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**SENATE BILL 5133**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senator Conway

Prefiled 01/08/21.

1 AN ACT Relating to the definition of confidential employee for  
2 the purposes of state collective bargaining; and amending RCW  
3 41.80.005.

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

5 **Sec. 1.** RCW 41.80.005 and 2020 c 77 s 3 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Agency" means any agency as defined in RCW 41.06.020 and  
10 covered by chapter 41.06 RCW. "Agency" also includes the assistant  
11 attorneys general of the attorney general's office and the  
12 administrative law judges of the office of administrative hearings,  
13 regardless of whether those employees are exempt under chapter 41.06  
14 RCW.

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

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

3 (4) "Confidential employee" means an employee who, in the regular  
4 course of his or her duties, assists in a confidential capacity  
5 persons who formulate, determine, and effectuate management policies  
6 with regard to labor relations or who, in the regular course of his  
7 or her duties, has authorized access to information relating to the  
8 effectuation or review of the employer's collective bargaining  
9 policies, or who assists or aids a manager. "Confidential employee"  
10 also includes employees who assist assistant attorneys general who  
11 advise and represent managers or confidential employees in personnel  
12 or labor relations matters(~~(, or who advise or represent the state in~~  
13 ~~to~~ ~~ert~~ ~~actions~~)).

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

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

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

25 (b) Confidential employees;

26 (c) Members of the Washington management service;

27 (d) Internal auditors in any agency; or

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

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

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

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

39 (10) "Institutions of higher education" means the University of  
40 Washington, Washington State University, Central Washington

1 University, Eastern Washington University, Western Washington  
2 University, The Evergreen State College, and the various state  
3 community colleges.

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

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

12 (13) "Supervisor" means an employee who has authority, in the  
13 interest of the employer, to hire, transfer, suspend, lay off,  
14 recall, promote, discharge, direct, reward, or discipline employees,  
15 or to adjust employee grievances, or effectively to recommend such  
16 action, if the exercise of the authority is not of a merely routine  
17 nature but requires the consistent exercise of individual judgment.  
18 However, no employee who is a member of the Washington management  
19 service may be included in a collective bargaining unit established  
20 under this section.

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

23 (15) "Uniformed personnel" means duly sworn police officers  
24 employed as members of a police force established pursuant to RCW  
25 28B.10.550.

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