Chapter 41.80 RCW
STATE COLLECTIVE BARGAINING

Sections

RCW 41.80.001 Application of chapter. Collective bargaining negotiations under this chapter shall commence no later than July 1, 2004. A collective bargaining agreement entered into under this chapter shall not be effective prior to July 1, 2005. However, any collective bargaining agreement entered into before July 1, 2004, covering employees affected by this section and RCW 41.80.010 through 41.80.130, that expires after July 1, 2004, shall, unless a superseding agreement complying with this section and RCW 41.80.010 through 41.80.130 is negotiated by the parties, remain in full force during its duration, but the agreement may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under this section and RCW 41.80.010 through 41.80.130, whichever is later. The duration of any collective bargaining agreement under this chapter shall not exceed one fiscal biennium. [2002 c 354 s 301.]

RCW 41.80.005 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

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

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who

advise and represent managers or confidential employees in personnel or labor relations matters.

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

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW. "Employee" includes assistant attorneys general of the office of the attorney general and administrative law judges of the office of administrative hearings, regardless of their exemption under chapter 41.06 RCW. "Employee" does not include:

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

(b) Confidential employees;

(c) Members of the Washington management service excluded from collective bargaining under RCW 41.80.430;

(d) Internal auditors in any agency; or

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

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

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

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

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

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

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

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment.

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

(15) "Uniformed personnel" means duly sworn police officers employed as members of a police force established pursuant to RCW 28B.10.550. [2023 c 136 s 2; 2022 c 71 s 10; 2021 c 180 s 1; 2020 c 77 s 3. Prior: 2019 c 234 s 1; 2019 c 145 s 3; 2011 1st sp.s. c 43 s 444; 2002 c 354 s 321.]

Effective date—2023 c 136: See note following RCW 41.80.430.

Findings—Intent—2022 c 71: See note following RCW 28B.10.930.

Findings—Intent—Effective date—2020 c 77: See notes following RCW 41.80.410.

Findings—Intent—2019 c 145: See note following RCW 41.80.400.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

RCW 41.80.007 Joint committee on employment relations—Members—Purpose—Rules—Meetings. (1) A joint committee on employment relations is established, composed of the following members:

(a) Two members with leadership positions in the house of representatives, representing each of the two largest caucuses;

(b) The chair and ranking minority member of the house appropriations committee, or its successor, representing each of the two largest caucuses;

(c) Two members with leadership positions in the senate, representing each of the two largest caucuses;

(d) The chair and ranking minority member of the senate ways and means committee, or its successor, representing each of the two largest caucuses; and

(e) One nonvoting member, appointed by the governor, representing the office of financial management.

(2) The committee shall elect a chairperson and a vice chairperson.

(3) The governor or a designee shall convene meetings of the committee. The committee must meet at least six times, generally every two months, for the purpose of consulting with the governor or the governor's designee and institutions of higher education on matters related to collective bargaining with state employees conducted under the authority of this chapter and chapters 41.56, 47.64, and 74.39A RCW. The governor or the governor's designee or the institution of higher education may not share internal bargaining notes.

(4) In years when master collective bargaining agreements are negotiated, the committee must meet prior to the start of bargaining to identify goals and objectives for public employee collective bargaining that the governor may take into consideration during negotiations.

(5) One meeting must be convened following the governor's budget submittal to the legislature to consult with the committee regarding the appropriations necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreements and to advise the committee on the elements of the agreements and on any legislation necessary to implement the agreements.

(6) The committee shall, by a majority of the members, adopt rules to govern its conduct as may be necessary or appropriate, including reasonable procedures for calling and conducting meetings of the committee, ensuring reasonable advance notice of each meeting, and providing for the right of the public to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and confidential information used or to be used in collective bargaining, including the specific details of bargaining proposals.

(7) The committee may, by a majority of the members, meet more or less frequently. A quorum of the joint committee is not required for the meeting to take place. Meetings may take place by conference telephone or similar communications equipment so that all persons participating in the meeting can hear each other at the same time. Participation by that method constitutes presence in person at a meeting. [2017 3rd sp.s. c 23 s 2.]

RCW 41.80.010 Negotiation and ratification of collective bargaining agreements—Funding to implement modification of certain collective bargaining agreements. (1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a)(i) Except as otherwise provided, if an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents.

(ii) For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. Exclusive bargaining representatives that represent employees covered under chapter 41.06 RCW and exclusive bargaining representatives that represent employees exempt under chapter 41.06 RCW shall constitute separate coalitions and must negotiate separate master collective bargaining agreements. This subsection does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

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

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

(d) For assistant attorneys general, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement.

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

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

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

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement 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 or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

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

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

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

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

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

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

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

(ii) In the case of bargaining agreements reached between the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of a bargaining agreement, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in this subsection (4)(c)(ii) and as provided in (c)(iii) of this subsection.

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

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

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

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

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon 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.

(iii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon 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.

(5) 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.

(6) After the expiration date of a collective bargaining agreement negotiated under this chapter, 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.

(7)(a) For the 2019-2021 fiscal biennium, the legislature may approve funding for a collective bargaining agreement negotiated by a higher education institution and the Washington federation of state employees and ratified by the exclusive bargaining representative before final legislative action on the omnibus appropriations act by the sitting legislature.

(b) Subsection (3)(a) and (b) of this section do not apply to requests for funding made pursuant to this subsection.

(8)(a) For the 2021-2023 fiscal biennium, the legislature may approve funding for a collective bargaining agreement negotiated by the governor or governor's designee and the Washington public employees association community college coalition and the general government agencies and ratified by the exclusive bargaining representative before final legislative action on the omnibus appropriations act by the sitting legislature.

(b) For the 2021-2023 fiscal biennium, the legislature may approve funding for a collective bargaining agreement negotiated between Highline Community College and the Washington public employees association and ratified by the exclusive bargaining representative before final legislative action on the omnibus appropriations act by the sitting legislature.

(c) For the 2021-2023 fiscal biennium, the legislature may approve funding for collective bargaining agreements negotiated between Eastern Washington University and bargaining units of the Washington federation of state employees and the public school employees association, and between Yakima Valley College and the Washington public employees association, and ratified by the exclusive bargaining representatives before final legislative action on the omnibus appropriations act by the sitting legislature.

(d) Subsection (3)(a) and (b) of this section does not apply to requests for funding made pursuant to this subsection. [2022 c 297 s 951; 2021 c 334 s 968; 2020 c 77 s 4. Prior: 2019 c 415 s 961; 2019 c 145 s 4; 2017 3rd sp.s. c 23 s 3; 2016 sp.s. c 36 s 923; 2013 2nd sp.s. c 4 s 971; prior: 2011 1st sp.s. c 50 s 938; 2011 c 344 s 1; 2010 c 104 s 1; 2002 c 354 s 302.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Conflict with federal requirements—Effective date—2021 c 334: See notes following RCW 43.79.555.

Findings—Intent—Effective date—2020 c 77: See notes following RCW 41.80.410.

Effective date—2019 c 415: See note following RCW 28B.20.476.

Findings—Intent—2019 c 145: See note following RCW 41.80.400.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

RCW 41.80.020 Scope of bargaining. (1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

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

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

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of financial management, the director of enterprise services, or the Washington personnel resources board adopted under RCW 41.06.157.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4). For agreements covering the 2013-2015 fiscal biennium, any agreement between the employer and the coalition regarding the dollar amount expended on behalf of each employee for health care benefits is a separate agreement and shall not be included in the master collective bargaining agreements negotiated by the parties.

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

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

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

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

(8) RCW 41.58.070 applies to uniformed personnel. [2021 c 13 s 6; 2015 3rd sp.s. c 1 s 318; 2013 2nd sp.s. c 4 s 972. Prior: 2011 1st

sp.s. c 50 s 939; 2011 1st sp.s. c 43 s 445; 2010 c 283 s 16; 2002 c 354 s 303.]

Effective dates—2013 2nd sp.s. c 4: See note following RCW 2.68.020.

Effective dates—2011 1st sp.s. c 50: See note following RCW 15.76.115.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—Intent—Effective date—2010 c 283: See notes following RCW 47.60.355.

RCW 41.80.030 Contents of collective bargaining agreements—Execution. (1) The parties to a collective bargaining agreement shall reduce the agreement to writing and both shall execute it.

(2) Except as provided in RCW 41.58.070 and 41.80.020, a collective bargaining agreement shall contain provisions that:

(a) Provide for a grievance procedure that culminates with final and binding arbitration of all disputes arising over the interpretation or application of the collective bargaining agreement and that is valid and enforceable under its terms when entered into in accordance with this chapter; and

(b) Require processing of disciplinary actions or terminations of employment of employees covered by the collective bargaining agreement entirely under the procedures of the collective bargaining agreement. Any employee, when fully reinstated, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, and retirement and federal old age, survivors, and disability insurance act credits, but without back pay for any period of suspension.

(3)(a) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same bargaining units, the effective date of the collective bargaining agreement may be the day after the termination of the previous collective bargaining agreement, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

(b) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and the exclusive bargaining representative representing different bargaining units, the effective date of the collective bargaining agreement may be the day after the termination date of whichever previous collective bargaining agreement covering one or more of the units terminated first, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date. [2021 c 13 s 8; 2002 c 354 s 304.]

RCW 41.80.040 Management rights—Not subject to bargaining. The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, shall include but not be limited to the following:

(1) The functions and programs of the employer, the use of technology, and the structure of the organization;

(2) The employer's budget, which includes for purposes of any negotiations conducted during the 2019-2021 fiscal biennium any specification of the funds or accounts that must be appropriated by the legislature to fulfill the terms of an agreement, and the size of the agency workforce, including determining the financial basis for layoffs;

(3) The right to direct and supervise employees;

(4) The right to take whatever actions are deemed necessary to carry out the mission of the state and its agencies during emergencies; and

(5) Retirement plans and retirement benefits. [2020 c 357 s 913; 2002 c 354 s 305.]

Effective date—2020 c 357: See note following RCW 43.79.545.

RCW 41.80.050 Rights of employees. Except as may be specifically limited by this chapter, employees shall have the right to self-organization, to form, join, or assist employee organizations, and to bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint, or coercion. Employees shall also have the right to refrain from any or all such activities. [2019 c 230 s 15; 2002 c 354 s 306.]

RCW 41.80.060 Right to strike not granted. Nothing contained in chapter 354, Laws of 2002 permits or grants to any employee the right to strike or refuse to perform his or her official duties. [2002 c 354 s 307.]

RCW 41.80.070 Bargaining units—Certification. (1) A bargaining unit of employees covered by this chapter existing on June 13, 2002, shall be considered an appropriate unit, unless the unit does not meet the requirements of (a) and (b) of this subsection. The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modifications of existing units, the commission shall consider: The duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation. However, a unit is not appropriate if it includes:

(a) Both supervisors and nonsupervisory employees. A unit that includes only supervisors may be considered appropriate if a majority of the supervisory employees indicates by vote that they desire to be included in such a unit; or

(b) More than one institution of higher education. For the purposes of this section, any branch or regional campus of an institution of higher education is part of that institution of higher education.

(2) The exclusive bargaining representatives certified to represent the bargaining units existing on June 13, 2002, shall continue as the exclusive bargaining representative without the necessity of an election.

(3) If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the units may be consolidated into a single larger unit if the commission considers the larger unit to be appropriate. If consolidation is appropriate, the commission shall certify the employee organization as the exclusive bargaining representative of the new unit. [2002 c 354 s 308.]

RCW 41.80.075 Information to be provided to exclusive bargaining representative by certain employers. RCW 41.56.035 applies to the following employers subject to this chapter:

(1) Western Washington University;

(2) Central Washington University;

(3) Eastern Washington University; and

(4) The Evergreen State College. [2023 c 204 s 4.]

RCW 41.80.080 Representation—Elections—Cross-check procedures—Rules. (1) The commission shall determine all questions pertaining to representation and shall administer all elections and cross-check procedures, and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections and cross-check procedures. The commission shall adopt rules that provide for at least the following:

(a) Secret balloting;

(b) Consulting with employee organizations;

(c) Access to lists of employees, job classification, work locations, and home mailing addresses;

(d) Absentee voting;

(e) Procedures for the greatest possible participation in voting;

(f) Campaigning on the employer's property during working hours; and

(g) Election observers.

(2)(a) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit as provided in RCW 41.80.010(2)(a). However, if a master collective bargaining agreement is in effect for the exclusive bargaining representative, it shall apply to the bargaining unit for which the certification has been issued. Nothing in this section requires the parties to engage in new negotiations during the term of that agreement.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education.

(3) The certified exclusive bargaining representative shall be responsible for representing the interests of all the employees in the bargaining unit. This section shall not be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(4) No question concerning representation may be raised if:

(a) Fewer than twelve months have elapsed since the last certification or election; or

(b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than one hundred twenty calendar days nor less than ninety calendar days before the expiration of the contract. [2019 c 230 s 17; 2002 c 354 s 309.]

RCW 41.80.083 Application of RCW 41.56.037—Bargaining representative access to new employees. RCW 41.56.037 applies to this chapter. [2018 c 250 s 5.]

RCW 41.80.090 Failure to reach agreement—Third party involvement—Expiration of agreements during negotiation. Should the parties fail to reach agreement in negotiating a collective bargaining agreement, either party may request of the commission the assistance of an impartial third party to mediate the negotiations.

If a collective bargaining agreement previously negotiated under this chapter should expire while negotiations are underway, the terms and conditions specified in the collective bargaining agreement shall remain in effect for a period not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

If resolution is not reached through mediation by one hundred days beyond the expiration date of a contract previously negotiated under this chapter, or one hundred days from the initiation of mediated negotiations if no such contract exists, an independent fact finder shall be appointed by the commission.

The fact finder shall meet with the parties or their representatives, or both, and make inquiries and investigations, hold hearings, and take such other steps as may be appropriate. If the dispute is not settled, the fact finder shall make findings of fact and recommend terms of settlement within thirty days.

Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. The commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within ten working days after their receipt from the fact finder.

Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

Costs for mediator services shall be borne by the commission, and costs for fact-finding shall be borne equally by the negotiating parties. [2002 c 354 s 310.]

RCW 41.80.100 Employee authorization of membership dues and other payments—Revocation. (1) Upon authorization of an employee within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the employer must deduct from the payments to the employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and must transmit the same to the treasurer of the exclusive bargaining representative.

(2)(a) If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that includes requirements for deductions of other payments, the employer must make such deductions upon authorization of the employee.

(b) An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. If the employer receives a request for authorization of deductions, the employer shall as soon as practicable forward the request to the exclusive bargaining representative.

(c) Upon receiving notice of the employee's authorization, the employer shall deduct from the employee's salary membership dues and remit the amounts to the exclusive bargaining representative.

(d) The employee's authorization remains in effect until expressly revoked by the employee in accordance with the terms and conditions of the authorization.

(e) An employee's request to revoke authorization for payroll deductions must be in writing and submitted by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization.

(f) After the employer receives confirmation from the exclusive bargaining representative that the employee has revoked authorization for deductions, the employer shall end the deduction no later than the second payroll after receipt of the confirmation.

(g) The employer shall rely on information provided by the exclusive bargaining representative regarding the authorization and revocation of deductions. [2019 c 230 s 18; 2018 c 247 s 5; 2002 c 354 s 311.]

RCW 41.80.110 Unfair labor practices enumerated. (1) It is an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules adopted by the commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: PROVIDED, That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.

(3) The expressing of any views, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this chapter, if such expression contains no threat of reprisal or force or promise of benefit. [2002 c 354 s 312.]

RCW 41.80.120 Unfair labor practice procedures—Powers and duties of commission. (1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission or in superior court. This power shall not be affected or impaired by any means of adjustment, mediation, or conciliation in labor disputes that have been or may hereafter be established by law.

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or in which the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief. [2018 c 252 s 4; 2002 c 354 s 313.]

RCW 41.80.130 Enforcement of collective bargaining agreements—Arbitrators—Subpoenas—Superior court. (1) For the purposes of implementing final and binding arbitration under grievance procedures required by RCW 41.80.030, the parties to a collective bargaining agreement may agree on one or more permanent umpires to serve as arbitrator, or may agree on any impartial person to serve as arbitrator, or may agree to select arbitrators from any source available to them, including federal and private agencies, in addition to the staff and list of arbitrators maintained by the commission. If the parties cannot agree to the selection of an arbitrator, the

commission shall supply a list of names in accordance with the procedures established by the commission.

(2) An arbitrator may require any person to attend as a witness and to bring with him or her any book, record, document, or other evidence. The fees for such attendance shall be paid by the party requesting issuance of the subpoena and shall be the same as the fees of witnesses in the superior court. Arbitrators may administer oaths. Subpoenas shall issue and be signed by the arbitrator and shall be served in the same manner as subpoenas to testify before a court of record in this state. If any person so summoned to testify refuses or neglects to obey such subpoena, upon petition authorized by the arbitrator, the superior court may compel the attendance of the person before the arbitrator or punish the person for contempt in the same manner provided for the attendance of witnesses or the punishment of them in the courts of this state.

(3) The arbitrator shall appoint a time and place for the hearing and notify the parties thereof, and may adjourn the hearing from time to time as may be necessary, and, on application of either party and for good cause, may postpone the hearing to a time not extending beyond the date fixed by the collective bargaining agreement for making the award. The arbitration award shall be in writing and signed by the arbitrator. The arbitrator shall, promptly upon its rendition, serve a true copy of the award on each of the parties or their attorneys of record.

(4) If a party to a collective bargaining agreement negotiated under this chapter refuses to submit a grievance for arbitration, the other party to the collective bargaining agreement may invoke the jurisdiction of the superior court of Thurston county or of any county in which the labor dispute exists and such court shall have jurisdiction to issue an order compelling arbitration. Disputes concerning compliance with grievance procedures shall be reserved for determination by the arbitrator. Arbitration shall be ordered if the grievance states a claim that on its face is covered by the collective bargaining agreement. Doubts as to the coverage of the arbitration clause shall be resolved in favor of arbitration.

(5) If a party to a collective bargaining agreement negotiated under this chapter refuses to comply with the award of an arbitrator determining a grievance arising under the collective bargaining agreement, the other party to the collective bargaining agreement may invoke the jurisdiction of the superior court of Thurston county or of any county in which the labor dispute exists and such court shall have jurisdiction to issue an order enforcing the arbitration award. [2002 c 354 s 314.]

RCW 41.80.135 Certification of bargaining representative—Cross-check. If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer. A determination through a cross-check process may be made upon a showing of interest submitted in support of the exclusive bargaining representative by more than fifty

percent of the employees. The commission may adopt rules to implement this section. [2019 c 230 s 16.]

RCW 41.80.140 Office of financial management's labor relations service account—Created. (1) The office of financial management's labor relations service account is created in the custody of the state treasurer to be used as a revolving fund for the payment of labor relations services required for the negotiation of the collective bargaining agreements entered into under this chapter. An amount not to exceed one-tenth of one percent of the approved allotments of salaries and wages for all bargaining unit positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the office of financial management's labor relations service account as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time. Payment for services rendered under this chapter shall be made on a quarterly basis to the state treasurer and deposited into the office of financial management's labor relations service account.

(2) Moneys from the office of financial management's labor relations service account shall be disbursed by the state treasurer by warrants on vouchers authorized by the director of financial management or the director's designee. An appropriation is not required.

(3) During the 2015-2017 fiscal biennium, the legislature may transfer moneys from the office of financial management's labor relations service account to the state general fund such amounts as reflect the excess fund balance of the account. [2016 sp.s. c 36 s 924; 2002 c 354 s 322.]

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

RCW 41.80.200 Department of corrections—Interest arbitration for certain employees. (1) In order to maintain dedicated and uninterrupted services to the supervision of criminal offenders that are in state correctional facilities and on community supervision, it is the legislature's intent to grant certain employees of the department of corrections interest arbitration rights as an alternative means of settling disputes.

(2) This section applies only to employees covered by chapter 41.06 RCW working for the department of corrections, except confidential employees as defined in RCW 41.80.005, members of the Washington management service, and internal auditors.

(3) Negotiations between the employer and the exclusive bargaining representative of a unit of employees shall be commenced at least five months before submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other

party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(4) If an agreement is not reached following a reasonable period of negotiations and mediation, and the director, upon recommendation of the assigned mediator, finds that the parties remain at impasse, then an arbitrator must be appointed to resolve the dispute. The issues for determination by the arbitrator must be limited to the issues certified by the executive director.

(5) Within ten working days after the first Monday in September of every odd-numbered year, the governor or the governor's designee and the bargaining representatives for any bargaining units covered by this section shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. The parties will select an arbitrator by mutual agreement or by alternatively striking names from a regional list of seven qualified arbitrators provided by the federal mediation and conciliation service.

(a) The fees and expenses of the arbitrator, the court reporter, if any, and the cost of the hearing room, if any, will be shared equally between the parties. Each party is responsible for the costs of its attorneys, representatives and witnesses, and all other costs related to the development and presentation of their case.

(b) Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for a potential hearing 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, absent an agreement to the contrary.

(c) The parties shall execute a written agreement before December 15th of the odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration.

(d)(i) The arbitrator must hold a hearing and provide reasonable notice of the hearing to the parties to the dispute. The hearing must be informal and each party has the opportunity to present evidence and make arguments. The arbitrator may not present the case for a party to the proceedings.

(ii) The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the arbitrator may be received in evidence. A recording of the proceedings must be taken.

(iii) The arbitrator may administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents deemed by the arbitrator to be material to a just determination of the issues in dispute. If a person refuses to obey a subpoena issued by the arbitrator, or refuses to be sworn or to make an affirmation to testify, or a witness, party, or attorney for a party is guilty of contempt while in attendance at a hearing, the arbitrator may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court may issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(6) The arbitrator may consider only matters that are subject to bargaining under RCW 41.80.020(1), and may not consider those subjects listed under RCW 41.80.020 (2) and (3) and 41.80.040.

(a) In making its determination, the arbitrator shall take into consideration the following factors:

(i) The financial ability of the department of corrections to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The constitutional and statutory authority of the employer;

(iii) Stipulations of the parties;

(iv) Comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like state government employers of similar size in the western United States;

(v) The ability of the department of corrections to retain employees;

(vi) The overall compensation presently received by department of corrections employees, including direct wage compensation, vacations, holidays, and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(vii) Changes in any of the factors listed in this subsection during the pendency of the proceedings; and

(viii) Such other factors which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.80.020(1).

(b) The decision of an arbitrator under this section is subject to RCW 41.80.010(3).

(7) During the pendency of the proceedings before the arbitrator, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his or her rights or position under chapter 41.56 RCW.

(8)(a) If the representative of either or both the employees and the state refuses to submit to the procedures set forth in subsections (3), (4), and (5) of this section, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and the court may issue an appropriate order. A failure to obey the order may be punished by the court as a contempt thereof.

(b) A decision of the arbitrator is final and binding on the parties, and may be enforced at the instance of either party, the arbitrator, or the commission in the superior court for the county where the dispute arose. However, the decision of the arbitrator is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to the compensation and fringe benefit provision of an interest arbitration award, the provisions are not binding on the state or department of corrections.

(9) Subject to the provisions of this section, the parties shall follow the commission's procedures for interest arbitration. [2020 c 89 s 1; 2019 c 233 s 1.]

RCW 41.80.300 Uniformed personnel—Higher education—Intent—Purpose. The intent and purpose of RCW 41.80.310 through 41.80.370 is to recognize that there exists a public policy in the state of

Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; and that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes. [2019 c 234 s 3.]

RCW 41.80.310 Uniformed personnel—Higher education—Negotiations—Certification for interest arbitration. (1) Negotiations between the employer and the exclusive bargaining representative of a unit of uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislature. If no agreement has been reached sixty days after the commencement of such negotiations then, at any time thereafter, either party may declare that an impasse exists and may submit the dispute to the commission for mediation, with or without the concurrence of the other party. The commission shall appoint a mediator, who shall promptly meet with the representatives of the parties, either jointly or separately, and shall take such other steps as he or she may deem appropriate in order to persuade the parties to resolve their differences and effect an agreement. A mediator, however, does not have a power of compulsion. The mediator may consider only matters that are subject to bargaining under this chapter.

(2) If an agreement has not been reached following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then the executive director shall certify the issues for interest arbitration. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director. [2019 c 234 s 4.]

RCW 41.80.320 Interest arbitration panel—Appointment—Hearing—Written determination. (1) Within ten working days after the first Monday in September of every odd-numbered year, the state's bargaining representative and the exclusive bargaining representative for the appropriate bargaining unit shall attempt to agree on an interest arbitration panel consisting of three members to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. Each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chair of the panel: (a) By mutual consent, the two appointed members may jointly request the commission to, and the commission shall, appoint a third member within two days of such a request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (b) either party may apply to the commission, the federal mediation and conciliation service, or the American arbitration association to

provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties.

(2) Immediately upon selecting an interest arbitration panel, the parties shall cooperate to reserve dates with the arbitration panel 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 names of the members of the arbitration panel and the dates reserved for bargaining and arbitration. This subsection 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.

(3) If the parties are not successful in negotiating a comprehensive collective bargaining agreement, a hearing shall be held. The hearing shall be informal and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chair of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held under this section, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof. The hearing conducted by the arbitration panel shall be concluded within twenty-five days following the selection or designation of the neutral chair of the arbitration panel, unless the parties agree to a longer period.

(4) The neutral chair shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chair shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute.

(5) Except as provided in this subsection, the written determination shall be final and binding upon both parties.

(a) The written determination is subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

(b) The written determination is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefits of

an arbitrated collective bargaining agreement, is not binding on the state.

(6) The arbitration panel may consider only matters that are subject to bargaining under this chapter. [2019 c 234 s 5.]

RCW 41.80.330 Interest arbitration panel—State agency designation. An interest arbitration panel created pursuant to RCW 41.80.320, in the performance of its duties under this chapter, exercises a state function and is, for the purposes of this chapter, a state agency. Chapter 34.05 RCW does not apply to proceedings before an interest arbitration panel under this chapter. [2019 c 234 s 6.]

RCW 41.80.340 Interest arbitration panel—Factors to be considered in making a determination. In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.80.300 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(1) The constitutional and statutory authority of the employer;

(2) Stipulations of the parties;

(3) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(4) Changes in any of the circumstances under subsections (1) through (3) of this section during the pendency of the proceedings; and

(5) Such other factors, not confined to the factors under subsections (1) through (4) of this section, that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter. [2019 c 234 s 7.]

RCW 41.80.350 Interest arbitration panel proceeding—Consent to change existing wages, hours, and conditions of employment. During the pendency of the proceedings before the arbitration panel, existing wages, hours, and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under RCW 41.80.310 through 41.80.370. [2019 c 234 s 8.]

RCW 41.80.360 Interest arbitration panel decision to be final—Superior court jurisdiction and review—Not binding on legislature. (1) If the representative of either or both the uniformed personnel and the employer refuse to submit to the procedures set forth in RCW 41.80.310 and 41.80.320, the parties, or the commission on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof.

(2) Except as provided in this subsection, a decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or

the commission in the superior court for the county where the dispute arose.

(a) The written determination is subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

(b) The written determination is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefits of an arbitrated collective bargaining agreement, is not binding on the state. [2019 c 234 s 9.]

RCW 41.80.370 Uniformed personnel—Higher education—Right to strike not granted. The right of uniformed personnel to engage in any strike, work slowdown, or stoppage is not granted. An employee organization recognized as the exclusive bargaining representative of uniformed personnel subject to this chapter that willfully disobeys a lawful order of enforcement by a superior court pursuant to this section and RCW 41.80.360, or willfully offers resistance to such order, whether by strike or otherwise, is in contempt of court as provided in chapter 7.21 RCW. An employer that willfully disobeys a lawful order of enforcement by a superior court pursuant to RCW 41.80.360 or willfully offers resistance to such order is in contempt of court as provided in chapter 7.21 RCW. [2019 c 234 s 10.]

RCW 41.80.380 Uniformed personnel—Higher education—Public employment relations commission to review bargaining units. (1) By January 1, 2020, the public employment relations commission shall review the appropriateness of the bargaining units that consist of or include uniformed personnel and exist on July 28, 2019. If the commission determines that an existing bargaining unit is not appropriate pursuant to RCW 41.80.070, the commission may modify the unit.

(2) The exclusive bargaining representatives certified to represent the bargaining units that consist of or include uniformed personnel and exist on July 28, 2019, shall continue as the exclusive bargaining representative without the necessity of an election as of July 28, 2019. However, there may be proceedings concerning representation under this chapter thereafter. [2019 c 234 s 11.]

RCW 41.80.400 Assistant attorneys general. (1) In addition to the agencies defined in RCW 41.80.005 and subject to the provisions of this section, this chapter applies to assistant attorneys general.

(2)(a) Assistant attorneys general who are not otherwise excluded from bargaining under (b) of this subsection are granted the right to collectively bargain.

(b) Division chiefs, deputy attorneys general, the solicitor general, assistant attorneys general in the labor and personnel division, special assistant attorneys general, confidential employees as defined in RCW 41.80.005, and any assistant or deputy attorney general who reports directly to the attorney general are excluded from this section and do not have the right to collectively bargain.

(3) The only unit appropriate for the purpose of collective bargaining under this chapter is a statewide unit of all assistant attorneys general not otherwise excluded from bargaining.

(4) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for assistant attorneys general. [2019 c 145 s 2.]

Findings—Intent—2019 c 145: "The legislature finds that the legal services provided by assistant attorneys general in the office of the attorney general are crucial to the ability of the state officials, agencies, colleges, boards, and commissions to function and fulfill their obligations to the citizens of the state. Assistant attorneys general are exempt from civil service under RCW 41.06.070. The assistant attorneys general currently have no mechanism through which to collectively bargain for salary increases. The legislature finds the office of the attorney general has experienced increased difficulty recruiting and retaining attorneys due to the disparity in wages paid to assistant attorneys general as compared to attorneys in other public sector positions. This type of turnover is costly to the office of the attorney general, negatively impacts morale, interferes with the ability of the office to succession plan, and ultimately harms the citizens of this state. Therefore, it is the legislature's intent to empower assistant attorneys general to collectively bargain for fair wages that will foster job satisfaction and the highest standards of professional competence among assistant attorneys general." [2019 c 145 s 1.]

RCW 41.80.410 Administrative law judges. (1) In addition to the agencies defined in RCW 41.80.005 and subject to the provisions of this section, this chapter applies to administrative law judges of the office of administrative hearings appointed under RCW 34.12.030(1).

(2) Administrative law judges of the office of administrative hearings who are not otherwise excluded from bargaining under subsection (3) of this section are granted the right to collectively bargain.

(3) The following administrative law judges of the office of administrative hearings are excluded from this section and do not have the right to collectively bargain:

(a) Administrative law judges in manager positions as defined in RCW 41.06.022, including deputy chief administrative law judges, division chief administrative law judges, and assistant chief administrative law judges;

(b) Administrative law judges serving on a contractual basis under RCW 34.12.030(2);

(c) Confidential employees as defined in RCW 41.80.005; and

(d) Any administrative law judge who reports directly to the chief administrative law judge.

(4) The only unit appropriate for the purpose of collective bargaining under this chapter is a statewide unit of all administrative law judges of the office of administrative hearings not otherwise excluded from bargaining. [2020 c 77 s 2.]

Findings—Intent—2020 c 77: "The legislature finds that the independent adjudication services provided by administrative law

judges of the office of administrative hearings are crucial to the due process rights of the citizens of this state and the just functioning of the government. Administrative law judges of the office of administrative hearings are exempt from civil service under RCW 34.12.030(5). These administrative law judges currently have no mechanism through which to collectively bargain for salary increases. The legislature finds the office of administrative hearings has experienced increased difficulty recruiting and retaining administrative law judges due to the disparity in wages paid to administrative law judges as compared to similar public sector positions. This type of turnover is costly to the office of administrative hearings, negatively impacts morale, interferes with the ability of the office to develop a succession plan, and ultimately harms the citizens of this state. Therefore, it is the legislature's intent to empower these administrative law judges to collectively bargain for fair wages that will foster job satisfaction and the highest standards of professional competence among administrative law judges." [2020 c 77 s 1.]

Effective date—2020 c 77: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 19, 2020]." [2020 c 77 s 7.]

RCW 41.80.420 Certain communications—Privilege from examination and disclosure. The privilege established by RCW 5.60.060(11) shall apply to all employee organizations covered by this chapter and in all proceedings authorized by this chapter. [2023 c 202 s 7.]

Findings—2023 c 202: See note following RCW 5.60.060.

RCW 41.80.430 Washington management service members. (1)(a) Washington management service members who are not otherwise excluded from bargaining under (b) of this subsection are granted the right to collectively bargain.

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

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

(ii) Human resource managers;

(iii) Budget managers;

(iv) Risk and litigation managers;

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

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

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

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

(2)(a) Except as provided in (b) of this subsection, the only units that may be designated for the purpose of collective bargaining under this chapter are a supervisory or nonsupervisory unit, as determined by the commission, of all salary band 1 and salary band 2 Washington management service members within an agency that are not otherwise excluded from bargaining under this section.

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

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

(4) No collective bargaining agreement entered into under this section with an exclusive bargaining representative of members of the Washington management service may take effect prior to July 1, 2025. [2023 c 136 s 3.]

Effective date—2023 c 136: "This act takes effect January 1, 2024." [2023 c 136 s 4.]

RCW 41.80.905 Apportionment of funds. If apportionments of budgeted funds are required because of the transfers directed by *RCW 41.80.901 through 41.80.904, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [2002 c 354 s 320.]

***Reviser's note:** RCW 41.80.901 through 41.80.904 were decodified pursuant to 2011 1st sp.s. c 43 s 479.

RCW 41.80.907 Short title—2002 c 354. This act may be known and cited as the personnel system reform act of 2002. [2002 c 354 s 101.]

RCW 41.80.910 Effective dates—2002 c 354. (1) Sections 203, 204, 213 through 223, 227, 229 through 231, 241, 243, 246, 248, 301 through 307, 309 through 316, 318, 319, and 402 of this act take effect July 1, 2004.

(2) Section 224 of this act takes effect March 15, 2005.

(3) Sections 208, 234 through 238, and 403 of this act take effect July 1, 2005.

(4) Sections 225, 226, 233, and 404 of this act take effect July 1, 2006. [2002 c 354 s 411.]

RCW 41.80.911 Review of appropriateness of certain collective bargaining units. (1) By January 1, 2012, the public employment relations commission may review the appropriateness of the collective bargaining units transferred under RCW 43.19.900, 43.19.901, 43.19.902, 43.330.910, and *43.41A.900. The employer or the exclusive bargaining representative may petition the public employment relations commission to review the bargaining units in accordance with this section.

(2) If the commission determines that an existing collective bargaining unit is appropriate pursuant to RCW 41.80.070, the exclusive bargaining representative certified to represent the bargaining unit prior to January 1, 2012, shall continue as the exclusive bargaining representative without the necessity of an election.

(3) If the commission determines that existing collective bargaining units are not appropriate, the commission may modify the units and order an election pursuant to RCW 41.80.080. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot.

(4) The commission may require an election pursuant to RCW 41.80.080 if similarly situated employees are represented by more than one employee organization. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot. [2011 1st sp.s. c 43 s 1001.]

***Reviser's note:** RCW 43.41A.900 was recodified as RCW 43.105.907 pursuant to 2015 3rd sp.s. c 1 s 221.

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.