

# HOUSE BILL REPORT

## ESHB 1913

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*As Passed House  
March 14, 1991*

**Title:** An act relating to department of corrections' employees employed at prisons and other custodial institutions.

**Brief Description:** Revising collective bargaining provisions for certain employees of the division of prisons of the department of corrections.

**Sponsor(s):** By House Committee on Human Services (originally sponsored by Representatives Hargrove, Grant and Neher).

**Brief History:**

Reported by House Committee on:  
Human Services, February 21, 1991, DPS;  
Commerce & Labor, March 5, 1991, DPS(HS)-A;  
House Second Reading, March 13, 1991.  
Passed House, March 14, 1991, 93-1.

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**HOUSE COMMITTEE ON  
HUMAN SERVICES**

**Majority Report:** *That Substitute House Bill No. 1913 be substituted therefor, and the substitute bill do pass.* Signed by 9 members: Representatives Leonard, Chair; Riley, Vice Chair; Winsley, Ranking Minority Member; Tate, Assistant Ranking Minority Member; Anderson; Hargrove; Hochstatter; R. King; and H. Myers.

**Minority Report:** *Without recommendation.* Signed by 2 members: Representatives Beck and Brekke.

**Staff:** Bill Lynch (786-7092).

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**HOUSE COMMITTEE ON  
COMMERCE & LABOR**

**Majority Report:** *The substitute bill by Committee on Human Services be substituted therefor and the substitute bill as amended by Committee on Commerce & Labor do pass.* Signed by 11 members: Representatives Heavey, Chair; Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant

Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

**Staff:** Chris Cordes (786-7117).

**Background:** The state civil service law, Chapter 41.06 RCW, allows state classified employees to engage in collective bargaining on grievance procedures and personnel matters over which an agency can exercise discretion. It also requires the State Personnel Board to adopt rules concerning the determination of bargaining units, the certification and decertification of bargaining representatives, and payroll deductions for employee organization dues. The Higher Education Personnel Board adopts similar rules for employees of state higher education institutions.

The Public Employees Relations Commission (PERC), generally offers its services to resolve labor disputes that may arise in any unit of local government, including district courts within the State. PERC is responsible for applying the provisions of the Public Employees Collective Bargaining Act and the Educational Employment Relations Act (K-12). In addition to local government employees, the act also applies to Washington State Patrol officers and to print craft employees of the University of Washington.

Some employees of the Department of Corrections would prefer to be under the jurisdiction of PERC and the Public Employees Collective Bargaining Act for collective bargaining purposes.

**Summary of Bill:** Correctional officers, up to and including the rank of lieutenant, and non-managerial support staff that are employed by the Division of Prisons of the Department of Corrections are included under certain provisions of the Public Employment Relations Act. The Department of Corrections is considered a public employer with regards to these employees for purposes of application of the Public Employment Relations Act.

Correctional employees are prohibited from striking and are not subject to interest arbitration. Wage and wage-related matters are not subject to mediation and are not included in the scope of bargaining.

The employer and the bargaining representative for the correctional employees are required to begin negotiations at least five months before the submission of the budget to the legislative body of the employer. If the parties are unable to reach an agreement within 60 days, either party may declare an impasse and submit the dispute to the Public Employees Relations Commission (PERC) for mediation. PERC

appoints a mediator who may meet with representatives of the parties either jointly or separately to resolve the dispute. If no agreement is reached in the mediation process, either party, after providing written notice to the other party and to PERC, may request that matters in dispute be submitted to a fact-finder for recommendations. The executive director of PERC may also initiate fact-finding upon the recommendation of the mediator, if impasse still exists after a reasonable period of time has passed.

The parties must choose a fact-finder from a list submitted by the executive director of PERC. If the parties cannot agree on a fact-finder within seven days of being furnished the list, then upon the request of either party, PERC will appoint a fact-finder. The person who acted as mediator in the dispute cannot serve as the fact-finder.

The fact-finder must make inquiries and investigations, hold hearings, and take other necessary steps to resolve the dispute. The fact-finder may issue subpoenas. The fact-finder must issue written findings and recommendations within 30 days after the conclusion of the hearing. The findings and recommendations are advisory only.

The findings and recommendations of the fact-finder must be kept confidential for seven days after their issuance, to allow the parties a chance to study the recommendations. No later than seven days after the issuance of the recommendations, each party must notify the other party and PERC whether it accepts or rejects, in whole or in part, the recommendations. If the parties do not agree on the recommendations after seven days, the recommendations become public.

The services of the mediator are provided by PERC without cost to the parties. The fees and expenses of the fact-finder are paid equally by the parties in the dispute.

Correctional employees are not subject to State Personnel Board rules concerning the determination of bargaining units, certification and decertification of bargaining representatives, agreements between agencies and bargaining representatives on grievance procedures and collective negotiations over matters on which the agency has discretion, unfair labor practices, and payroll deductions for employee organization dues.

**Fiscal Note:** Requested March 4, 1991.

**Effective Date:** Ninety days after adjournment of session in which bill is enacted.

**Testimony For:** (Human Services) City police officers are currently under the jurisdiction of PERC. The problems encountered by correctional officers are similar to problems encountered by city police officers. PERC has more expertise in handling the resolution of labor disputes.

**Testimony For:** (Commerce & Labor) The state correction employees are the only correction employees in the State that are not under the jurisdiction of the Public Employment Relations Commission. PERC has developed an expertise in this area that should be applied consistently to all corrections employees. It is not unusual, especially at the local government level, to have different boards or public bodies administering civil service and collective bargaining.

**Testimony Against:** (Human Services) The current process under the State Personnel Board works well.

**Testimony Against:** (Commerce & Labor) The State Personnel Board has administered both civil service and collective bargaining for these employees for many years. They also have the necessary expertise to address the issues, although there is no history of impasse that has required any particular attention. Under this bill, the bargaining unit includes non-managerial support staff along with the correctional officers, which seems inappropriate. It is not clear that wage bargaining is excluded from the bill. It is also not clear whether PERC or the State Personnel Board would be responsible for any grievance procedures.

**Witnesses:** (Human Services) Becky Bogard and Carl Nagle, WSCEA (PRO); and Tom Rolfe and Jenny Adkins, Department of Corrections (CON).

**Witnesses:** (Commerce & Labor) Karl Nagel and Walt Corneille, Washington State Corrections Employees Association (in favor); and Jennie Adkins, Department of Corrections (opposed).