

November 4, 2008

MEMORANDUM

TO: Dan Grimm, Chair
Basic Education Finance Task Force

cc: Roxanne Lieb, Director
Washington Institute for Public Policy

FROM: Jill Reinmuth, Counsel
House Office of Program Research

RE: Collective Bargaining Between the State and Educational Employees

Per your request, attached is a draft bill relating to collective bargaining between the state and educational employees for your review. Also attached is a brief summary of its provisions.

Please note the following:

1. The draft bill, like other collective bargaining laws, establishes a process whereby employees may organize, select an exclusive bargaining representative, and negotiate an agreement. It does not dictate the results of that process.
2. The draft bill has not been perfected. A significant issue, which we have previously discussed, is the lack of provisions addressing the transition from bargaining with school districts to bargaining with the state.
3. The draft bill focuses on collective bargaining. As such, it does not address other secondary issues such as:
 - Modifying staffing and student instructional hours.
 - Modifying teacher certification.
 - Merging the classified school personnel system with the state personnel system.
 - Requiring school employee salary surveys.
 - Repealing the salary increase provisions of Initiative 732.

If you have questions or concerns about the draft bill, please let me know.

Attachments

Brief Summary of H-0146.3/09
Collective Bargaining Between the State and Educational Employees

Legislative Intent

1. Expresses legislative intent to preserve the collective bargaining rights of educational employees, but to transfer related responsibilities of employers to the state. § 1.
2. Repeals statement of purpose to establish procedures governing the relationship between educational employees and school districts. § 15.

Bargaining

3. Provides for collective bargaining of wages, hours, and terms and conditions of employment between the state and exclusive bargaining representatives. §§ 2 and 6.
4. Specifies that, for the purpose of collective bargaining, the state is represented by the Governor or the Governor's designee. § 6(1).
5. Requires exclusive bargaining representatives who represent more than one unit to negotiate master agreements on behalf of all employees in represented units, and those who represent fewer than 500 employees to negotiate a master agreement as a coalition.¹ § 6(2)(a).
6. Authorizes employers and exclusive bargaining representatives to request exceptions to master agreements. Specifies that the requests must be approved by the state's representative, and must require expenditures of local funds only or be cost-neutral. § 6(2)(b).
7. Requires the Governor to submit requests for funds to implement wage provisions in master agreements to the Legislature, so long as requests are submitted to the director of the Office of Financial Management by October 1 and certified as being financially feasible.¹ § 6(3)(a).
8. Requires the Legislature to approve or reject requests for funds as a whole.¹ § 6(3)(b).
9. Requires the Governor to consult with the Joint Committee on Employment Relations.¹ § 6(4).
10. Specifies that, if there are significant revenue shortfalls, both parties must bargain mutually agreed upon modifications, or engage in mediation or fact-finding.² § 6(5).
11. Limits the duration of collective bargaining agreements to the school years associated with one fiscal biennium, and modifies the Act accordingly.² § 6(6); also § 4.
12. Provides that an agreement remains in effect until the effective date of a subsequently negotiated agreement, but not for more than one year from the agreement's expiration date. Authorizes the state to unilaterally implement thereafter.¹ § 6(7).

13. Makes various changes to the Educational Employment Relations Act consistent with legislative intent to transfer collective bargaining responsibilities from employers to the state. §§ 2 through 5, and 7 through 11.

Grievances

14. Specifies that, for the purpose of adjusting grievances, the state is represented by the Governor or the Governor's designee, and that the designee may be the applicable employer or educational service district. § 5.

Related Provisions

15. Specifies that nothing grants employers or employees the right to reach agreements regarding increases in excess of those specified in master agreements. § 12.
16. Requires that salaries paid by school districts conform to salaries agreed to in master agreements and funded in the state budget. §§ 13 and 14.
17. Strikes certain provisions governing how school districts set salaries, including provisions:
 - Requiring that certain salaries not be less than salaries in statewide salary allocation schedules;
 - Requiring that certain salaries not be more than salaries used for basic education allocations;
 - Requiring that salaries in programs other than basic education be consistent with salaries in basic education program; and
 - Allowing salaries to exceed limitations for time, responsibilities, and incentives.

§ 13.

¹ Same as state employee collective bargaining under chapter 41.80 RCW.

² Similar to state employee collective bargaining under chapter 41.80 RCW.

Prepared For: Dan Grimm, Chair
Basic Education Finance Task Force

Prepared By: Jill Reinmuth, Counsel
House Office of Program Research

Date: November 4, 2008

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-0146.3/09 3rd draft

ATTY/TYPIST: LL:lcl

BRIEF DESCRIPTION: Regarding collective bargaining between the state and educational employees.

1 AN ACT Relating to collective bargaining between the state and
2 educational employees; amending RCW 41.59.020, 41.59.060, 41.59.070,
3 41.59.090, 41.59.100, 41.59.120, 41.59.130, 41.59.140, 41.59.170,
4 41.59.935, 28A.400.200, and 28A.405.200; adding new sections to chapter
5 41.59 RCW; and repealing RCW 41.59.010.

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

7 NEW SECTION. Sec. 1. A new section is added to chapter 41.59 RCW
8 to read as follows:

9 The legislature finds that, if the state is to make ample provision
10 for the education of all children and to provide for a general and
11 uniform system of public schools, the state's authority must be aligned
12 with its responsibilities. Although the state has assumed primary
13 responsibility for funding basic education, the state has not exercised
14 authority over certain functions critical to managing these funds and
15 improving student performance. Prudent oversight of basic education
16 requires centralized collective bargaining with educational employees.
17 The legislature therefore intends to preserve the rights of educational
18 employees to organize and bargain collectively over wages, hours, and

1 terms and conditions of employment, but to transfer the related
2 responsibilities of employers of educational employees to the state.

3 Sec. 2. RCW 41.59.020 and 1989 c 11 s 11 are each amended to read
4 as follows:

5 ~~((As used in this chapter-))~~ The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) ~~((The term))~~ "Employee organization" means any organization,
8 union, association, agency, committee, council, or group of any kind in
9 which employees participate, and which exists for the purpose, in whole
10 or in part, of collective bargaining ~~((with employers))~~ on behalf of
11 the same employees.

12 (2) ~~((The term))~~ "Collective bargaining" or "bargaining" means the
13 performance of the mutual obligation of the representatives of the
14 ~~((employer))~~ state and the exclusive bargaining representative to meet
15 at reasonable times in light of the time limitations of the budget-
16 making process, and to bargain in good faith in an effort to reach
17 agreement with respect to the wages, including adjustments to wages for
18 different labor markets; hours~~((7))~~; and terms and conditions of
19 employment: PROVIDED, That prior law, practice or interpretation shall
20 be neither restrictive, expansive, nor determinative with respect to
21 the scope of bargaining. A written contract incorporating any
22 agreements reached shall be executed if requested by either party. The
23 obligation to bargain does not compel either party to agree to a
24 proposal or to make a concession.

25 In the event of a dispute between ~~((an employer))~~ the state and an
26 exclusive bargaining representative over the matters that are terms and
27 conditions of employment, the commission shall decide which item(s) are
28 mandatory subjects for bargaining and which item(s) are nonmandatory.

29 (3) ~~((The term))~~ "Commission" means the public employment relations
30 commission established by RCW 41.58.010.

31 (4) ~~((The terms))~~ "Employee" and "educational employee" means any
32 certificated employee of a school district, except:

33 (a) The chief executive officer of the employer.

34 (b) The chief administrative officers of the employer, which shall
35 mean the superintendent of the district, deputy superintendents,
36 administrative assistants to the superintendent, assistant
37 superintendents, and business manager. Title variation from all

1 positions enumerated in this subsection (b) may be appealed to the
2 commission for determination of inclusion in, or exclusion from, the
3 term "educational employee".

4 (c) Confidential employees, which shall mean:

5 (i) Any person who participates directly on behalf of an employer
6 in the formulation of labor relations policy(~~(, the preparation for or~~
7 ~~conduct of collective bargaining,~~) or the administration of collective
8 bargaining agreements, except that the role of such person is not
9 merely routine or clerical in nature but calls for the consistent
10 exercise of independent judgment; and

11 (ii) Any person who assists and acts in a confidential capacity to
12 such person.

13 (d) Unless included within a bargaining unit pursuant to RCW
14 41.59.080, any supervisor, which means any employee having authority,
15 in the interest of an employer, to hire, assign, promote, transfer,
16 layoff, recall, suspend, discipline, or discharge other employees, or
17 to adjust their grievances, or to recommend effectively such action, if
18 in connection with the foregoing the exercise of such authority is not
19 merely routine or clerical in nature but calls for the consistent
20 exercise of independent judgment, and shall not include any persons
21 solely by reason of their membership on a faculty tenure or other
22 governance committee or body. The term "supervisor" shall include only
23 those employees who perform a preponderance of the above-specified acts
24 of authority.

25 (e) Unless included within a bargaining unit pursuant to RCW
26 41.59.080, principals and assistant principals in school districts.

27 (5) (~~The term~~) "Employer" means any school district.

28 (6) (~~The term~~) "Exclusive bargaining representative" means any
29 employee organization which has:

30 (a) Been selected or designated pursuant to the provisions of this
31 chapter as the representative of the employees in an appropriate
32 collective bargaining unit; or

33 (b) Prior to January 1, 1976, been recognized under a predecessor
34 statute as the representative of the employees in an appropriate
35 collective bargaining or negotiations unit.

36 (7) (~~The term~~) "Person" means one or more individuals,
37 organizations, unions, associations, partnerships, corporations,

1 boards, committees, commissions, agencies, or other entities, or their
2 representatives.

3 (8) (~~The term~~) "Nonsupervisory employee" means all educational
4 employees other than principals, assistant principals and supervisors.

5 (9) "State" means the state of Washington.

6 **Sec. 3.** RCW 41.59.060 and 1975 1st ex.s. c 288 s 7 are each
7 amended to read as follows:

8 (1) Employees shall have the right to self-organization, to form,
9 join, or assist employee organizations, to bargain collectively through
10 representatives of their own choosing, and shall also have the right to
11 refrain from any or all of such activities except to the extent that
12 employees may be required to pay a fee to any employee organization
13 under an agency shop agreement authorized in this chapter.

14 (2) (a) The exclusive bargaining representative shall have the right
15 to have deducted from the salary of employees, upon receipt of an
16 appropriate authorization form which shall not be irrevocable for a
17 period of more than one year, an amount equal to the fees and dues
18 required for membership. Such fees and dues shall be deducted monthly
19 from the pay of all appropriate employees by the employer and
20 transmitted as provided for by agreement between the (~~employer~~) state
21 and the exclusive bargaining representative, unless an automatic
22 payroll deduction service is established pursuant to law, at which time
23 such fees and dues shall be transmitted as therein provided.

24 (b) If an agency shop provision is agreed to in the collective
25 bargaining agreement and becomes effective pursuant to RCW 41.59.100,
26 except as provided in that section, the employer shall deduct from the
27 salary payments to members of the bargaining unit the agency fee equal
28 to the fees and dues required of membership in the exclusive bargaining
29 representative (~~shall be deducted from the salary of employees in the~~
30 ~~bargaining unit~~)).

31 **Sec. 4.** RCW 41.59.070 and 1975 1st ex.s. c 288 s 8 are each
32 amended to read as follows:

33 (1) Any employee organization may file a request with the
34 commission for recognition as the exclusive representative. Such
35 request shall allege that a majority of the employees in an appropriate
36 collective bargaining unit wish to be represented for the purpose of

1 collective bargaining by such organization, shall describe the grouping
2 of jobs or positions which constitute the unit claimed to be
3 appropriate, shall be supported by credible evidence demonstrating that
4 at least thirty percent of the employees in the appropriate unit desire
5 the organization requesting recognition as their exclusive
6 representative, and shall indicate the name, address, and telephone
7 number of any other interested employee organization, if known to the
8 requesting organization.

9 (2) The commission shall determine the exclusive representative by
10 conducting an election by secret ballot, except under the following
11 circumstances:

12 (a) In instances where a serious unfair labor practice has been
13 committed which interfered with the election process and precluded the
14 holding of a fair election, the commission shall determine the
15 exclusive bargaining representative by an examination of organization
16 membership rolls or a comparison of signatures on organization
17 bargaining authorization cards.

18 (b) In instances where there is then in effect a lawful written
19 collective bargaining agreement between the employer, or after the
20 effective date of this act, the state and another employee organization
21 covering any employees included in the unit described in the request
22 for recognition, the request for recognition shall not be entertained
23 unless it shall be filed within the time limits prescribed in
24 subsection (3) of this section for decertification or a new recognition
25 election.

26 (c) In instances where within the previous twelve months another
27 employee organization has been lawfully recognized or certified as the
28 exclusive bargaining representative of any employees included in the
29 unit described in the request for recognition, the request for
30 recognition shall not be entertained.

31 (d) In instances where the commission has within the previous
32 twelve months conducted a secret ballot election involving any
33 employees included in the unit described in the request for recognition
34 in which a majority of the valid ballots cast chose not to be
35 represented by any employee organization, the request for recognition
36 shall not be entertained.

37 (3) Whenever the commission conducts an election to ascertain the
38 exclusive bargaining representative, the ballot shall contain the name

1 of the proposed bargaining representative and of any other bargaining
2 representative showing written proof of at least ten percent
3 representation of the educational employees within the unit, together
4 with a choice for any educational employee to designate that he or she
5 does not desire to be represented by any bargaining agent. Where more
6 than one organization is on the ballot and neither of the three or more
7 choices receives a majority of the valid ballots cast by the
8 educational employees within the bargaining unit, a run-off election
9 shall be held. The run-off ballot shall contain the two choices which
10 receive the largest and second largest number of votes. No question
11 concerning representation may be raised within one year of a
12 certification or attempted certification. Where there is a valid
13 collective bargaining agreement in effect, no question of
14 representation may be raised except during the period not more than
15 ninety nor less than sixty days prior to the expiration date of the
16 agreement. ~~((In the event that a valid collective bargaining
17 agreement, together with any renewals or extensions thereof, has been
18 or will be in existence for three years, then the question of
19 representation may be raised not more than ninety nor less than sixty
20 days prior to the third anniversary date of the agreement or any
21 renewals or extensions thereof as long as such renewals and extensions
22 do not exceed three years; and if the exclusive bargaining
23 representative is removed as a result of such procedure, the then
24 existing collective bargaining agreement shall be terminable by the new
25 exclusive bargaining representative so selected within sixty days after
26 its certification or terminated on its expiration date, whichever is
27 sooner, or if no exclusive bargaining representative is so selected,
28 then the agreement shall be deemed to be terminated at its expiration
29 date or as of such third anniversary date, whichever is sooner.))~~

30 (4) Within the time limits prescribed in subsection (3) of this
31 section, a petition may be filed signed by at least thirty percent of
32 the employees of a collective bargaining unit, then represented by an
33 exclusive bargaining representative, alleging that a majority of the
34 employees in that unit do not wish to be represented by an employee
35 organization, requesting that the exclusive bargaining representative
36 be decertified, and indicating the name, address, and telephone number
37 of the exclusive bargaining representative and any other interested

1 employee organization, if known. Upon the verification of the
2 signatures on the petition, the commission shall conduct an election by
3 secret ballot as prescribed by subsection (3) of this section.

4 Sec. 5. RCW 41.59.090 and 1975 1st ex.s. c 288 s 10 are each
5 amended to read as follows:

6 (1) For the purpose of adjusting grievances, the state is
7 represented by the governor or the governor's designee. The governor's
8 designee may be the applicable employer or educational service
9 district.

10 (2) The employee organization which has been determined to
11 represent a majority of the employees in a bargaining unit shall be
12 certified by the commission as the exclusive bargaining representative
13 of, and shall be required to represent all the employees within the
14 unit without regard to membership in that bargaining representative:
15 PROVIDED, That any employee at any time may present ((his)) the
16 employee's grievance to the ((employer)) state and have such grievance
17 adjusted without the intervention of the exclusive bargaining
18 representative, as long as such representative has been given an
19 opportunity to be present at that adjustment and to make its views
20 known, and as long as the adjustment is not inconsistent with the terms
21 of a collective bargaining agreement then in effect.

22 NEW SECTION. Sec. 6. A new section is added to chapter 41.59 RCW
23 to read as follows:

24 (1) For the purpose of collective bargaining under this chapter,
25 the state is represented by the governor or the governor's designee.
26 The governor's designee may not be an employer or an educational
27 service district.

28 (2)(a) If an exclusive bargaining representative represents more
29 than one bargaining unit, the exclusive bargaining representative shall
30 negotiate with the state's representative, as designated in subsection
31 (1) of this section, one master collective bargaining agreement on
32 behalf of all the employees in bargaining units that the exclusive
33 bargaining representative represents. For those exclusive bargaining
34 representatives who represent fewer than a total of five hundred
35 employees each, negotiation must be by a coalition of all those

1 exclusive bargaining representatives. The coalition shall bargain for
2 a master collective bargaining agreement covering all of the employees
3 represented by the coalition.

4 (b) An employer and an exclusive bargaining representative are
5 authorized to request from the state's representative exceptions to the
6 master collective bargaining agreement. Requests for exceptions must
7 be submitted jointly by the employer and the exclusive bargaining
8 representative. Requests for exceptions that require expenditure of
9 local funds only or that are cost-neutral are permissible. Other
10 requests for exceptions, such as requests that require expenditure of
11 state funds or are related to wages, are prohibited. If approved by
12 the state's representative, exceptions will apply only for the term of
13 the agreement.

14 (c) This section does not prohibit cooperation and coordination of
15 bargaining between two or more exclusive bargaining representatives.

16 (3)(a) The governor shall submit a request for funds necessary to
17 implement the wage provisions in the master collective bargaining
18 agreements or for legislation necessary to implement the agreement.
19 Requests for funds necessary to implement the wage provisions in
20 agreements may not be submitted to the legislature by the governor
21 unless the requests:

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

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

27 (b) The legislature shall approve or reject the submission of the
28 request for funds as a whole. The legislature may not consider a
29 request for funds to implement the wage provisions in agreements unless
30 the request is transmitted to the legislature as part of the governor's
31 budget document submitted under RCW 43.88.030 and 43.88.060. If the
32 legislature rejects or fails to act on the submission, either party may
33 reopen all or part of the agreement or the exclusive bargaining
34 representative may seek to implement the procedures provided for in RCW
35 41.59.120.

36 (4) The governor shall periodically consult with the joint
37 committee on employment relations created under RCW 41.80.010 regarding
38 appropriations necessary to implement the master collective bargaining

1 agreements and, upon completion of negotiations, advise the committee
2 on the elements of the agreements and on any legislation necessary to
3 implement the agreements.

4 (5) If, after appropriations necessary to implement the master
5 collective bargaining agreements are approved by the legislature, a
6 significant revenue shortfall occurs resulting in reduced
7 appropriations, as declared by proclamation of the governor or by
8 resolution of the legislature, both parties shall immediately enter
9 into collective bargaining for a mutually agreed upon modification of
10 the agreements.

11 (6) The duration of any collective bargaining agreement negotiated
12 under this chapter may not exceed the school years associated with one
13 fiscal biennium.

14 (7) After the expiration date of a collective bargaining agreement
15 negotiated under this chapter, all of the terms and conditions
16 specified in the collective bargaining agreement remain in effect until
17 the effective date of a subsequently negotiated agreement, not to
18 exceed one year from the expiration date stated in the agreement.
19 Thereafter, the state may unilaterally implement according to law.

20 Sec. 7. RCW 41.59.100 and 1975 1st ex.s. c 288 s 11 are each
21 amended to read as follows:

22 (1) A collective bargaining agreement may include union security
23 provisions including an agency shop, but not a union or closed shop.
24 If an agency shop provision is agreed to, the employer shall ((enforce
25 it by deducting)) deduct from the salary payments to members of the
26 bargaining unit the dues required of membership in the bargaining
27 representative, or, for nonmembers thereof, a fee equivalent to such
28 dues.

29 (2) All union security provisions must safeguard the right of
30 nonassociation of employees based on bona fide religious tenets or
31 teachings of a church or religious body of which such employee is a
32 member. Such employee shall pay an amount of money equivalent to
33 regular dues and fees to a nonreligious charity or to another
34 charitable organization mutually agreed upon by the employee affected
35 and the bargaining representative to which such employee would
36 otherwise pay the dues and fees. The employee shall furnish written

1 proof that such payment has been made. If the employee and the
2 bargaining representative do not reach agreement on such matter, the
3 commission shall designate the charitable organization.

4 **Sec. 8.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each
5 amended to read as follows:

6 (1) Either (~~an employer~~) the state or an exclusive bargaining
7 representative may declare that an impasse has been reached between
8 them in collective bargaining and may request the commission to appoint
9 a mediator for the purpose of assisting them in reconciling their
10 differences and resolving the controversy on terms which are mutually
11 acceptable. If the commission determines that its assistance is
12 needed, not later than five days after the receipt of a request
13 therefor, it shall appoint a mediator in accordance with rules and
14 regulations for such appointment prescribed by the commission. The
15 mediator shall meet with the parties or their representatives, or both,
16 forthwith, either jointly or separately, and shall take such other
17 steps as he or she may deem appropriate in order to persuade the
18 parties to resolve their differences and effect a mutually acceptable
19 agreement. The mediator, without the consent of both parties, shall
20 not make findings of fact or recommend terms of settlement. The
21 services of the mediator, including, if any, per diem expenses, shall
22 be provided by the commission without cost to the parties. Nothing in
23 this subsection (1) shall be construed to prevent the parties from
24 mutually agreeing upon their own mediation procedure, and in the event
25 of such agreement, the commission shall not appoint its own mediator
26 unless failure to do so would be inconsistent with the effectuation of
27 the purposes and policy of this chapter.

28 (2) If the mediator is unable to effect settlement of the
29 controversy within ten days after his or her appointment, either party,
30 by written notification to the other, may request that their
31 differences be submitted to fact-finding with recommendations, except
32 that the time for mediation may be extended by mutual agreement between
33 the parties. Within five days after receipt of the aforesaid written
34 request for fact-finding, the parties shall select a person to serve as
35 fact finder and obtain a commitment from that person to serve. If they
36 are unable to agree upon a fact finder or to obtain such a commitment
37 within that time, either party may request the commission to designate

1 a fact finder. The commission, within five days after receipt of such
2 request, shall designate a fact finder in accordance with rules and
3 regulations for such designation prescribed by the commission. The
4 fact finder so designated shall not be the same person who was
5 appointed mediator pursuant to subsection (1) of this section without
6 the consent of both parties.

7 The fact finder, within five days after his or her appointment,
8 shall meet with the parties or their representatives, or both, either
9 jointly or separately, and make inquiries and investigations, hold
10 hearings, and take such other steps as he or she may deem appropriate.
11 For the purpose of such hearings, investigations and inquiries, the
12 fact finder shall have the power to issue subpoenas requiring the
13 attendance and testimony of witnesses and the production of evidence.
14 If the dispute is not settled within ten days after his or her
15 appointment, the fact finder shall make findings of fact and recommend
16 terms of settlement within thirty days after his or her appointment,
17 which recommendations shall be advisory only.

18 (3) Such recommendations, together with the findings of fact, shall
19 be submitted in writing to the parties and the commission privately
20 before they are made public. Either the commission, the fact finder,
21 the ~~((employer))~~ state, or the exclusive bargaining representative may
22 make such findings and recommendations public if the dispute is not
23 settled within five days after their receipt from the fact finder.

24 (4) The costs for the services of the fact finder, including, if
25 any, per diem expenses and actual and necessary travel and subsistence
26 expenses, and any other incurred costs, shall be borne by the
27 commission without cost to the parties.

28 (5) Nothing in this section shall be construed to prohibit ~~((an~~
29 ~~employer))~~ the state and an exclusive bargaining representative from
30 agreeing to substitute, at their own expense, their own procedure for
31 resolving impasses in collective bargaining for that provided in this
32 section or from agreeing to utilize for the purposes of this section
33 any other governmental or other agency or person in lieu of the
34 commission.

35 ~~((6) Any fact finder designated by an employer and an exclusive~~
36 ~~representative or the commission for the purposes of this section shall~~
37 ~~be deemed an agent of the state.))~~

1 Sec. 9. RCW 41.59.130 and 1975 1st ex.s. c 288 s 14 are each
2 amended to read as follows:

3 (~~An employer~~) The state and an exclusive bargaining
4 representative who enter into a collective bargaining agreement may
5 include in such agreement procedures for binding arbitration of such
6 disputes as may arise involving the interpretation or application of
7 such agreement.

8 Sec. 10. RCW 41.59.140 and 1975 1st ex.s. c 288 s 15 are each
9 amended to read as follows:

10 (1) It shall be an unfair labor practice for either the state or an
11 employer:

12 (a) To interfere with, restrain, or coerce employees in the
13 exercise of the rights guaranteed in RCW 41.59.060.

14 (b) To dominate or interfere with the formation or administration
15 of any employee organization or contribute financial or other support
16 to it: PROVIDED, That subject to rules and regulations made by the
17 commission pursuant to RCW 41.59.110, the state and an employer shall
18 not be prohibited from permitting employees to confer with it or its
19 representatives or agents during working hours without loss of time or
20 pay;

21 (c) To encourage or discourage membership in any employee
22 organization by discrimination in regard to hire, tenure of employment
23 or any term or condition of employment, but nothing contained in this
24 subsection shall prevent (~~an employer~~) the state from requiring, as
25 a condition of continued employment, payment of periodic dues and fees
26 uniformly required to an exclusive bargaining representative pursuant
27 to RCW 41.59.100;

28 (d) To discharge or otherwise discriminate against an employee
29 because (~~he~~) the employee has filed charges or given testimony under
30 this chapter;

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

33 (2) It shall be an unfair labor practice for an employee
34 organization:

35 (a) To restrain or coerce (i) employees in the exercise of the
36 rights guaranteed in RCW 41.59.060: PROVIDED, That this (~~paragraph~~)
37 subsection shall not impair the right of an employee organization to

1 prescribe its own rules with respect to the acquisition or retention of
2 membership therein; or (ii) (~~(an employer)~~) the state in the selection
3 of (~~(his)~~) its representatives for the purposes of collective
4 bargaining or the adjustment of grievances;

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

8 (c) To refuse to bargain collectively with (~~(an employer)~~) the
9 state, provided it is the representative of (~~(its)~~) employees subject
10 to RCW 41.59.090.

11 (3) The expressing of any views, argument, or opinion, or the
12 dissemination thereof to the public, whether in written, printed,
13 graphic, or visual form, shall not constitute or be evidence of an
14 unfair labor practice under any of the provisions of this chapter, if
15 such expression contains no threat of reprisal or force or promise of
16 benefit.

17 **Sec. 11.** RCW 41.59.170 and 1975 1st ex.s. c 288 s 18 are each
18 amended to read as follows:

19 (1) Whenever a collective bargaining agreement between an employer,
20 or after the effective date of this section, the state and an exclusive
21 bargaining representative is concluded after the termination date of
22 the previous collective bargaining agreement (~~(between the employer and~~
23 ~~an employee organization representing)~~) covering the same employees,
24 the effective date of such collective bargaining agreement may be the
25 day after the termination date of the previous collective bargaining
26 agreement and all benefits included in the new collective bargaining
27 agreement, including wage or salary increases, may accrue beginning
28 with such effective date as established by this subsection, and may
29 also accrue beginning with the effective date of any individual
30 employee contracts affected thereby.

31 (2) Any collective bargaining agreement may provide for the
32 increase of any wages, salaries, and other benefits during the term of
33 such agreement or the term of any individual employee contracts
34 concerned, in the event that (~~(the employer receives by increased~~
35 ~~appropriation or from other sources,)~~) additional moneys for such
36 purposes are appropriated or received from other sources.

1 Sec. 12. RCW 41.59.935 and 1990 c 33 s 571 are each amended to
2 read as follows:

3 Nothing in this chapter shall be construed to grant employers or
4 employees the right to reach agreements regarding salary or
5 compensation increases in excess of those authorized in accordance with
6 RCW 28A.150.410 and 28A.400.200, and specified in the master collective
7 bargaining agreements negotiated by the state and exclusive bargaining
8 representatives under this chapter.

9 Sec. 13. RCW 28A.400.200 and 2002 c 353 s 2 are each amended to
10 read as follows:

11 ~~((1))~~ Every school district board of directors shall fix, alter,
12 allow, and order paid salaries and compensation for all district
13 employees in conformance with this section.

14 ~~((2)(a) Salaries for certificated instructional staff shall not be~~
15 ~~less than the salary provided in the appropriations act in the~~
16 ~~statewide salary allocation schedule for an employee with a~~
17 ~~baccalaureate degree and zero years of service; and~~

18 ~~(b) Salaries for certificated instructional staff with a masters~~
19 ~~degree shall not be less than the salary provided in the appropriations~~
20 ~~act in the statewide salary allocation schedule for an employee with a~~
21 ~~masters degree and zero years of service;~~

22 ~~(3)(a) The actual average salary paid to certificated instructional~~
23 ~~staff shall not exceed the district's average certificated~~
24 ~~instructional staff salary used for the state basic education~~
25 ~~allocations for that school year as determined pursuant to RCW~~
26 ~~28A.150.410.~~

27 ~~(b) Fringe benefit contributions for certificated instructional~~
28 ~~staff shall be included as salary under (a) of this subsection only to~~
29 ~~the extent that the district's actual average benefit contribution~~
30 ~~exceeds the amount of the insurance benefits allocation provided per~~
31 ~~certificated instructional staff unit in the state operating~~
32 ~~appropriations act in effect at the time the compensation is payable.~~
33 ~~For purposes of this section, fringe benefits shall not include payment~~
34 ~~for unused leave for illness or injury under RCW 28A.400.210; employer~~
35 ~~contributions for old age survivors insurance, workers' compensation,~~
36 ~~unemployment compensation, and retirement benefits under the Washington~~
37 ~~state retirement system; or employer contributions for health benefits~~

1 ~~in excess of the insurance benefits allocation provided per~~
2 ~~certificated instructional staff unit in the state operating~~
3 ~~appropriations act in effect at the time the compensation is payable.~~
4 ~~A school district may not use state funds to provide employer~~
5 ~~contributions for such excess health benefits.~~

6 ~~(c) Salary and benefits for certificated instructional staff in~~
7 ~~programs other than basic education shall be consistent with the salary~~
8 ~~and benefits paid to certificated instructional staff in the basic~~
9 ~~education program.~~

10 ~~(4) Salaries and benefits for certificated instructional staff may~~
11 ~~exceed the limitations in subsection (3) of this section only by~~
12 ~~separate contract for additional time, additional responsibilities, or~~
13 ~~incentives. Supplemental contracts shall not cause the state to incur~~
14 ~~any present or future funding obligation. Supplemental contracts shall~~
15 ~~be subject to the collective bargaining provisions of chapter 41.59 RCW~~
16 ~~and the provisions of RCW 28A.405.240, shall not exceed one year, and~~
17 ~~if not renewed shall not constitute adverse change in accordance with~~
18 ~~RCW 28A.405.300 through 28A.405.380. No district may enter into a~~
19 ~~supplemental contract under this subsection for the provision of~~
20 ~~services which are a part of the basic education program required by~~
21 ~~Article IX, section 3 of the state Constitution.~~

22 ~~(5))~~ Salaries and compensation for certificated instructional
23 staff must be in conformance with the salary in collective bargaining
24 agreements negotiated under chapter 41.59 RCW and funded in the omnibus
25 appropriations act. Employee benefit plans offered by any district
26 shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

27 **Sec. 14.** RCW 28A.405.200 and 1969 ex.s. c 283 s 1 are each amended
28 to read as follows:

29 Every school district by action of its board of directors shall
30 adopt annual salary schedules in conformance with the collective
31 bargaining agreement negotiated under chapter 41.59 RCW and funded in
32 the omnibus appropriations act, and reproduce the same by printing,
33 mimeographing, or other reasonable method, which shall be the basis for
34 salaries for all certificated employees in the district.

1 NEW SECTION. **Sec. 15.** RCW 41.59.010 (Purpose) and 1975 1st ex.s.
2 c 288 s 2 are each repealed.

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