

CHAPTER 146

[House Bill No. 923]

PUBLIC EMPLOYMENT RELATIONS COMMISSION—MEMBERS'
COMPENSATION—EXECUTIVE DIRECTOR'S AUTHORITY

AN ACT Relating to public employees' collective bargaining; amending section 1, chapter 5, Laws of 1975-'76 2nd ex. sess. and RCW 41.58.010; amending section 2, chapter 5, Laws of 1975-'76 2nd ex. sess. as amended by section 91, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.58.015; repealing section 5, chapter 288, Laws of 1975 1st ex. sess., section 92, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.59.040; and repealing section 6, chapter 288, Laws of 1975 1st ex. sess. and RCW 41.59.050.

Be it enacted by the Legislature of the State of Washington:

***Section 1. Section 1, chapter 5, Laws of 1975-'76 2nd ex. sess. and RCW 41.58.010 are each amended to read as follows:**

(1) There is hereby created the public employment relations commission (hereafter called the "commission") to administer the provisions of this chapter. The commission shall consist of three members who shall be citizens appointed by the governor by and with the advice and consent of the senate: PROVIDED, That ((no member appointed when the legislature was not in session shall continue to be a member of the commission if that person's appointment shall have been rejected by the senate during the next legislative session)) after the effective date of this amendatory act no member appointed during a legislative session shall continue to be a member of the commission unless approved by the senate within thirty days after the appointment is presented to the senate: PROVIDED FURTHER, That if a member is appointed when the legislature is not in session or if a member's appointment is presented to the senate less than thirty days prior to the end of a legislative session then such member shall not continue to be a member unless approved by the senate by the thirtieth day of the next legislative session. ((One of the original)) Those persons who are members on the effective date of this 1979 act shall ((be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each)) serve for the remainder of their appointed terms. Their successors shall be appointed as follows: For the term of office ending in 1979, the successor shall be appointed for a six year term ending in 1985; for the term of office ending in 1980, the successor shall be appointed for a seven year term ending in 1987; for the term of office ending in 1983 and for all subsequent appointments, the successors shall be appointed for terms of six years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The governor shall designate one member to serve as chairman of the commission for the remainder of that person's term as a member of the commission. Any member of the commission may be removed by the governor, upon notice and hearing,

for neglect of duty or malfeasance in office, but for no other cause. Commission members shall not be eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Commission members are subject to the provisions of RCW 42.17.240.

(2) In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons knowledgeable in the area of labor relations in the state.

(3) A vacancy in the commission shall not impair the right of the remaining members to exercise all of the powers of the commission, and two members of the commission shall, at all times, constitute a quorum of the commission.

(4) The commission shall at the close of each fiscal year make a report in writing to the legislature and to the governor stating the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the commission, and an account of all moneys it has disbursed.

**Sec. 1. was vetoed, see message at end of chapter.*

Sec. 2. Section 2, chapter 5, Laws of 1975-'76 2nd ex. sess. as amended by section 91, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.58-.015 are each amended to read as follows:

(1) Each member of the commission shall be paid ~~((fifty dollars for each day in which he has actually attended a meeting of the commission officially held))~~ one hundred dollars for each day during which the member attends a meeting of the commission officially held or attends to other business of the commission authorized by the commission. ~~((The members of the commission may receive any number of daily payments for official meetings of the commission actually attended-))~~ Members of the commission shall also be reimbursed for travel expenses incurred in the discharge of their official duties on the same basis as is provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. ~~((He))~~ The executive director shall perform such duties and have such powers as the commission shall prescribe in order to ~~((carry out))~~ implement and enforce the provisions of this chapter ~~((, including assisting employees and employers in the settlement of labor disputes through mediation and fact-finding))~~. In addition to the performance of administrative duties, the commission may delegate to the executive director authority with respect to, but not limited to, representation proceedings, unfair labor practice proceedings, mediation of labor disputes, arbitration of disputes concerning the interpretation or application of a collective bargaining agreement, and, in certain cases, fact-finding or arbitration of disputes concerning the terms of a collective bargaining agreement. Such delegation shall not eliminate a party's

right of appeal to the commission. The executive director, with such assistance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, ~~((in matters concerning the investigation of charges and issuance of complaints under this chapter))~~ when necessary to carry out or enforce any action or decision of the commission, to petition any court of competent jurisdiction for an order requiring compliance with the action or decision.

(3) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(4) The payment of all of the expenses of the commission, including travel expenses incurred by the members or employees of the commission under its orders, shall be subject to the provisions of RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

NEW SECTION. Sec. 3. The following acts or parts of acts are each repealed:

(1) Section 5, chapter 288, Laws of 1975 1st ex. sess., section 92, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 41.59.040; and

(2) Section 6, chapter 288, Laws of 1975 1st ex. sess. and RCW 41.59.050.

Passed the House April 25, 1979.

Passed the Senate April 19, 1979.

Approved by the Governor May 8, 1979 with the exception of section 1 which is vetoed.

Filed in Office of Secretary of State May 8, 1979.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section House Bill Number 923 entitled:

"AN ACT Relating to public employee's collective bargaining;"

Section 1 contains a proviso that will allow the Senate to reject gubernatorial appointments to the commission by inaction.

When making an appointment the Governor is committed publicly. If the law is to require confirmation by the Senate, then its members should also go on record as either confirming or rejecting the appointment. To permit the Senate to refuse an appointment by neglect is not in the interest of the public, the appointee, or the Governor. Open government requires that the public have the right to know who is opposed to an appointment and their reasons. The appointment proviso in Section 1 is contrary to this objective.

Additional compelling reasons are of a pragmatic nature. The Public Employment Relations Commission is a quasi-judicial administrative agency which is involved in the timely response to labor disputes. The state cannot afford the possibility that this crisis-responsive agency be incapacitated by Senate inaction on two or more members of the Commission. Under such circumstances it would increase the difficulty of finding qualified and acceptable persons willing to have their names submitted.

With the exception of Section 1, which I have vetoed, the remainder of House Bill Number 923 is approved."

CHAPTER 147

[House Bill No. 491]

SENIOR CITIZENS' SERVICES—UTILIZATION OF VOLUNTEERS AND PUBLIC ASSISTANCE RECIPIENTS—WELL ADULT CLINIC SERVICES—
APPROPRIATION

AN ACT Relating to senior citizen services; amending section 5, chapter 131, Laws of 1975-'76 2nd ex. sess. as amended by section 4, chapter 321, Laws of 1977 ex. sess. and RCW 74.38.050; repealing section 7, chapter 321, Laws of 1977 ex. sess. (uncodified); making an appropriation; declaring an emergency and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 5, chapter 131, Laws of 1975-'76 2nd ex. sess. as amended by section 4, chapter 321, Laws of 1977 ex. sess. and RCW 74.38.050 are each amended to read as follows:

The services provided in RCW 74.38.040 may be provided to nonlow income eligible persons: PROVIDED, That the department and the area agencies on aging shall utilize volunteer workers and public assistant recipients ((shall be utilized)) to the maximum extent possible to provide the services provided in RCW 74.38.040: PROVIDED, FURTHER, That ((when volunteer workers and public assistance recipients are not available.)) the department and the area agencies shall utilize the bid procedure pursuant to chapter 43.19 RCW for providing such services to low income and nonlow income persons whenever the services to be provided are available through private agencies at a cost savings to the department. The department shall establish a fee schedule based on the ability to pay and graduated to full recovery of the cost of the service provided; except, that nutritional services, health screening, and access services provided in RCW 74.38.040 shall not be based on need and no fee shall be charged; except further, notwithstanding any other provision of this chapter, that well adult clinic services may be provided in lieu of health screening services if such clinics use the fee schedule established by this section.

NEW SECTION. Sec. 2. Section 7, chapter 321, Laws of 1977 ex. sess. (uncodified) is hereby repealed.

NEW SECTION. Sec. 3. There is appropriated to the department of social and health services from the general fund for the 1979-1981 biennium the sum of thirteen million six hundred thousand dollars, or so much thereof as may be necessary to carry out this 1979 act. If federal older Americans act model project funds become available to carry out this 1979 act, then state moneys shall be conserved by utilizing the federal funds.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state