

March 17, 1975, I believe these provisions constitute an encroachment into executive functions by legislative committees and further question whether this is a valid delegation of legislative power.

With the exception of sections 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 15 which I have vetoed for the foregoing reasons, the remainder of Substitute House Bill 867 is approved."

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## CHAPTER 296

[Engrossed Substitute Senate Bill No. 2408]  
PUBLIC EMPLOYMENT RELATIONS

AN ACT Relating to public employment labor relations; amending section 28A.72.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.72.020; amending section 28A.72.060, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 52, Laws of 1969 ex. sess. and RCW 28A.72.060; amending section 28A.72.080, chapter 223, Laws of 1969 ex. sess. and RCW 28A.72.080; amending section 1, chapter 115, Laws of 1973 1st ex. sess. and RCW 28A.72.100; amending section 2, chapter 196, Laws of 1971 ex. sess. as amended by section 1, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.020; amending section 5, chapter 196, Laws of 1971 ex. sess. as amended by section 3, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.060; amending section 7, chapter 196, Laws of 1971 ex. sess. as amended by section 5, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.080; amending section 3, chapter 108, Laws of 1967 ex. sess. as amended by section 2, chapter 131, Laws of 1973 and RCW 41.56.030; amending section 5, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.050; amending section 6, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.060; amending section 7, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.070; amending section 8, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.080; amending section 9, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.090; amending section 10, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.100; amending section 2, chapter 59, Laws of 1973 and RCW 41.56.122; amending section 3, chapter 59, Laws of 1973 and RCW 41.56.125; amending section 3, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.160; amending section 4, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.170; amending section 5, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.180; amending section 6, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.190; amending section 3, chapter 131, Laws of 1973 and RCW 41.56.440; amending section 4, chapter 131, Laws of 1973 and RCW 41.56.450; amending section 7, chapter 131, Laws of 1973 and RCW 41.56.480; amending section 43.22.260, chapter 8, Laws of 1965 as last amended by section 11, chapter 16, Laws of 1973 2nd ex. sess. and RCW 43.22.260; amending section 43.22.270, chapter 8, Laws of 1965 as last amended by section 12, chapter 16, Laws of 1973 2nd ex. sess. and RCW 43.22.270; amending section 47.64.010, chapter 13, Laws of 1961 and RCW 47.64.010; amending section 47.64.030, chapter 13, Laws of 1961 and RCW 47.64.030; amending section 47.64.040, chapter 13, Laws of 1961 and RCW 47.64.040; amending section 1, chapter 58, Laws of 1903 and RCW 49.08.010; amending section 2, chapter 58, Laws of 1903 and RCW 49.08.020; amending section 3, chapter 101, Laws of 1967 and RCW 53.18.030; adding a new chapter to Title 41 RCW; and repealing section 47.64.020, chapter 13, Laws of 1961 and RCW 47.64.020.

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

NEW SECTION. Section 1. (1) It is the intent of the legislature by the adoption of this 1975 amendatory act to provide, in the area of public employment, for the more uniform and impartial (a) adjustment and settlement of complaints, grievances, and disputes arising out of employer-employee relations and, (b) selection and certification of bargaining representatives by transferring jurisdiction of such matters to the public employment relations commission from other boards and commissions. It is further the intent of the legislature, by such transfer, to achieve more efficient and expert administration of public labor relations administration and to thereby ensure the public of quality public services.

(2) Nothing contained in this 1975 amendatory act shall be construed to alter any existing collective bargaining unit or the provisions of any existing bargaining agreement.

(3) Nothing contained in this 1975 amendatory act shall be construed to alter any power or authority regarding the scope of collective bargaining in the employment areas affected by this 1975 amendatory act, but this amendatory act shall be construed as transferring existing jurisdiction and authority to the public employment relations commission.

(4) Nothing contained in this 1975 amendatory act shall be construed to prohibit the consideration or adjustment of complaints or grievances by the public employer.

*\*NEW SECTION. Sec. 2. (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 after the thirtieth day of the next legislative session unless his appointment shall have been approved by the senate. One of the original members 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, 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. 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.*

*(2) No person may be appointed, reappointed, or continue to serve as a member of the commission who is employed by the state or any agency or subdivision thereof, or who is employed by an association of persons employed by the state or any agency or subdivision thereof.*

*(3) 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.*

*(4) 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.*

*(5) 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. 2. was vetoed, see message at end of chapter.**

*\*NEW SECTION. Sec. 3. (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. 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 necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally in chapter 43.03 RCW.*

(2) *The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. He shall perform such duties and have such powers as the commission shall prescribe in order to carry out the provisions of this chapter, including assisting employees and employers in the settlement of labor disputes through mediation and fact-finding. 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 issuances of complaints under this chapter.*

(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) *All of the expenses of the commission, including all necessary traveling and subsistence expenses outside the city of Olympia incurred by the members or employees of the commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission or by any individual it designates for that purpose.*

**\*Sec. 3. was vetoed, see message at end of chapter.**

NEW SECTION. Sec. 4. (1) It shall be the duty of the commission, in order to prevent or minimize interruptions growing out of labor disputes, to assist employers and employees to settle such disputes through mediation and fact-finding.

(2) The commission, through the director, may proffer its services in any labor dispute involving a political subdivision, municipal corporation, or the community college system of the state, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial disruption to the public welfare.

(3) If the director is not able to bring the parties to agreement by mediation within a reasonable time, he shall seek to induce the parties to voluntarily seek other means of settling the dispute without resort to strike or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(4) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective bargaining agreement. The commission is directed to make its mediation and fact-finding services available in the settlement of such grievance disputes only as a last resort.

NEW SECTION. Sec. 5. The principal office of the commission shall be in the city of Olympia, but it may meet and exercise any or all of its powers at any other place in the state.

NEW SECTION. Sec. 6. In order to prevent or minimize disruptions to the public welfare growing out of labor disputes, employers and employees and their representatives shall:

(1) Exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) Whenever a dispute arises over the terms or application of a collective bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) In case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the commission under this chapter for the purpose of aiding in a settlement of the dispute.

**NEW SECTION.** Sec. 7. The board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.04 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter.

Sec. 8. Section 28A.72.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.72.020 are each amended to read as follows:

As used in this chapter:

"Employee organization" means any organization which includes as members certificated employees of a school district and which has as one of its purposes the representation of the employees in their employment relations with the school district.

"Certificated employee" means any employee holding a regular teaching certificate of the state and who is employed by any school district with the exception of the chief administrative officer of each local district.

"Commission" means the public employment relations commission.

Sec. 9. Section 28A.72.060, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 52, Laws of 1969 ex. sess. and RCW 28A.72.060 are each amended to read as follows:

In the event that any matter being jointly considered by the employee organization and the board of directors of the school district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of their intended action to the other party, may request the assistance and advice of ~~((a committee composed of educators and school directors appointed by the state superintendent of public instruction. This committee shall make a written report with recommendations to both parties within twenty calendar days of receipt of the request for assistance. Any recommendations of the committee shall be advisory only and not binding upon the board of directors or the employee organization))~~ the commission.

Sec. 10. Section 28A.72.080, chapter 223, Laws of 1969 ex. sess. and RCW 28A.72.080 are each amended to read as follows:

~~((Boards of directors of school districts))~~ The commission shall adopt reasonable rules and regulations for the administration of employer-employee relations under this chapter.

Sec. 11. Section 1, chapter 115, Laws of 1973 1st ex. sess. and RCW 28A.72.100 are each amended to read as follows:

Notwithstanding the provisions of chapter 28A.72 RCW or any other law, rule or regulation, school principals and assistant principals shall be considered to be certificated employees unless a majority elect by secret ballot to be excluded from this definition at an election conducted pursuant to rules and regulations of the ~~((office of the superintendent of public instruction))~~ commission. Should the principals and assistant principals within a school district choose pursuant to this section to be excluded from the definition of certificated employee, the provisions of chapter 28A.72 RCW shall have equal application to them separately and the term "certificated employee" as used in chapter 28A.72 RCW shall be used interchangeably to also refer to principals and assistant principals: PROVIDED, That negotiations between the employer and the bargaining representative of the principals and assistant principals shall be limited in scope to school district policies respecting solely the compensation, hours of work and the duration of employment contracts, of principals and assistant principals. Nothing in this section shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any school district and any representative of its employees.

Sec. 12. Section 2, chapter 196, Laws of 1971 ex. sess. as amended by section 1, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.020 are each amended to read as follows:

As used in this chapter:

"Employee organization" means any organization which includes as members the academic employees of a community college district and which has as one of its purposes the representation of the employees in their employment relations with the community college district.

"Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any community college district, with the exception of the chief administrative officer of, and any administrator in, each community college district.

"Administrator" means any person employed either full or part time by the community college district and who performs administrative functions as at least fifty percent or more of his assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules and regulations as adopted in accordance with RCW 28B.52.080.

"Commission" means the public employment relations commission.

Sec. 13. Section 5, chapter 196, Laws of 1971 ex. sess. as amended by section 3, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.060 are each amended to read as follows:

~~((In addition to the authority to convene an impasse committee, the director of the state system of community colleges))~~ The commission is authorized to conduct fact-finding and mediation activities upon the consent of both parties as a means of assisting in the settlement of unresolved matters considered under this chapter.

In the event that any matter being jointly considered by the employee organization and the board of trustees of the community college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving

written notice of its intended action to the other party, may, ~~((with the concurrence of the director,))~~ request the assistance and advice of ~~((a committee appointed by the director. This committee may make a written report with recommendations to both parties within twenty calendar days of receipt of the request for assistance. Any recommendations of the committee shall be advisory only and not binding upon the board of trustees or the employee organization.~~

~~The state board for community college education is authorized to make rules governing the operations of impasse committees))~~ the commission.

Sec. 14. Section 7, chapter 196, Laws of 1971 ex. sess. as amended by section 5, chapter 205, Laws of 1973 1st ex. sess. and RCW 28B.52.080 are each amended to read as follows:

~~((Boards of trustees of community college districts))~~ The commission shall adopt reasonable rules and regulations for the administration of employer-employee relations under this chapter. The boards may request the services of the ~~((department of labor and industries))~~ commission to assist in the conduction of certification elections as provided for in RCW 28B.52.030.

Sec. 15. Section 3, chapter 108, Laws of 1967 ex. sess. as amended by section 2, chapter 131, Laws of 1973 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))~~ "Commission" means the public employment relations commission.

(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.

Sec. 16. Section 5, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.050 are each amended to read as follows:

In the event that a public employer and public employees are in disagreement as to the selection of a bargaining representative the ((department)) commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090.

Sec. 17. Section 6, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.060 are each amended to read as follows:

The ((department)) commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purpose of collective bargaining. In determining, modifying, or combining the bargaining unit, the ((department)) commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. The ((department)) commission shall determine the bargaining representative by (1) examination of organization membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

Sec. 18. Section 7, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.070 are each amended to read as follows:

In the event the ((department)) commission elects to conduct an election to ascertain the exclusive bargaining representative, and upon the request of a prospective bargaining representative showing written proof of at least thirty percent representation of the public employees within the unit, the ((department)) commission shall hold an election by secret ballot to determine the issue. The ballot shall contain the name of such bargaining representative and of any other bargaining representative showing written proof of at least ten percent representation of the public employees within the unit, together with a choice for any public employee to designate that he does not desire to be represented by any bargaining agent. Where more than one organization is on the ballot and neither of the three or more choices receives a majority vote of the public employees within the bargaining unit, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second-largest number of votes. No question concerning representation may be raised within one year of a certification or attempted certification. Where there is a valid collective bargaining agreement in effect, no question of representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement. Any agreement which contains a provision for automatic renewal or extension of the agreement shall not be a valid agreement; nor shall any agreement be valid if it provides for a term of existence for more than three years.

Sec. 19. Section 8, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.080 are each amended to read as follows:

The bargaining representative which has been determined to represent a majority of the employees in a bargaining unit shall be certified by the ((department))

commission as the exclusive bargaining representative of, and shall be required to represent, all the public employees within the unit without regard to membership in said bargaining representative: PROVIDED, That any public employee at any time may present his grievance to the public employer and have such grievance adjusted without the intervention of the exclusive bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and if the exclusive bargaining representative has been given reasonable opportunity to be present at any initial meeting called for the resolution of such grievance.

Sec. 20. Section 9, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.090 are each amended to read as follows:

The ~~((department))~~ commission shall promulgate, revise or rescind such rules and regulations as it may deem necessary or appropriate to administer the provisions of this chapter in conformity with the intent and purpose of this chapter and consistent with the best standards of labor-management relations.

Sec. 21. Section 10, chapter 108, Laws of 1967 ex. sess. and RCW 41.56.100 are each amended to read as follows:

A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative: PROVIDED, That nothing contained herein shall require any public employer to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure and authority to the board created by chapter 41.06 RCW. Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the ~~((state mediation service of the department of labor and industries))~~ commission.

Sec. 22. Section 2, chapter 59, Laws of 1973 and RCW 41.56.122 are each amended to read as follows:

A collective bargaining agreement may:

(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the ~~((department of labor and industries))~~ commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining



representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.

(2) Provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.

Sec. 23. Section 3, chapter 59, Laws of 1973 and RCW 41.56.125 are each amended to read as follows:

In addition to any other method for selecting arbitrators, the parties may request the ~~((department of labor and industries))~~ public employment relations commission to, and the ~~((department))~~ commission shall, appoint a qualified person who may be an employee of the ~~((department))~~ commission to act as an arbitrator to assist in the resolution of a labor dispute between such public employer and such bargaining representative arising from the application of the matters contained in a collective bargaining agreement. The arbitrator shall conduct such arbitration of such dispute in a manner as provided for in the collective bargaining agreement: PROVIDED, That the ~~((department))~~ commission shall not collect any fees or charges from such public employer or such bargaining representative for services performed by the ~~((department))~~ commission under the provisions of this chapter: PROVIDED FURTHER, That the provisions of chapter 49.08 RCW shall have no application to this chapter.

Sec. 24. Section 3, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.160 are each amended to read as follows:

The ~~((department))~~ commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

Sec. 25. Section 4, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.170 are each amended to read as follows:

Whenever a charge has been made concerning any unfair labor practice, the ~~((department))~~ commission shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the ~~((department))~~ commission at a place therein fixed to be held not less than seven days after the serving of said complaint. Any such complaint may be amended by the ~~((department))~~ commission any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint. In the discretion of the ~~((department))~~ commission, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the ~~((department))~~ commission shall not be bound by technical rules of evidence prevailing in the courts of law or equity.

Sec. 26. Section 5, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.180 are each amended to read as follows:

For the purpose of all hearings and investigations, which, in the opinion of the ((department)) commission, are necessary and proper for the exercise of the powers vested in it by RCW 41.56.140 through 41.56.190, the ((department)) commission shall at all reasonable times have access to, for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or lists of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The ((department)) commission shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the ((department)) commission. The ((department)) commission, or any agent, or agency designated by the ((department)) commission for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence.

Sec. 27. Section 6, chapter 215, Laws of 1969 ex. sess. and RCW 41.56.190 are each amended to read as follows:

The ((department)) commission, or any party to the ((department)) commission proceedings, thirty days after the ((department)) commission has entered its findings of fact, shall have power to petition the superior court of the state within the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the ((department)) commission. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the ((department)) commission.

Sec. 28. Section 3, chapter 131, Laws of 1973 and RCW 41.56.440 are each amended 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)) commission shall name a third member who shall be chairman of the fact-finding panel and who may be an employee of the ((department)) commission. 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)) commission.

In making its findings, the fact-finding panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and as additional standards of guidelines to aid it in developing its recommendations, it shall take into consideration those factors set forth in RCW 41.56.460.

Sec. 29. Section 4, chapter 131, Laws of 1973 and RCW 41.56.450 are each amended 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)) commission, which 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)) commission, and the ((department)) commission 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)) commission; 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 executive 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.

Sec. 30. Section 7, chapter 131, Laws of 1973 and RCW 41.56.480 are each amended 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 RCW 41.56.440 and 41.56.450, the parties, or the ~~((department))~~ commission 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))~~ commission in the superior court for the county where the dispute arose.

Sec. 31. Section 43.22.260, chapter 8, Laws of 1965 as last amended by section 11, chapter 16, Laws of 1973 2nd ex. sess. and RCW 43.22.260 are each amended to read as follows:

The director of labor and industries shall appoint and deputize an assistant director, to be known as the supervisor of industrial relations, who shall ~~((be the state mediator, and))~~ have charge and supervision of the division of industrial relations.

With the approval of the director, he may appoint an assistant to be known as the industrial statistician, and an assistant to be known as the supervisor of employment standards and may appoint and employ ~~((such assistant mediators,))~~

experts, clerks, and other assistants as may be necessary to carry on the work of the division.

Sec. 32. Section 43.22.270, chapter 8, Laws of 1965 as last amended by section 12, chapter 16, Laws of 1973 2nd ex. sess. and RCW 43.22.270 are each amended to read as follows:

The director of labor and industries shall have the power, and it shall be his duty, through and by means of the division of industrial relations:

(1) ~~((To promote mediation in, conciliation concerning, and the adjustment of, industrial disputes, in such manner and by such means as may be provided by law;~~

~~(2)))~~ (2) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

~~((3)))~~ (2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state, now vested in, and required to be performed by, the secretary of state, and to report to, and file with, the secretary of state duly certified copies of the statistical information collected, assorted, systematized, and compiled, and in collecting, assorting, and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

~~((4)))~~ (3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

~~((5)))~~ (4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

~~((6)))~~ (5) To exercise all the powers and perform all the duties, not specifically assigned to any other division of the department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

~~((7)))~~ (6) To exercise such other powers and perform such other duties as may be provided by law.

Sec. 33. Section 47.64.010, chapter 13, Laws of 1961 and RCW 47.64.010 are each amended to read as follows:

Words and phrases used in this chapter shall have the meaning in this chapter ascribed to them except where, from the context thereof, they shall clearly have a contrary meaning:

(1) "Washington toll bridge authority" and "authority," "toll bridge authority" shall be used herein interchangeably and shall mean the Washington toll bridge authority as now, or as hereafter constituted by law, or such board, commission, authority, or officers as shall succeed to its duties;

(2) ~~((<sup>1</sup>Marine employee commission" and "commission" shall be used herein interchangeably and shall mean the marine employee commission as prescribed herein))~~ "Commission" means public employment relations commission;

(3) "Ferry" shall mean any ferry, ferry system, wharves, terminals constructed or acquired under the authority of the Washington toll bridge authority;

(4) "Employee" shall mean any person employed aboard ferries, wharves, or terminals acquired or constructed under the authority of the Washington toll bridge authority.

Sec. 34. Section 47.64.030, chapter 13, Laws of 1961 and RCW 47.64.030 are each amended to read as follows:

The authority is empowered to negotiate and to enter into labor agreements with its employees or their representatives, including provisions for health and welfare benefits for its employees to be financed either wholly or in part by contributions from the operating fund. The commission shall have the authority to administer labor relations and to adjudicate all labor disputes on the best interests of the efficient operation of any ferry or ferry system. In adjudicating disputes, the commission shall take into consideration that though an individual employee shall be free to decline to associate with his fellow employees, it is necessary that he have full freedom of association, self-organization and designation of representatives of his own choosing who shall represent him in all respects before the ~~((commission))~~ authority to negotiate the terms and conditions of his employment and before the commission for the settlement of his labor disputes. The commission shall make such surveys of wages, hours and working conditions as it deems necessary, shall consider the prevailing practices for similarly skilled trades in the area in which the employee is employed~~((, and))~~. The commission shall adjust complaints, grievances and disputes concerning labor arising out of the operation of the ferry or ferry system.

Sec. 35. Section 47.64.040, chapter 13, Laws of 1961 and RCW 47.64.040 are each amended to read as follows:

Any employee, employee's representative, or Washington toll bridge authority claiming labor disputes shall in writing notify the ~~((marine employee))~~ commission who shall make careful inquiry into the cause thereof and issue an order in writing advising the employee, or his representative, and the authority as to the decision of the commission.

The parties shall be entitled to offer evidence relating to disputes at all hearings conducted by the commission. All evidence, statements and testimony in any commission hearing under this chapter shall be transcribed and preserved by the commission and be available as a public record. The orders and awards of the ~~((marine employee))~~ commission shall be final and binding upon any employee or employees or their representatives affected thereby and upon the Washington toll bridge authority.

The commission shall by regulation prescribe its rules of procedure.

The commission shall have the authority to subpoena any employee or employees, or their representatives, and any member or representative of the Washington toll bridge authority, and any witnesses. The commission shall have power to require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission shall be enforceable by order of any superior court in the state of Washington for the county within which such proceedings may be pending.

Sec. 36. Section 1, chapter 58, Laws of 1903 and RCW 49.08.010 are each amended to read as follows:

It shall be the duty of the ~~((director of labor and industries))~~ chairman of the public employment relations commission upon application of any employer or employee having differences, as soon as practicable, to visit the location of such differences and to make a careful inquiry into the cause thereof and to advise the respective parties, what, if anything, ought to be done or submitted to by both to adjust said dispute and should said parties then still fail to agree to a settlement through said ~~((director))~~ chairman, then said ~~((director))~~ chairman shall endeavor to have said parties consent in writing to submit their differences to a board of arbitrations to be chosen from citizens of the state as follows, to wit: Said employer shall appoint one and said employees acting through a majority, one, and these two shall select a third, these three to constitute the board of arbitration and the findings of said board of arbitration to be final.

Sec. 37. Section 2, chapter 58, Laws of 1903 and RCW 49.08.020 are each amended to read as follows:

The proceedings of said board of arbitration shall be held before the ~~((director of labor and industries))~~ chairman of the public employment relations commission who shall act as moderator or chairman, without the privilege of voting, and who shall keep a record of the proceedings, issue subpoenas and administer oaths to the members of said board, and any witness said board may deem necessary to summon.

Sec. 38. Section 3, chapter 101, Laws of 1967 and RCW 53.18.030 are each amended to read as follows:

In determining which employee organization will represent them, employees shall have maximum freedom in exercising their right of self-organization.

Controversies as to the choice of employee organization within a port shall be submitted to ~~((arbitration in accordance with RCW 49.08.010))~~ the public employment relations commission. Employee organizations may agree with the port district to independently resolve jurisdictional disputes: PROVIDED, That when no other procedure is available the procedures of RCW 49.08.010 shall be followed in resolving such disputes. In such case the ~~((director of labor and industries))~~ chairman of the public employment relations commission shall, at the request of any employee organization, arbitrate any dispute between employee organizations and enter a binding award in such dispute.

NEW SECTION. Sec. 39. Section 47.64.020, chapter 13, Laws of 1961 and RCW 47.64.020 are each repealed.

NEW SECTION. Sec. 40. Sections 1 through 7 of this 1975 amendatory act shall constitute a new chapter in Title 41 RCW.

Passed the Senate April 2, 1975.

Passed the House June 3, 1975.

Approved by the Governor July 2, 1975, with the exception of two sections which are vetoed.

Filed in Office of Secretary of State July 2, 1975.

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

"I am returning herewith without my approval as to two sections Engrossed Senate Bill No. 2408 entitled:

"AN ACT Relating to public employment relations."

This bill creates a new commission on employment relations to administer many of the mediation and fact-finding duties presently vested in the Department of Labor and Industries and is intended to consolidate dispute settlement mechanisms in the public employment sector in one single agency.

The new commission set up by the bill consists of three members appointed by the Governor with the advice and consent of the Senate. A proviso appearing in section 2 specifies that unless a member appointed when the Legislature is not in session is confirmed by the Senate during the first thirty days of the next session, that member's appointment shall be deemed rejected.

On this same date I have vetoed a section from Substitute Senate Bill No. 2500 containing an identical proviso with respect to the commission created under that bill. As stated in my message attached to that bill, I believe it is bad policy to allow the Senate to, in effect, reject an appointment to the commission by inaction. A governor goes on record in making an appointment; if the law requires confirmation by the Senate, that body should be required to go on record as confirming or rejecting the appointment. Otherwise there is no way for the record to show to the governor, the appointee, and the public those who opposed the appointment and the reasons for their opposition.

Section 3 of the bill contains a subsection which provides that all expenses of the commission, including travel expenses incurred by members and staff, shall be allowed and paid on approval by the commission itself or by someone designated by the commission for that purpose. I am concerned that this section could be interpreted to mandate approval of all gravel and subsistence expenses incurred, whether such expenses conform to the standards and limits set in RCW chapter 43.03 and regulations promulgated thereunder. I question the need for this subsection in any event, since existing law well covers the limits of and procedures for payment of necessary expenses

I recognize that the veto of sections 2 and 3 would render the rest of the bill virtually unworkable, and therefore urge the Legislature to redraft the same at the next opportune moment. With the exception of those two sections, the remainder of the bill is approved."

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## CHAPTER 297

[Engrossed Senate Bill No. 2422]

### HANDICAPPED PERSONS— SPECIAL PARKING PRIVILEGES

AN ACT Relating to handicapped persons; amending section 1, chapter 128, Laws of 1961 as amended by section 26, chapter 32, Laws of 1967 and RCW 46.16.380; amending section 2, chapter 128, Laws of 1961 and RCW 46.61.580; declaring an emergency and providing an effective date.

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

Section 1. Section 1, chapter 128, Laws of 1961 as amended by section 26, chapter 32, Laws of 1967 and RCW 46.16.380 are each amended to read as follows:

Any person who shall submit satisfactory proof to the director that he or she has lost both of his or her lower extremities, or who has lost the normal or full use thereof, or who is so severely disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive ((for one motor vehicle only;)) a special ((~~dec~~) card to be ((~~affixed to the~~) left in a vehicle in a conspicuous