

HOUSE BILL REPORT

HB 2161

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to unfair labor practices in public employee collective bargaining.

Brief Description: Prohibiting disciplining public employees because of labor disputes.

Sponsors: Representatives Conway, King, Veloria, Heavey, Campbell, Orr, Wineberry, J. Kohl, Chappell and Anderson.

Brief History:

Reported by House Committee on:
Commerce & Labor, January 26, 1994, DPA.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 5 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Conway; King and Veloria.

Minority Report: Do not pass. Signed by 3 members: Representatives Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; and Springer.

Staff: Chris Cordes (786-7117).

Background: Under the Public Employees' Collective Bargaining Act, an employer commits an unfair labor practice if the employer interferes with or coerces an employee who is exercising his or her rights under the act. Private employers are subject to a similar unfair labor practice under the federal National Labor Relations Act (NLRA). However, under the NLRA, employees' rights include the right to engage in concerted activities, such as certain types of strikes. In Washington, the Supreme Court has held that, unless the Legislature provides otherwise, strikes by public employees are subject to injunction. Injunctions are an equitable remedy that may be granted if there is: (1) a clear legal right; (2) fear of immediate invasion of that right; and (3) actual and substantial injury.

The Public Employment Relations Commission has interpreted the Public Employees' Collective Bargaining Act to prohibit employers from disciplining employees who are engaging in

activities protected by the act. The act states that it does not permit or grant the right to strike.

Summary of Amended Bill: It is an unfair labor practice for an employer covered under the Public Employees' Collective Bargaining Act to discipline an employee because of noncriminal activities related to a labor dispute that have been authorized by the bargaining representative for the employee's bargaining unit.

It is an unfair labor practice for a bargaining representative covered under the Public Employees' Collective Bargaining Act to discipline a member because of noncriminal activities related to a labor dispute that have been authorized by the bargaining representative for the member's bargaining unit.

Amended Bill Compared to Original Bill: The amended bill deletes the standard that would have created an unfair labor practice for any activity in a labor dispute, and creates an unfair labor practice applicable to both public employers and bargaining representatives for labor dispute-related noncriminal activities that are authorized by the bargaining unit representative.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Labor relations for public employment in this state is not well served when public employers take punitive actions against employees after a labor dispute has been settled. Labor disputes that include strike activity are very rare, but when they occur the courts should determine whether sanctions should be imposed against the striking employees, not the employer.

Testimony Against: Courts have held that strikes by public employees are prohibited. Employers should be able to take appropriate action under the circumstances of each case. The bill as drafted is very broad, covering actions during labor disputes that the courts have found illegal. The current law already prohibits sanctions against employees who are engaging in protected activities. The requirements of this bill conflict with the concept that some activities are not protected by the collective bargaining statute. The bill causes ambiguities and creates more problems than it solves. Many contracts contain strike prohibitions and provide remedies for violating the contract. Strike settlements will often include amnesty agreements that

forgive the strike actions, unless there was criminal activity or damage to property.

Witnesses: (In favor) Pat Thompson, Washington State Council of County and City Employees; and Robby Stern, Washington State Labor Council. (Opposed) Don Brockett, Office of Spokane County Prosecutor; Kathleen Collins, Association of Washington Cities; and Glenna Bradley-House and Warren Martin, City of Tacoma.