

---

HOUSE BILL 1777

---

State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Condotta, Manweller, G. Hunt, and Wilson

Read first time 01/28/15. Referred to Committee on Labor.

1            AN ACT Relating to exclusive representation of employees in  
2 collective bargaining; amending RCW 41.56.080, 41.76.015, 49.39.050,  
3 47.64.135, 41.80.080, and 41.59.090; adding a new section to chapter  
4 41.56 RCW; adding a new section to chapter 41.76 RCW; adding a new  
5 section to chapter 28B.52 RCW; adding a new section to chapter 49.39  
6 RCW; adding a new section to chapter 47.64 RCW; adding a new section  
7 to chapter 41.80 RCW; adding a new section to chapter 41.59 RCW; and  
8 adding a new section to chapter 49.66 RCW.

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

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

12            (1) If a bargaining representative certified by the commission  
13 and a public employer agree to a collective bargaining agreement that  
14 does not contain a union security provision as authorized by RCW  
15 41.56.122:

16            (a) The bargaining representative is the exclusive bargaining  
17 representative for only those public employees who choose to be  
18 members of the bargaining representative.

19            (b) Any contract negotiated by the bargaining representative  
20 applies only to those public employees who choose to be members of  
21 the bargaining representative.

1 (c) There may be no more than one certified exclusive bargaining  
2 representative per bargaining unit at any one time.

3 (d) Notwithstanding (c) of this subsection, any individual public  
4 employee who chooses not to be a member of the exclusive bargaining  
5 representative has the right to represent themselves directly or  
6 through a representative of their own choosing in their relations  
7 with a public employer and to negotiate individual employment  
8 contracts governing their wages, hours, and working conditions.

9 (e) No public employer shall be obligated to agree to any terms  
10 of a contract proposed by an individual public employee, nor shall  
11 any public employer be guilty of an unfair labor practice for:

12 (i) Refusing to bargain with an individual public employee.

13 (ii) Agreeing to an individual employment contract that sets  
14 wages, hours, or working conditions that differ from those in the  
15 exclusive bargaining representative's collective bargaining  
16 agreement.

17 (f) No person shall exert undue influence, directly or  
18 indirectly, on any public employee with intent to induce the public  
19 employee to cease or refrain from being a member of a bargaining  
20 representative, or to become or remain a member of a bargaining  
21 representative.

22 (2) The provisions of this section apply to all collective  
23 bargaining agreements entered into after the effective date of this  
24 section and apply to any renewal or extension of any existing  
25 contract.

26 **Sec. 2.** RCW 41.56.080 and 2012 c 117 s 84 are each amended to  
27 read as follows:

28 The bargaining representative which has been determined to  
29 represent a majority of the employees in a bargaining unit shall be  
30 certified by the commission as the exclusive bargaining  
31 representative of, and shall be required to represent, all the public  
32 employees within the unit without regard to membership in said  
33 bargaining representative: PROVIDED, That:

34 (1) Any public employee at any time may present his or her  
35 grievance to the public employer and have such grievance adjusted  
36 without the intervention of the exclusive bargaining representative,  
37 if the adjustment is not inconsistent with the terms of a collective  
38 bargaining agreement then in effect, and if the exclusive bargaining

1 representative has been given reasonable opportunity to be present at  
2 any initial meeting called for the resolution of such grievance;

3 (2) The bargaining representative has negotiated a collective  
4 bargaining agreement that contains a union security provision. If a  
5 union security provision has not been negotiated, the bargaining  
6 representative is the exclusive bargaining representative of only  
7 those public employees in the bargaining unit that are members of the  
8 bargaining representative, in accordance with section 1 of this act.

9 NEW SECTION. Sec. 3. A new section is added to chapter 41.76  
10 RCW to read as follows:

11 (1) If an employee organization certified by the commission and  
12 an employer agree to a collective bargaining agreement that does not  
13 contain a union security provision as authorized by RCW 41.76.045:

14 (a) The employee organization is the exclusive bargaining  
15 representative for only those faculty members who choose to be  
16 members of the employee organization.

17 (b) Any contract negotiated by the employee organization applies  
18 only to those faculty members who choose to be members of the  
19 employee organization.

20 (c) There may be no more than one certified exclusive bargaining  
21 representative per bargaining unit at any one time.

22 (d) Notwithstanding (c) of this subsection, any individual  
23 faculty member who chooses not to be a member of the exclusive  
24 bargaining representative has the right to represent themselves  
25 directly or through a representative of their own choosing in their  
26 relations with an employer and to negotiate individual employment  
27 contracts governing their wages, hours, and conditions of employment.

28 (e) No employer shall be obligated to agree to any terms of a  
29 contract proposed by an individual faculty member, nor shall any  
30 employer be guilty of an unfair labor practice for:

31 (i) Refusing to bargain with an individual faculty member.

32 (ii) Agreeing to an individual employment contract that sets  
33 wages, hours, or conditions of employment that differ from those in  
34 the exclusive bargaining representative's collective bargaining  
35 agreement.

36 (f) No person shall exert undue influence, directly or  
37 indirectly, on any faculty member with intent to induce the faculty  
38 member to cease or refrain from being a member of an employee

1 organization, or to become or remain a member of an employee  
2 organization.

3 (2) The provisions of this section apply to all collective  
4 bargaining agreements entered into after the effective date of this  
5 section and apply to any renewal or extension of any existing  
6 contract.

7 **Sec. 4.** RCW 41.76.015 and 2002 c 356 s 6 are each amended to  
8 read as follows:

9 The employee organization which has been determined by the  
10 commission to be the exclusive bargaining representative of a  
11 bargaining unit shall be required to represent all the faculty  
12 members within the bargaining unit without regard to membership in  
13 that employee organization: PROVIDED, That:

14 (1) Any faculty member may at any time present his or her  
15 complaints or concerns to the employer and have such complaints or  
16 concerns adjusted without intervention of the exclusive bargaining  
17 representative, as long as the exclusive bargaining representative  
18 has been given an opportunity to be present at the adjustment and to  
19 make its views known, and as long as the adjustment is not  
20 inconsistent with the terms of a collective bargaining agreement then  
21 in effect;

22 (2) The employee organization has negotiated a collective  
23 bargaining agreement that contains a union security provision. If a  
24 union security provision has not been negotiated, the employee  
25 organization is the exclusive bargaining representative of only those  
26 faculty members in the bargaining unit that are members of the  
27 employee organization, in accordance with section 3 of this act.

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

30 (1) If an employee organization certified by the commission and  
31 an employer agree to a collective bargaining agreement that does not  
32 contain a union security provision as authorized by RCW 28B.52.045:

33 (a) The employee organization is the exclusive bargaining  
34 representative for only those academic employees who choose to be  
35 members of the employee organization.

36 (b) Any contract negotiated by the employee organization applies  
37 only to those academic employees who choose to be members of the  
38 employee organization.

1 (c) There may be no more than one certified exclusive bargaining  
2 representative per bargaining unit at any one time.

3 (d) Notwithstanding (c) of this subsection, any individual  
4 academic employee who chooses not to be a member of the exclusive  
5 bargaining representative has the right to represent themselves  
6 directly or through a representative of their own choosing in their  
7 relations with an employer and to negotiate individual employment  
8 contracts governing their wages, hours, and conditions of employment.

9 (e) No employer shall be obligated to agree to any terms of a  
10 contract proposed by an individual academic employee, nor shall any  
11 employer be guilty of an unfair labor practice for:

12 (i) Refusing to bargain with an individual academic employee.

13 (ii) Agreeing to an individual employment contract that sets  
14 wages, hours, or conditions of employment that differ from those in  
15 the exclusive bargaining representative's bargaining agreement.

16 (f) No person shall exert undue influence, directly or  
17 indirectly, on any academic employee with intent to induce the  
18 academic employee to cease or refrain from being a member of an  
19 employee organization, or to become or remain a member of an employee  
20 organization.

21 (2) The provisions of this section apply to all collective  
22 bargaining agreements entered into after the effective date of this  
23 chapter and shall apply to any renewal or extension of any existing  
24 contract.

25 NEW SECTION. **Sec. 6.** A new section is added to chapter 49.39  
26 RCW to read as follows:

27 (1) If a bargaining representative certified by the commission  
28 and an employer agree to a collective bargaining agreement that does  
29 not contain a union security provision as authorized by RCW  
30 49.39.090:

31 (a) The bargaining representative is the exclusive bargaining  
32 representative for only those symphony musicians who choose to be  
33 members of the bargaining representative.

34 (b) Any contract negotiated by the bargaining representative  
35 applies only to those symphony musicians who choose to be members of  
36 the bargaining representative.

37 (c) There may be no more than one certified exclusive bargaining  
38 representative per bargaining unit at any one time.

1 (d) Notwithstanding (c) of this subsection, any individual  
2 symphony musician who chooses not to be a member of the exclusive  
3 bargaining representative has the right to represent themselves  
4 directly or through a representative of their own choosing in their  
5 relations with an employer and to negotiate individual employment  
6 contracts governing their wages, hours, and working conditions.

7 (e) No employer shall be obligated to agree to any terms of a  
8 contract proposed by an individual symphony musician, nor shall any  
9 employer be guilty of an unfair labor practice for:

10 (i) Refusing to bargain with an individual symphony musician.

11 (ii) Agreeing to an individual employment contract that sets  
12 wages, hours, or working conditions that differ from those in the  
13 exclusive bargaining representative's bargaining agreement.

14 (f) No person shall exert undue influence, directly or  
15 indirectly, on any symphony musicians with intent to induce the  
16 symphony musician to cease or refrain from being a member of a  
17 bargaining representative, or to become or remain a member of a  
18 bargaining representative.

19 (2) The provisions of this section apply to all collective  
20 bargaining agreements entered into after the effective date of this  
21 section and apply to any renewal or extension of any existing  
22 contract.

23 **Sec. 7.** RCW 49.39.050 and 2010 c 6 s 6 are each amended to read  
24 as follows:

25 The bargaining representative which has been determined to  
26 represent a majority of the symphony musicians in a bargaining unit  
27 shall be certified by the commission as the exclusive bargaining  
28 representative of, and shall be required to represent, all the  
29 symphony musicians within the unit without regard to membership in  
30 the bargaining representative(~~(. However, )~~): PROVIDED, That:

31 (1) Any symphony musician at any time may present his or her  
32 grievance to the employer and have such grievance adjusted without  
33 the intervention of the exclusive bargaining representative, if the  
34 adjustment is not inconsistent with the terms of a collective  
35 bargaining agreement then in effect, and if the exclusive bargaining  
36 representative has been given reasonable opportunity to be present at  
37 any initial meeting called for the resolution of the grievance;

38 (2) The bargaining representative has negotiated a collective  
39 bargaining agreement that contains a union security provision. If a

1 union security provision has not been negotiated, the bargaining  
2 representative is the exclusive bargaining representative of only  
3 those faculty members in the bargaining unit that are members of the  
4 bargaining representative, in accordance with section 6 of this act.

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 47.64  
6 RCW to read as follows:

7 (1) If a ferry employee organization certified by the commission  
8 and the employer agree to a collective bargaining agreement that does  
9 not contain a union security provision as authorized by RCW  
10 47.64.160:

11 (a) The ferry employee organization is the exclusive bargaining  
12 representative for only those ferry employees who choose to be  
13 members of the ferry employee organization.

14 (b) Any contract negotiated by the ferry employee organization  
15 applies only to those ferry employees who choose to be members of the  
16 ferry employee organization.

17 (c) There may be no more than one certified exclusive bargaining  
18 representative per bargaining unit at any one time.

19 (d) Notwithstanding (c) of this subsection, any individual ferry  
20 employee who chooses not to be a member of the exclusive bargaining  
21 representative has the right to represent themselves directly or  
22 through a representative of their own choosing in their relations  
23 with the employer and to negotiate individual employment contracts  
24 governing their wages, hours, and working conditions.

25 (e) The employer shall not be obligated to agree to any terms of  
26 a contract proposed by an individual ferry employee, nor shall the  
27 employer be guilty of an unfair labor practice for:

28 (i) Refusing to bargain with an individual ferry employee.

29 (ii) Agreeing to an individual employment contract that sets  
30 wages, hours, or working conditions that differ from those in the  
31 exclusive bargaining representative's bargaining agreement.

32 (f) No person shall exert undue influence, directly or  
33 indirectly, on any ferry employee with intent to induce the ferry  
34 employee to cease or refrain from being a member of a ferry employee  
35 organization, or to become or remain a member of a ferry employee  
36 organization.

37 (2) The provisions of this section apply to all collective  
38 bargaining agreements entered into after the effective date of this

1 section and apply to any renewal or extension of any existing  
2 contract.

3 **Sec. 9.** RCW 47.64.135 and 2011 1st sp.s. c 16 s 27 are each  
4 amended to read as follows:

5 (1) The commission shall determine all questions pertaining to  
6 representation and shall administer all elections and be responsible  
7 for the processing and adjudication of all disputes that arise as a  
8 consequence of elections. The commission shall adopt rules that  
9 provide for at least the following:

- 10 (a) Secret balloting;
- 11 (b) Consulting with employee organizations;
- 12 (c) Access to lists of employees, job classification, work  
13 locations, and home mailing addresses;
- 14 (d) Absentee voting;
- 15 (e) Procedures for the greatest possible participation in voting;
- 16 (f) Campaigning on the employer's property during working hours;
- 17 and
- 18 (g) Election observers.

19 (2) If an employee organization has been certified as the  
20 exclusive bargaining representative of the employees of a bargaining  
21 unit, the employee organization may act for and negotiate master  
22 collective bargaining agreements that will include within the  
23 coverage of the agreement all employees in the bargaining unit,  
24 except as provided by section 8 of this act.

25 (3) The certified exclusive bargaining representative is  
26 responsible for representing the interests of all the employees in  
27 the bargaining unit, except as provided by section 8 of this act.  
28 This section shall not be construed to limit an exclusive  
29 representative's right to exercise its discretion to refuse to  
30 process grievances of employees that are unmeritorious.

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

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

34 (b) A valid collective bargaining agreement exists covering the  
35 unit, except for that period of no more than one hundred twenty  
36 calendar days and no less than ninety calendar days before the  
37 expiration of the contract.



1        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 41.80  
2    RCW to read as follows:

3        (1) If an employee organization certified by the commission and  
4    the employer agree to a collective bargaining agreement that does not  
5    contain a union security provision as authorized by RCW 41.80.100:

6        (a) The employee organization is the exclusive bargaining  
7    representative for only those employees who choose to be members of  
8    the employee organization.

9        (b) Any contract negotiated by the employee organization applies  
10   only to those employees who choose to be members of the employee  
11   organization.

12       (c) There may be no more than one certified exclusive bargaining  
13   representative per bargaining unit at any one time.

14       (d) Notwithstanding (c) of this subsection, any individual  
15   employee who chooses not to be a member of the exclusive bargaining  
16   representative has the right to represent themselves directly or  
17   through a representative of their own choosing in their relations  
18   with the employer and to negotiate individual employment contracts  
19   governing their wages, hours, and conditions of employment.

20       (e) The employer shall not be obligated to agree to any terms of  
21   a contract proposed by an individual employee, nor shall the employer  
22   be guilty of an unfair labor practice for:

23        (i) Refusing to bargain with an individual employee.

24        (ii) Agreeing to an individual employment contract that sets  
25   wages, hours, or conditions of employment that differ from those in  
26   the exclusive bargaining representative's bargaining agreement.

27       (f) No person shall exert undue influence, directly or  
28   indirectly, on any employee with intent to induce the employee to  
29   cease or refrain from being a member of an employee organization, or  
30   to become or remain a member of an employee organization.

31       (2) The provisions of this section apply to all collective  
32   bargaining agreements entered into after the effective date of this  
33   section and apply to any renewal or extension of any existing  
34   contract.

35       **Sec. 11.**    RCW 41.80.080 and 2002 c 354 s 309 are each amended to  
36   read as follows:

37       (1) The commission shall determine all questions pertaining to  
38   representation and shall administer all elections and be responsible  
39   for the processing and adjudication of all disputes that arise as a

1 consequence of elections. The commission shall adopt rules that  
2 provide for at least the following:

3 (a) Secret balloting;

4 (b) Consulting with employee organizations;

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

7 (d) Absentee voting;

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

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

10 and

11 (g) Election observers.

12 (2)(a) If an employee organization has been certified as the  
13 exclusive bargaining representative of the employees of a bargaining  
14 unit, the employee organization may act for and negotiate master  
15 collective bargaining agreements that will include within the  
16 coverage of the agreement all employees in the bargaining unit,  
17 except as provided by section 10 of this act, as provided in RCW  
18 41.80.010(2)(a). However, if a master collective bargaining agreement  
19 is in effect for the exclusive bargaining representative, it shall  
20 apply to the bargaining unit for which the certification has been  
21 issued. Nothing in this section requires the parties to engage in new  
22 negotiations during the term of that agreement.

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

26 (3) The certified exclusive bargaining representative shall be  
27 responsible for representing the interests of all the employees in  
28 the bargaining unit, except as provided by section 10 of this act.  
29 This section shall not be construed to limit an exclusive  
30 representative's right to exercise its discretion to refuse to  
31 process grievances of employees that are unmeritorious.

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

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

35 (b) A valid collective bargaining agreement exists covering the  
36 unit, except for that period of no more than one hundred twenty  
37 calendar days nor less than ninety calendar days before the  
38 expiration of the contract.

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 41.59  
2    RCW to read as follows:

3        (1) If an employee organization certified by the commission and  
4    an employer agree to a collective bargaining agreement that does not  
5    contain a union security provision as authorized by RCW 41.59.100:

6        (a) The employee organization is the exclusive bargaining  
7    representative for only those employees who choose to be members of  
8    the employee organization.

9        (b) Any contract negotiated by the employee organization applies  
10   only to those employees who choose to be members of the employee  
11   organization.

12       (c) There may be no more than one certified exclusive bargaining  
13   representative per bargaining unit at any one time.

14       (d) Notwithstanding (c) of this subsection, any individual  
15   employee who chooses not to be a member of the exclusive bargaining  
16   representative has the right to represent themselves directly or  
17   through a representative of their own choosing in their relations  
18   with an employer and to negotiate individual employment contracts  
19   governing their wages, hours, and conditions of employment.

20       (e) No employer shall be obligated to agree to any terms of a  
21   contract proposed by an individual employee, nor shall any employer  
22   be guilty of an unfair labor practice for:

23        (i) Refusing to bargain with an individual employee.

24        (ii) Agreeing to an individual employment contract that sets  
25   wages, hours, or conditions of employment that differ from those in  
26   the exclusive bargaining representative's bargaining agreement.

27       (f) No person shall exert undue influence, directly or  
28   indirectly, on any employee with intent to induce the employee to  
29   cease or refrain from being a member of an employee organization, or  
30   to become or remain a member of an employee organization.

31       (2) The provisions of this section apply to all collective  
32   bargaining agreements entered into after the effective date of this  
33   section and apply to any renewal or extension of any existing  
34   contract.

35       **Sec. 13.**    RCW 41.59.090 and 2012 c 117 s 91 are each amended to  
36   read as follows:

37       The employee organization which has been determined to represent  
38   a majority of the employees in a bargaining unit shall be certified  
39   by the commission as the exclusive bargaining representative of, and

1 shall be required to represent all the employees within the unit  
2 without regard to membership in that bargaining representative:  
3 PROVIDED, That:

4 (1) Any employee at any time may present his or her grievance to  
5 the employer and have such grievance adjusted without the  
6 intervention of the exclusive bargaining representative, as long as  
7 such representative has been given an opportunity to be present at  
8 that adjustment and to make its views known, and as long as the  
9 adjustment is not inconsistent with the terms of a collective  
10 bargaining agreement then in effect;

11 (2) The employee organization has negotiated a collective  
12 bargaining agreement that contains a union security provision. If a  
13 union security provision has not been negotiated, the employee  
14 organization is the exclusive bargaining representative of only those  
15 employees in the bargaining unit that are members of the employee  
16 organization, in accordance with section 12 of this act.

17 NEW SECTION. Sec. 14. A new section is added to chapter 49.66  
18 RCW to read as follows:

19 (1) If an employee organization certified by the director and an  
20 employer agree to a collective bargaining agreement that does not  
21 contain a union security provision as authorized by RCW 49.66.010:

22 (a) The employee organization is the certified bargaining  
23 representative for only those employees who choose to be members of  
24 the employee organization.

25 (b) Any contract negotiated by the employee organization applies  
26 only to those employees who choose to be members of the employee  
27 organization.

28 (c) There may be no more than one certified exclusive bargaining  
29 representative per bargaining unit at any one time.

30 (d) Notwithstanding (c) of this subsection, any individual  
31 employee who chooses not to be a member of the certified bargaining  
32 representative has the right to represent themselves directly or  
33 through a representative of their own choosing in their relations  
34 with the employer and to negotiate individual employment contracts  
35 governing their wages, hours, and conditions of employment.

36 (e) No employer shall be obligated to agree to any terms of a  
37 contract proposed by an individual employee, nor shall any employer  
38 be guilty of an unfair labor practice for:

39 (i) Refusing to bargain with an individual employee.

1           (ii) Agreeing to an individual employment contract that sets  
2 wages, hours, or conditions of employment that differ from those in  
3 the exclusive bargaining representative's bargaining agreement.

4           (f) No person shall exert undue influence, directly or  
5 indirectly, on any employee with intent to induce the employee to  
6 cease or refrain from being a member of an employee organization, or  
7 to become or remain a member of an employee organization.

8           (2) The provisions of this section apply to all collective  
9 bargaining agreements entered into after the effective date of this  
10 section and apply to any renewal or extension of any existing  
11 contract.

--- END ---