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**SUBSTITUTE SENATE BILL 6098**

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**State of Washington                      64th Legislature                      2015 1st Special Session**

**By Senate Ways & Means (originally sponsored by Senator Braun)**

READ FIRST TIME 05/01/15.

1            AN ACT Relating to defining financial feasibility for collective  
2 bargaining agreements; amending RCW 41.80.005 and 74.39A.240; and  
3 adding a new section to chapter 41.56 RCW.

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

5            **Sec. 1.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each  
6 amended to read 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.

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

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

20            (4) "Confidential employee" means an employee who, in the regular  
21 course of his or her duties, assists in a confidential capacity

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

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

12 (6) "Employee" means any employee, including employees whose work  
13 has ceased in connection with the pursuit of lawful activities  
14 protected by this chapter, covered by chapter 41.06 RCW, except:

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

17 (b) Confidential employees;

18 (c) Members of the Washington management service;

19 (d) Internal auditors in any agency; or

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

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

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

28 (9) "Estimate of state financial resources" means the amount of  
29 available fiscal resources that exceed projected maintenance levels  
30 as those terms are defined in RCW 43.88.055 and as adopted by the  
31 economic and revenue forecast council in November as directed in RCW  
32 82.33.060.

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

36 ~~((+10))~~ (11) "Feasible financially for the state" means the sum  
37 of the general fund and related funds cost of the collective  
38 bargaining agreements negotiated under the authority of this chapter,  
39 RCW 41.56.026, 41.56.028, 41.56.029, 41.56.510, and 74.39A.270 does  
40 not exceed the most current estimate of state financial resources for

1 the term of the agreement and for the ensuing biennium. For purposes  
2 of this subsection, "related funds" has the same meaning as in RCW  
3 43.88.055.

4 (12) "Institutions of higher education" means the University of  
5 Washington, Washington State University, Central Washington  
6 University, Eastern Washington University, Western Washington  
7 University, The Evergreen State College, and the various state  
8 community colleges.

9 ~~((11))~~ (13) "Labor dispute" means any controversy concerning  
10 terms, tenure, or conditions of employment, or concerning the  
11 association or representation of persons in negotiating, fixing,  
12 maintaining, changing, or seeking to arrange terms or conditions of  
13 employment with respect to the subjects of bargaining provided in  
14 this chapter, regardless of whether the disputants stand in the  
15 proximate relation of employer and employee.

16 ~~((12))~~ (14) "Manager" means "manager" as defined in RCW  
17 41.06.022.

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

27 ~~((14))~~ (16) "Unfair labor practice" means any unfair labor  
28 practice listed in RCW 41.80.110.

29 NEW SECTION. Sec. 2. A new section is added to chapter 41.56  
30 RCW to read as follows:

31 For the purposes of RCW 41.56.028, 41.56.029, and 41.56.510, the  
32 term "financially feasible for the state" and "feasible financially  
33 for the state" has the same meaning as feasible financially for the  
34 state in RCW 41.80.005.

35 Sec. 3. RCW 74.39A.240 and 2011 1st sp.s. c 21 s 7 are each  
36 amended to read as follows:

1       The definitions in this section apply throughout RCW 74.39A.030  
2       (~~and~~), 74.39A.095 (~~and~~), 74.39A.220 through 74.39A.300, and  
3       41.56.026 unless the context clearly requires otherwise.

4       (1) "Consumer" means a person to whom an individual provider  
5       provides any such services.

6       (2) "Department" means the department of social and health  
7       services.

8       (3) "Feasible financially for the state" has the same meaning as  
9       in RCW 41.80.005.

10       (4) "Individual provider" means a person, including a personal  
11       aide, who has contracted with the department to provide personal care  
12       or respite care services to functionally disabled persons under the  
13       medicaid personal care, community options program entry system, chore  
14       services program, or respite care program, or to provide respite care  
15       or residential services and support to persons with developmental  
16       disabilities under chapter 71A.12 RCW, or to provide respite care as  
17       defined in RCW 74.13.270.

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