

SENATE BILL REPORT

SB 5811

AS OF FEBRUARY 15, 1993

Brief Description: Providing for employment relations for state employees.

SPONSORS: Senators Moore, A. Smith, von Reichbauer, Fraser, Snyder, Bauer, Roach, Quigley, Owen, Williams, Sutherland, Pelz, Erwin, Rinehart, Winsley, Gaspard, Moyer, Prentice, Spanel, West, Wojahn, Franklin, M. Rasmussen and McAuliffe

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jonathan Seib (786-7427)

Hearing Dates: February 16, 1993

BACKGROUND:

Under the state civil service system and the higher education personnel law, classified employees have the right to collectively bargain on grievance procedures and personnel matters over which the agency or institution may "lawfully exercise discretion." Because state civil service and the higher education personnel law provide rules for most major personnel functions (recruitment, hiring, discipline, sick leave, vacations and salary schedules), collective bargaining for these classified employees is limited.

A typical bargaining agreement might contain provisions dealing with bargaining unit procedures and union activity rules, management and employee rights, labor-management committees, procedures for communicating impacts of changes in civil service rules, provisions supplementing civil services rules, such as vacation scheduling or education and training opportunities, and items specific to the work of the bargaining unit, such as uniforms and clothing, safety rules, and duty stations.

SUMMARY:

Collective bargaining for classified state employees is expanded to include bargaining over wages, hours, insurance, and terms and conditions of employment. Bargaining is authorized for all employees classified under a consolidated civil service system that includes employees under both the state civil service and the higher education personnel law. Contract bargaining, except for supplemental agreements, takes place with the Governor's office. The right to strike for all employees is replaced by binding interest arbitration.

COLLECTIVE BARGAINING

Rights of employees. Classified state employees have the right to self-organization, to join employee organizations, to bargain collectively, and to engage in other lawful concerted activities for mutual aid and protection, free from interference or restraint, or to refrain from such activities except for a fee requirement under a union security provision. In furtherance of these rights, and at the request of an employee organization, the employer shall authorize leave without pay.

Management rights. The employer has the right to carry out the statutory mandates and goals of an agency and is not required to bargain over matters of inherent managerial policy. Management must, however, bargain on policy matters affecting wages, hours, insurance, and terms and conditions of employment as well as the impact on these matters, at the request of exclusive bargaining representatives.

Scope of bargaining. Collective bargaining is authorized over wages, hours, insurance, and other terms and conditions of employment, and the negotiation of any question arising under an agreement, but may not include matters pertaining to: (1) recruitment and rating of candidates for employment; or (2) retirement benefits. The parties may not agree to any provision that is inconsistent with the principle of comparable worth.

In case of any conflict with civil service law or administrative rules or with a health insurance issue as adopted by the State Health Care Authority, the provisions of the collective bargaining law or agreement prevail.

Grievances. Agreements must provide for final and binding arbitration of grievances arising under the agreement. The cost of arbitration must be borne equally by the employer and employee organization.

Representation. Certification of exclusive bargaining representatives and representation elections are conducted by the State Employees' Relations Commission (SERC). The commission must certify an employee organization as the exclusive bargaining representative of the employees of a bargaining unit when the organization shows proof that it represents a majority of the employees and the proof is not contested by the employer, the commission, or another employee organization. The commission may require an election if proof of representation is not satisfactory to the commission. Elections are also required if an employee organization shows proof of at least 30 percent representation in the bargaining unit.

Decertification elections are required if no less than 30 percent of the employees in a bargaining unit petition to the commission. However, decertification elections may not be held if less than 12 months has elapsed since the last certification or election, or a valid collective bargaining

agreement exists for the unit (except during the period between 60 and 90 days prior to the expiration of the agreement).

Bargaining units. Bargaining units shall be on a statewide basis with one collective bargaining unit for each type of worker specified in the act. However, bargaining units of the institutions of higher education shall not include more than one institution. Units may be consolidated when the units are both represented by the same employee organization, if the commission considers it appropriate. Procedures for the transition from existing bargaining representatives and bargaining units are prescribed.

Union security. Union shop fees are required as a condition of employment upon designation of an exclusive bargaining representative. However, bargaining representatives must establish a procedure for rebating that part of the fee that represents expenditures for purposes not germane to collective bargaining. Persons asserting a right of nonassociation may designate their fee for a program within the employee organization that is in harmony with their conscience.

Negotiations. The first round of negotiations under the new collective bargaining provisions commences on or before October 1, 1994, for an agreement to take effect July 1, 1995. Thereafter, negotiations will begin on or before October 1 of the year prior to the expiration of the contract. Collective bargaining agreements, except for supplemental agreements, are negotiated with the Governor's office, or, in the case of a higher education institution, the Governor's office and management representatives from the institution. Supplementary agreements on matters that uniquely affect employees in part of a bargaining unit may be negotiated with the agencies. The act does not prohibit cooperation and coordination of bargaining between two or more bargaining units.

The Governor's office must submit a request for funds to implement the compensation and fringe benefit provisions of any agreement to the Legislature within ten days after the agreement, or, if the Legislature is not in session, within ten days after the Legislature convenes. The Legislature must approve or reject the submission of the request for funds as a whole, and the submission shall be deemed approved if the Legislature fails to act within 30 days after the Governor submits the request for funds. If the Legislature rejects the submission, either party may reopen all or part of the agreement.

After a collective bargaining agreement expires, the terms and conditions of the agreement remain in effect until the effective date of a subsequent agreement.

Unfair labor practices. Unfair labor practices for employers and employee organizations are enumerated. Employers may not interfere with or coerce employees in the exercise of their collective bargaining rights; control or interfere with the

exclusive bargaining representative; discriminate against an employee who has filed an unfair labor practice charge; or refuse to engage in good faith collective bargaining. Exclusive bargaining representatives may not interfere with or coerce employees in the exercise of their collective bargaining rights; induce the employer to commit an unfair labor practice; discriminate against an employee who has filed an unfair labor practice; or refuse to engage in good faith collective bargaining.

SERC is authorized to determine unfair labor practice complaints. Complaints must be filed within six months of the unfair labor practice.

Right to strike. Employee strikes arising from disputes regulated by the act are expressly prohibited.

Binding interest arbitration. Final and binding interest arbitration is authorized for all employees covered by the act.

If no agreement has been reached within 60 days of the commencement of negotiations, then either party may declare an impasse and submit the dispute to the commission for mediation. If the dispute has not been resolved after a reasonable period of negotiations and mediation, either party may request interest arbitration.

The issues for determination by the interest arbitrator shall be limited to the issues at impasse in the mediation proceedings. On each separate issue, the arbitrator shall determine that either the final offer of the employer or the final offer of the employee representative shall be incorporated into the collective bargaining agreement. The arbitrator shall not amend the offer of either party on any issue. In making the determination, the arbitrator is to consider factors enumerated in the act.

Administration and enforcement. A new State Employees' Relations Commission is created to provide administration and adjudication of the collective bargaining provisions. The three member commission is appointed by the Governor, subject to confirmation by the Senate. Commission members are compensated on a per diem basis.

The commission must appoint a director who will perform administrative functions and to whom the commission may delegate authority with respect to various commission duties, including representation elections, unfair labor practices, mediation and arbitration.

Unless otherwise provided, the act does not prohibit the parties from seeking to enforce collective bargaining rights in court.

CIVIL SERVICE

The Higher Education Personnel Board and the State Personnel Appeals Board are abolished. All personnel functions for both state agency classified employment and higher education classified employment is consolidated under the Department of Personnel and the State Personnel Board.

The State Personnel Board is authorized to hear and determine personnel appeals.

The civil service rules of the Higher Education Personnel Board remain in effect until superseded by action of the State Personnel Board.

EFFECTIVE DATES

The Governor must appoint the members of SERC by January 1, 1994. The new collective bargaining chapter takes effect January 1, 1994.

The elimination of the Higher Education Personnel Board and the State Personnel Appeals Board and the transfer of authority to the State Personnel Board occur on July 1, 1995.

Provisions are made for collective bargaining agreements that expire before and after July 1, 1995. All new agreements are effective beginning July 1, 1995.

Appropriation: none

Revenue: none

Fiscal Note: requested February 15, 1993

Effective Date: January 1, 1994 (Sections 1-20)
January 1, 1995 (All other sections)