
26 policy relating to wages, hours, and terms and conditions of employment
27 and a collective bargaining agreement negotiated under this chapter,
28 the collective bargaining agreement shall prevail. A provision of a
29 collective bargaining agreement that conflicts with the terms of a
30 statute is invalid and unenforceable.

31 (7) This section does not prohibit bargaining that affects
32 contracts authorized by RCW 41.06.142.

33 NEW SECTION. Sec. 7. RCW 47.64.220 (Salary survey) and 2006 c 164
34 s 10, 2005 c 274 s 308, 1999 c 256 s 1, 1989 c 327 s 2, & 1983 c 15 s
35 13 are each repealed.

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