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HOUSE BILL 1842

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State of Washington

68th Legislature

2023 Regular Session

By Representative Fey

1 AN ACT Relating to salary comparisons for ferry system collective  
2 bargaining units; and amending RCW 47.64.006, 47.64.170, and  
3 47.64.320.

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

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

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

1 ~~and in British Columbia))~~ in directly comparable but not necessarily  
2 identical positions.

3 **Sec. 2.** RCW 47.64.170 and 2015 3rd sp.s. c 1 s 305 are each  
4 amended to read as follows:

5 (1) Any ferry employee organization certified as the bargaining  
6 representative shall be the exclusive representative of all ferry  
7 employees in the bargaining unit and shall represent all such  
8 employees fairly.

9 (2) A ferry employee organization or organizations and the  
10 governor may each designate any individual as its representative to  
11 engage in collective bargaining negotiations.

12 (3) Negotiating sessions, including strategy meetings of the  
13 employer or employee organizations, mediation, and the deliberative  
14 process of arbitrators are exempt from the provisions of chapter  
15 42.30 RCW. Hearings conducted by arbitrators may be open to the  
16 public by mutual consent of the parties.

17 (4) Terms of any collective bargaining agreement may be enforced  
18 by civil action in Thurston county superior court upon the initiative  
19 of either party.

20 (5) Ferry system employees or any employee organization shall not  
21 negotiate or attempt to negotiate directly with anyone other than the  
22 person who has been appointed or authorized a bargaining  
23 representative for the purpose of bargaining with the ferry employees  
24 or their representative.

25 (6) (a) Within (~~ten~~) 10 working days after the first Monday in  
26 September of every odd-numbered year, the parties shall attempt to  
27 agree on an interest arbitrator to be used if the parties are not  
28 successful in negotiating a comprehensive collective bargaining  
29 agreement. If the parties cannot agree on an arbitrator within the  
30 (~~ten-day~~) 10-day period, either party may request a list of seven  
31 arbitrators from the federal mediation and conciliation service. The  
32 parties shall select an interest arbitrator using the coin toss/  
33 alternate strike method within (~~thirty~~) 30 calendar days of receipt  
34 of the list. Immediately upon selecting an interest arbitrator, the  
35 parties shall cooperate to reserve dates with the arbitrator for  
36 potential arbitration between August 1st and September 15th of the  
37 following even-numbered year. The parties shall also prepare a  
38 schedule of at least five negotiation dates for the following year,  
39 absent an agreement to the contrary. The parties shall execute a

1 written agreement before November 1st of each odd-numbered year  
2 setting forth the name of the arbitrator and the dates reserved for  
3 bargaining and arbitration. This subsection (6)(a) imposes minimum  
4 obligations only and is not intended to define or limit a party's  
5 full, good faith bargaining obligation under other sections of this  
6 chapter.

7 (b) The negotiation of a proposed collective bargaining agreement  
8 by representatives of the employer and a ferry employee organization  
9 shall commence on or about February 1st of every even-numbered year.

10 (c) For negotiations covering the 2009-2011 biennium and  
11 subsequent biennia, the time periods specified in this section, and  
12 in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure  
13 conclusion of all agreements on or before October 1st of the even-  
14 numbered year next preceding the biennial budget period during which  
15 the agreement should take effect. These time periods may only be  
16 altered by mutual agreement of the parties in writing. Any such  
17 agreement and any impasse procedures agreed to by the parties under  
18 RCW 47.64.200 must include an agreement regarding the new time  
19 periods that will allow final resolution by negotiations or  
20 arbitration by October 1st of each even-numbered year.

21 (7) It is the intent of this section that the collective  
22 bargaining agreement or arbitrator's award shall commence on July 1st  
23 of each odd-numbered year and shall terminate on June 30th of the  
24 next odd-numbered year to coincide with the ensuing biennial budget  
25 year, as defined by RCW 43.88.020(7), to the extent practical. It is  
26 further the intent of this section that all collective bargaining  
27 agreements be concluded by October 1st of the even-numbered year  
28 before the commencement of the biennial budget year during which the  
29 agreements are to be in effect. After the expiration date of a  
30 collective bargaining agreement negotiated under this chapter, except  
31 to the extent provided in (~~subsection (11) of this section and~~) RCW  
32 47.64.270(4), all of the terms and conditions specified in the  
33 collective bargaining agreement remain in effect until the effective  
34 date of a subsequently negotiated agreement, not to exceed one year  
35 from the expiration date stated in the agreement. Thereafter, the  
36 employer may unilaterally implement according to law.

37 (8) The office of financial management shall conduct a salary  
38 survey, for use in collective bargaining and arbitration as follows:

39 (a) The salary survey for the deck department and terminal  
40 department employees shall consist of a comparison of wages, hours,

1 employee benefits, and conditions of employment of the involved ferry  
2 employees with those of public and private sector employees in states  
3 along the west coast of the United States, including Alaska, and in  
4 British Columbia doing directly comparable but not necessarily  
5 identical work, giving consideration to factors peculiar to the area  
6 and the classifications involved;

7 (b) The salary survey for the masters and mates shall consist of  
8 a comparison of wages, hours, employee benefits, and conditions of  
9 employment of the involved ferry employees with those of public and  
10 private sector employees, including business entities whose  
11 operations include the movement of unlimited tonnage vessels, in the  
12 designated pilotage waters of the states along the west coast of the  
13 United States, including Alaska, doing directly comparable but not  
14 necessarily identical work, giving consideration to factors peculiar  
15 to the area, and the United States coast guard licensing requirements  
16 including the holding of first class pilot endorsements as described  
17 in 46 U.S.C. Sec. 8502, for the classifications involved;

18 (c) The salary survey for the engine room employees shall consist  
19 of a comparison of wages, hours, employee benefits, and conditions of  
20 employment of the involved ferry employees with those of private  
21 sector shipping employees and public and private sector employees in  
22 the United States and Canada doing directly comparable but not  
23 necessarily identical work, giving consideration to factors peculiar  
24 to the area and the classifications involved;

25 (d) The salary survey for the trades employees at the Eagle  
26 Harbor shipyard facility shall consist of a comparison of wages,  
27 hours, employee benefits, and conditions of employment of the  
28 involved ferry employees with those of public and private sector  
29 employees in the Puget Sound region and shall include the Port of  
30 Seattle maintenance facility, the Port of Tacoma maintenance  
31 facility, the King county maintenance facility, and the state  
32 prevailing wage rates for shipyard employees and building trades  
33 employees, doing directly comparable but not necessarily identical  
34 work, giving consideration to factors peculiar to the area and the  
35 classifications involved;

36 (e) The salary survey for all other covered employees shall  
37 consist of a comparison of wages, hours, employee benefits, and  
38 conditions of employment of the involved ferry employees with those  
39 of public and private sector employees in states along the west coast  
40 of the United States, including Alaska, and in British Columbia doing

1 directly comparable but not necessarily identical work, giving  
2 consideration to factors peculiar to the area and the classifications  
3 involved;

4 (f) The office of financial management shall look at available  
5 collective bargaining agreements for comparable classifications to  
6 determine the wage scales for the time period beginning July 1st of  
7 the ensuing year;

8 (g) The office of financial management shall seek the input of  
9 the employee organizations in gathering information; and

10 (h) The office of financial management shall make an unredacted  
11 version of the final salary survey available to all bargaining  
12 parties by February 1st of the even-numbered year.

13 ~~(9) ((Except as provided in subsection (11) of this section:))~~

14 (a) The governor shall submit a request either for funds  
15 necessary to implement the collective bargaining agreements  
16 including, but not limited to, the compensation and fringe benefit  
17 provisions or for legislation necessary to implement the agreement,  
18 or both. Requests for funds necessary to implement the collective  
19 bargaining agreements shall not be submitted to the legislature by  
20 the governor unless such requests:

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

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

26 (b) The governor shall submit a request either for funds  
27 necessary to implement the arbitration awards or for legislation  
28 necessary to implement the arbitration awards, or both. Requests for  
29 funds necessary to implement the arbitration awards shall not be  
30 submitted to the legislature by the governor unless such requests:

31 (i) Have been submitted to the director of the office of  
32 financial management by October 1st before the legislative session at  
33 which the requests are to be considered; and

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

36 (c) The legislature shall approve or reject the submission of the  
37 request for funds necessary to implement the collective bargaining  
38 agreements or arbitration awards as a whole for each agreement or  
39 award. The legislature shall not consider a request for funds to  
40 implement a collective bargaining agreement or arbitration award

1 unless the request is transmitted to the legislature as part of the  
2 governor's budget document submitted under RCW 43.88.030 and  
3 43.88.060. If the legislature rejects or fails to act on the  
4 submission, either party may reopen all or part of the agreement and  
5 award or the exclusive bargaining representative may seek to  
6 implement the procedures provided for in RCW 47.64.210 and 47.64.300.

7 (10) If, after the compensation and fringe benefit provisions of  
8 an agreement are approved by the legislature, a significant revenue  
9 shortfall occurs resulting in reduced appropriations, as declared by  
10 proclamation of the governor or by resolution of the legislature,  
11 both parties shall immediately enter into collective bargaining for a  
12 mutually agreed upon modification of the agreement.

13 ~~((11)(a) For the collective bargaining agreements negotiated for  
14 the 2011-2013 fiscal biennium, the legislature may consider a request  
15 for funds to implement a collective bargaining agreement even if the  
16 request for funds was not received by the office of financial  
17 management by October 1st and was not transmitted to the legislature  
18 as part of the governor's budget document submitted under RCW  
19 43.88.030 and 43.88.060.~~

20 ~~(b) For the 2013-2015 fiscal biennium, a collective bargaining  
21 agreement related to employee health care benefits negotiated between  
22 the employer and coalition pursuant to RCW 41.80.020(3) regarding the  
23 dollar amount expended on behalf of each employee must be a separate  
24 agreement for which the governor may request funds necessary to  
25 implement the agreement. The legislature may act upon a 2013-2015  
26 collective bargaining agreement related to employee health care  
27 benefits if an agreement is reached and submitted to the office of  
28 financial management and legislative budget committees before final  
29 legislative action on the biennial or supplemental operating budget  
30 by the sitting legislature.~~

31 ~~(c) For the collective bargaining agreements negotiated for the  
32 2013-2015 fiscal biennium, the legislature may consider a request for  
33 funds to implement a collective bargaining agreement reached after  
34 October 1st after a determination of financial infeasibility by the  
35 director of the office of financial management if the request for  
36 funds is transmitted to the legislature as part of the governor's  
37 budget document submitted under RCW 43.88.030 and 43.88.060.)~~

38 **Sec. 3.** RCW 47.64.320 and 2010 c 283 s 15 are each amended to  
39 read as follows:

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

5 (2) The decision of an arbitrator or arbitration panel is not  
6 binding on the legislature and, if the legislature does not approve  
7 the funds necessary to implement provisions pertaining to  
8 compensation and fringe benefit provisions of an arbitrated  
9 collective bargaining agreement, is not binding on the state, the  
10 department of transportation, or the ferry employee organization.

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

16 (a) The financial ability of the department to pay for the  
17 compensation and fringe benefit provisions of a collective bargaining  
18 agreement;

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

21 (c) The constitutional and statutory authority of the employer;

22 (d) Stipulations of the parties;

23 (e) The results of the salary survey as required in RCW  
24 47.64.170(8);

25 (f) Comparison of wages, hours, employee benefits, and conditions  
26 of employment of the involved ferry employees as follows:

27 (i) For the deck department and terminal department employees, a  
28 comparison of wages, hours, employee benefits, and conditions of  
29 employment of the involved ferry employees with those of public and  
30 private sector employees in states along the west coast of the United  
31 States, including Alaska, and in British Columbia doing directly  
32 comparable but not necessarily identical work, giving consideration  
33 to factors peculiar to the area and the classifications involved;

34 (ii) For the masters and mates, a comparison of wages, hours,  
35 employee benefits, and conditions of employment of the involved ferry  
36 employees with those of public and private sector employees,  
37 including business entities whose operations include the movement of  
38 unlimited tonnage vessels, in the designated pilotage waters of the  
39 states along the west coast of the United States, including Alaska,  
40 doing directly comparable but not necessarily identical work, giving

1 consideration to factors peculiar to the area, and the United States  
2 coast guard licensing requirements including the holding of first  
3 class pilot endorsements as described in 46 U.S.C. Sec. 8502, for the  
4 classifications involved;

5 (iii) For the engine room employees, a comparison of wages,  
6 hours, employee benefits, and conditions of employment of the  
7 involved ferry employees with those of private sector shipping  
8 employees and public and private sector employees in the United  
9 States and Canada doing directly comparable but not necessarily  
10 identical work, giving consideration to factors peculiar to the area  
11 and the classifications involved;

12 (iv) For the trades employees at the Eagle Harbor shipyard  
13 facility, a comparison of wages, hours, employee benefits, and  
14 conditions of employment of the involved ferry employees with those  
15 of public and private sector employees in the Puget Sound region and  
16 shall include the Port of Seattle maintenance facility, the Port of  
17 Tacoma maintenance facility, the King county maintenance facility,  
18 and the state prevailing wage rates for shipyard employees and  
19 building trades employees, doing directly comparable but not  
20 necessarily identical work, giving consideration to factors peculiar  
21 to the area and the classifications involved; and

22 (v) For all other covered employees, a comparison of wages,  
23 hours, employee benefits, and conditions of employment of the  
24 involved ferry employees with those of public and private sector  
25 employees in states along the west coast of the United States,  
26 including Alaska, and in British Columbia doing directly comparable  
27 but not necessarily identical work, giving consideration to factors  
28 peculiar to the area and the classifications involved;

29 (g) Changes in any of the foregoing circumstances during the  
30 pendency of the proceedings;

31 (h) The limitations on ferry toll increases and operating  
32 subsidies as may be imposed by the legislature;

33 (i) The ability of the state to retain ferry employees;

34 (j) The overall compensation presently received by the ferry  
35 employees, including direct wage compensation, vacations, holidays  
36 and other paid excused time, pensions, insurance benefits, and all  
37 other direct or indirect monetary benefits received; and

38 (k) Other factors that are normally or traditionally taken into  
39 consideration in the determination of matters that are subject to  
40 bargaining under this chapter.

1           (4) This section applies to any matter before the respective  
2 mediator, arbitrator, or arbitration panel.

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