

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

<input type="checkbox"/> EXPEDITE <input type="checkbox"/> Hearing is set: Date: _____ Time: _____ Judge/Calendar: _____

SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY
WASHINGTON FEDERATION OF STATE EMPLOYEES; and BRENDAN WILLIAMS, State Representative, <div style="text-align: right;">Plaintiffs,</div> v. CHRISTINE O. GREGOIRE, GOVERNOR, OFFICE OF FINANCIAL MANAGEMENT, AND VICTOR A. MOORE, DIRECTOR AND THE STATE OF WASHINGTON, <div style="text-align: right;">Defendants.</div>

NO.

COMPLAINT

Come now the plaintiffs and complain and allege as follows:

I. PARTIES

1.1 The Washington Federation of State Employees (WFSE) is Council 28 of the American Federation of State, County and Municipal Employees, AFL-CIO. The WFSE is a labor organization representing approximately 40,000 civil service employees of the State of Washington.

1 1.2 Brendan Williams is a State Representative and will be a member of the 2009 State
2 House of Representatives, and joins in this action with regard to the cause of action set forth in
3 paragraph 3.4.

4 1.3 Christine O. Gregoire is the Governor of the State of Washington.

5 1.4 The Office of Financial Management (OFM) is an agency of the State of Washington
6 and the Governor's designee for collective bargaining with state general government employees, and
7 a required consultant for collective bargaining for state institutions of higher education pursuant to
8 RCW 41.80.010. Victor A. Moore is the Director of OFM.

9 **II. FACTS**

10 2.1 Prior to October 1, 2008, representatives from the Labor Relations Office of OFM, as
11 representatives of the Governor and as her designee, negotiated a master Collective Bargaining
12 Agreement (CBA) with the WFSE for the bargaining units of state employees employed in general
13 government agencies represented by the WFSE, pursuant to the provisions of RCW 41.80.010(1)
14 and (2). Both parties agreed to the terms of that agreement, with the express or implied
15 understanding that by his agreement, the Director of OFM was committing to certify that the
16 contractual commitments were financially feasible for the state.

17 2.2 Prior to October 1, 2008, representatives for the Labor Relations Office of OFM
18 negotiated a CBA for a coalition of colleges and universities (Bellevue Community College, Central
19 Washington University, Centralia College, Community Colleges of Spokane, Everett Community
20 College, Green River Community College, Lower Columbia Community College, Peninsula
21 College, Seattle Community College District, Shoreline Community College, South Puget Sound
22 Community College, Tacoma Community College, The Evergreen State College, Western

1 Washington University and Whatcom Community College) with the WFSE for bargaining units at
2 those institutions represented by the WFSE. In such negotiations, OFM was acting as the bargaining
3 agent and designee of the respective institutions. The parties agreed to the terms of the agreement,
4 with the express or implied understanding that by his agreement, the Director of OFM was
5 committing to certify that the contractual commitments were financially feasible for the state.

6 2.3 Prior to October 1, 2008, representatives for the University of Washington,
7 Washington State University and Eastern Washington University negotiated CBAs with the WFSE
8 for bargaining units of employees represented by the WFSE and employed at the respective
9 institutions. The WFSE believes and therefore alleges that prior to and throughout the negotiations,
10 the respective universities consulted with representatives of OFM, and specifically did so
11 immediately prior to entering into a final agreement. The parties agreed to the terms of the
12 agreements, with the express or implied understanding that by his participation, agreement and
13 knowledge of the terms, the Director of OFM was committing to certify that the contractual
14 commitments were financially feasible for the state.

15 2.4 The aforementioned CBAs are collectively referred to herein as the 2009-2011 CBAs.
16 The 2009-2011 CBAs included wage increases agreed to by the parties for employees covered by the
17 respective agreements, as well as other agreed-to financial benefits for employees.

18 2.5 By the late summer of 2008 the defendants were well aware of and in fact had
19 discussions with WFSE representatives about the downturn in the economy and the worsening
20 economic conditions. These were reasons the financial aspects of the 2009-2011 CBAs (e.g. wage
21 increase percentages) were the lowest ever negotiated by the parties.
22

1 to fund the 2009-2011 CBAs to the Legislature constitute breaches of an express, implied or
2 constructive contractual promise to do so, by virtue of the Governor's designee's (the OFM)
3 agreement to the contracts and participation and consultation in the collective negotiations. The
4 defendants' conduct further constitutes a breach of a covenant of good faith and fair dealing.

5 3.4 Declaratory Relief. The conduct of the Director of OFM and of the Governor affects
6 the rights and interests of the WFSE and its membership, and of the members of the Washington
7 State 2009 Legislature. Exercising the authority provided in RCW Ch. 7.24, the court should declare
8 that Laws of 2002, Ch. 354, Sec. 303(3), and RCW 41.80.010(3) are illegal to the extent that they
9 purport to prohibit the 2009 Legislature from adopting legislation funding the 2009-2011 CBAs, on
10 the basis that one Legislature (the 2002 Legislature) cannot enact a statute that prevents a future
11 Legislature (the 2009 Legislature) from exercising its law-making power.

12 3.5 Injunctive Relief. The plaintiffs have no plain, speedy or adequate remedy at law,
13 and are entitled to injunctive relief pursuant to RCW Ch. 7.40, requiring the Governor to submit a
14 request to the 2009 Legislature for funding of the 2009-2011 CBAs.

15 3.6 Mandamus. The law (RCW 41.80.010(3)) compels the Governor to submit a request
16 to the 2009 Legislature for funding of the 2009-2011 CBAs, and a Writ of Mandate should issue
17 pursuant to RCW Ch. 7.16, directing the Governor to submit such a request for funding.

18
19 WHEREFORE, plaintiffs pray as follows:

20 1. For an order finding the defendants guilty of an unfair labor practice and, as a
21 remedy, directing that the Governor publicize the finding to state employees, and further directing
22 her to forthwith submit a request to the Legislature to fund the 2009-2011 CBAs.

