

held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 33. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 3, 1973.

Passed the Senate February 27, 1973.

Approved by the Governor March 19, 1973.

Filed in Office of Secretary of State March 20, 1973.

CHAPTER 131

[Second Substitute House Bill No. 176]

PUBLIC UNIFORMED EMPLOYEES--LABOR NEGOTIATIONS--
ARBITRATION

AN ACT Relating to public employees; amending section 3, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.030; amending section 11, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.420; and adding new sections to chapter 41.56 RCW.

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

NEW SECTION. Section 1. There is added to chapter 41.56 RCW a new section to read as follows:

The intent and purpose of this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

Sec. 2. Section 3, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.030 are each amended to read as follows:

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary

necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Department" means the department of labor and industries.

(6) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of AA counties or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended.

NEW SECTION. Sec. 3. There is added to chapter 41.56 RCW a new section to read as follows:

Negotiations between representatives of the public employer and uniformed personnel shall be commenced at least five months prior to the submission of the budget to the legislative body of the public employer. If after a forty-five day period of negotiation between representatives of the public employer and uniformed personnel, an agreement has not been concluded, then an impasse is declared to exist, and either party may voluntarily submit the matters in dispute to mediation, as provided for in RCW 41.56.100. If the parties have still not reached agreement after a ten day period of mediation, a fact-finding panel shall be created in the following manner: Each party shall appoint one member within two days; the two appointed members shall then choose a third member within two days who shall act as chairman of the panel. If the two members so appointed cannot agree within two days to the appointment of a third member, either party may request, and the department shall name a third member who shall be chairman of the fact-finding panel and who may be an employee of the department. The panel shall begin hearings on the matters in dispute within five days of the formation of the

fact-finding panel and shall conclude such hearings and issue findings of fact and recommendations to the parties within thirty days of the date upon which hearings were commenced.

Reasonable notice of such hearings shall be given to the parties who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Minutes of the proceedings shall be taken. Any oral or documentary evidence and other data deemed relevant by the panel may be received in evidence. The panel shall have the power to administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel material to a just determination of the issues in dispute and to issue subpoenas. Costs of each party's appointee shall be paid by the party, and the costs of proceedings otherwise shall be borne by the department.

In making its findings, the fact-finding panel shall be mindful of the legislative purpose enumerated in section 1 of this 1973 amendatory act and as additional standards of guidelines to aid it in developing its recommendations, it shall take into consideration those factors set forth in section 5 of this 1973 amendatory act.

NEW SECTION. Sec. 4. There is added to chapter 41.56 RCW a new section to read as follows:

If an agreement has not been reached within forty-five days after mediation and fact-finding has commenced, an arbitration panel shall be created in the following manner: Each party shall submit a list of three persons to the director, who shall then name one from each list as members to the panel, all within two days. The two appointed members shall utilize one of the two following options in the appointment of the third member, who shall act as chairman of the panel: (1) By mutual consent, the two appointed members may jointly request the department, and the department shall appoint a third member within two days of such request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the department; or (2) The two appointed members shall choose a third member within two days. The costs of each party's appointee shall be borne by each party respectively, and the costs of the proceedings otherwise shall be shared equally between the parties.

If the two members so appointed under alternative (2) cannot agree within two days to the appointment of a third member, either party may apply to the superior court of the county where the labor disputes exist and request that the third member of the panel be appointed as provided by RCW 7.04.050. The panel thus composed shall

be deemed an agency of the director and a state agency for the purposes of this 1973 amendatory act. The panel shall hold hearings on the matters in dispute within five days after the formation of the arbitration panel and take oral or written testimony.

Reasonable notice of such hearings shall be given to the parties who shall appear and be heard either in person or by counsel or other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. A recording of the proceedings shall be taken. Any oral or documentary evidence and other data deemed relevant by the panel may be received in evidence. The panel shall have the power to administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements and documents as may be deemed by the panel material to a just determination of the issues in dispute and to issue subpoenas. If any person refuses to obey such subpoena or refuses to be sworn to testify, or any witness, party or attorney of a party is guilty of any contempt while in attendance at any hearing held hereunder, the panel may invoke the jurisdiction of the superior court in the county where a labor dispute exists and such court shall have jurisdiction to issue an appropriate order. Any failure to obey such order may be punished by the court as a contempt thereof.

The hearing conducted by the panel shall be concluded within twenty days of the time of commencement and, within fifteen days after conclusion of the hearings, the chairman shall make written findings of fact and a written determination of the dispute based upon the issues presented, a copy of which shall be mailed or otherwise delivered to the employees' negotiating agent or its attorney or other designated representative and to the employer or the employer's attorney or designated representative. The decision made by the panel shall be final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

NEW SECTION. Sec. 5. There is added to chapter 41.56 RCW a new section to read as follows:

In making its determination, the panel shall be mindful of the legislative purpose enumerated in section 1 of this 1973 amendatory act and as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer.

(b) Stipulations of the parties.

(c) Comparison of the wages, hours and conditions of employment of the uniformed personnel of cities and counties involved

in the proceedings with the wages, hours, and conditions of employment of uniformed personnel of cities and counties respectively of similar size on the west coast of the United States.

(d) The average consumer prices for goods and services, commonly known as the cost of living.

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings.

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

(g) Findings of fact made by the fact-finder pursuant to section 3 of this 1973 amendatory act.

NEW SECTION. Sec. 6. There is added to chapter 41.56 RCW a new section to read as follows:

During the pendency of the proceedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under this 1973 amendatory act.

NEW SECTION. Sec. 7. There is added to chapter 41.56 RCW a new section to read as follows:

If the representative of either or both the uniformed personnel and the public employer refuse to submit to the procedures set forth in sections 3 and 4 of this 1973 amendatory act, the parties, or the department on its own motion, may invoke the jurisdiction of the superior court for the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order. A failure to obey such order may be punished by the court as a contempt thereof. A decision of the arbitration panel shall be final and binding on the parties, and may be enforced at the instance of either party, the arbitration panel or the department in the superior court for the county where the dispute arose.

NEW SECTION. Sec. 8. There is added to chapter 41.56 RCW a new section to read as follows:

The right of uniformed employees to engage in any strike, work slowdown or stoppage is not granted. Where an organization, recognized as the bargaining representative of uniformed employees subject to this chapter, as amended by this 1973 amendatory act, wilfully disobeys a lawful order of enforcement by a superior court pursuant to sections 7 and 8 of this 1973 amendatory act, or wilfully offers resistance to such order, whether by strike or otherwise, the punishment for each day that such contempt persists, may be a fine fixed in the discretion of the court in an amount not to exceed two hundred fifty dollars per day. Where an employer wilfully disobeys a lawful order of enforcement by a superior court pursuant to section 7

of this 1973 amendatory act or wilfully offers resistance to such order, the punishment for each day that such contempt persists may be a fine, fixed at the discretion of the court in an amount not to exceed two hundred fifty dollars per day to be assessed against the employer.

Sec. 9. Section 11, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.420 are each amended to read as follows:

The committee shall study the operation of chapter 108, Laws of 1967 extraordinary session, relating to public employees collective bargaining, including an evaluation of the collective bargaining practices and procedures of uniformed personnel, and review the efficacy of RCW 28.75.130 (28B.16.130), 41.06.340, 41.56.140 through 41.56.190 and 41.56.400 through 41.56.420 or any part thereof as a means of furthering and improving management relationships within public service. The committee shall submit its report to the governor and the state legislature, with a copy to the legislative council, prior to the convening of any regular session of the legislature, or to any special session if the committee deems it appropriate. The report shall contain specific recommendations as to necessary or desirable changes, if any, in the law, and shall also include any proposed legislation necessary to implement the recommendations of the committee.

NEW SECTION. Sec. 10. There is added to chapter 41.56 RCW a new section to read as follows:

The provisions of this 1973 amendatory act relating to uniformed personnel are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. If any provision of this 1973 amendatory act conflicts with any other statute, ordinance, rule or regulation of any public employer as it relates to uniformed employees, the provisions of this 1973 amendatory act shall control.

NEW SECTION. Sec. 11. There is added to chapter 41.56 RCW a new section to read as follows:

If any provisions of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House February 15, 1973.

Passed the Senate March 7, 1973.

Approved by the Governor March 19, 1973.

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