

SENATE BILL REPORT

SSB 5363

As Passed Senate, May 19, 1999

Title: An act relating to personnel.

Brief Description: Enacting the civil service reform act of 1999.

Sponsors: Senate Committee on Labor & Workforce Development (originally sponsored by Senators Fairley, Winsley, Patterson, Franklin, Fraser, Snyder, Spanel, West, McAuliffe, Roach, Costa and Kohl-Welles; by request of Governor Locke).

Brief History:

Committee Activity: Labor & Workforce Development: 1/21/99, 2/11/99 [DPS, DNPS].
Ways & Means: 2/17/99, 2/23/99 [DPS (LWD), DNP].

Passed Senate, 3/9/99, 29-19.

First Special Session: Passed Senate, 5/19/99, 28-16 (notice to reconsider).

Brief Summary of Bill

- The state's civil service system is reformed with new classification rules to be adopted by March 15, 2001.
- State agencies and institutions of higher education may contract out for services provided by classified employees.
- The scope of collective bargaining for state employees is expanded to include wages, hours, and terms and conditions of employment but bargaining over management rights is prohibited and the right to strike is not granted.

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5363 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Kline and Wojahn.

Minority Report: Do not pass substitute.

Signed by Senators Hochstatter and Oke.

Staff: Jack Brummel (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5363 as recommended by Committee on Labor & Workforce Development be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Brown, Vice Chair; Fairley, Fraser, Kline, Kohl-Welles, Rasmussen, B. Sheldon, Snyder, Spanel, Thibaudeau, Winsley and Wojahn.

Minority Report: Do not pass.

Signed by Senators Honeyford, McDonald, Rossi and Zarelli.

Staff: Pete Cutler (786-7454)

Background: CIVIL SERVICE

The Washington Personnel Resources Board (WPRB) sets overall policy for the civil service system as it applies to state employees. The board has some appeals authority, but most state civil service appeals are heard by the Personnel Appeals Board.

The Director of the Department of Personnel (DOP) is responsible for the central administration of the state civil service. The Governor appoints the director, subject to confirmation by the Senate.

The WPRB adopts civil service rules, including rules regarding the classification system. The director of DOP is authorized to adopt rules for managers which are separate from the board's rules governing other civil service employees and govern all aspects of the employment of managers.

CONTRACTING OUT

Under current law, agencies and institutions of higher education may not purchase services by contract if the services were customarily and historically performed by civil service employees, unless the services were regularly purchased prior to 1979. A contract may not be executed or renewed if it would have the effect of terminating civil service employees or positions existing at the time of the contract extension or renewal.

COLLECTIVE BARGAINING

Under the state civil service system, classified employees, including employees of institutions of higher education, have the right to collectively bargain with respect to grievance procedures and personnel matters over which the agency or institution may lawfully exercise discretion. Bargaining is limited because the state civil service rules govern most major personnel functions such as recruitment, hiring, discipline, sick leave, vacations, and salary schedules.

Agencies or institutions of higher education bargain for an agreement with each bargaining unit of employees in the agency or institution. Bargaining units are determined by the WPRB. Supervisors and nonsupervisors may be in the same unit under certain criteria. The WPRB administers representation elections.

Civil service law does not permit or grant the right to strike. Mediation of disputes is provided by DOP and the WPRB conducts impasse arbitration.

In order to have union security provisions, a majority of employees in the bargaining unit must vote for union security. Unfair labor practices complaints are adjudicated by the WPRB.

Summary of Bill: CIVIL SERVICE

Civil Service Rules. Beginning July 1, 2000, civil service rules are adopted by the director of DOP, instead of the WPRB. The director, rather than the board, also determines exemptions from civil service, salary, and fringe benefits for exempt positions. The current law requiring the submission of seven names for each vacancy is eliminated. The requirement that seniority be the basis for hiring after the layoff is eliminated. Rules adopted by the director which may be superseded by collective bargaining agreements include those covering discipline, probation, training, transfers, promotion, leave, hours of work, layoffs, the number of names to be certified for vacancies, salary schedules and increases, and veterans' preferences. Rules adopted by the director may be administered locally by institutions of higher education.

Job Classification System. The Washington Personnel Resources Board must complete a review of all rules relating to classification, allocation, and reallocation within the classified service by July 1, 2000. By March 15, 2001, the board must adopt new classification rules which allow for joint requests for a classification study for collective bargaining purposes. The director of personnel must begin to implement a new classification system by January 1, 2002. Employees may appeal the director's classification decisions to the board and board decisions on such appeals are final. The percentage of managers in an agency is limited to 10 percent.

Civil Service Appeals. On July 1, 2002, the Personnel Appeals Board is terminated. The WPRB assumes the appellate functions of the PAB for those employees not covered by a collective bargaining agreement. The board may use hearing officers to conduct appeals.

CONTRACTING OUT

Beginning January 1, 2001, state agencies and institutions of higher education may contract for services provided by classified employees. They must demonstrate that the contract results in savings or efficiency improvements without lessening wages and benefits. Bargaining representatives are to be notified and can offer alternative proposals which must be considered. Agencies must assist any displaced workers. Bargaining that affects contracting out is not prohibited.

COLLECTIVE BARGAINING

The collective bargaining powers, duties, and functions of the Department of Personnel are transferred to the Public Employment Relations Commission (PERC). PERC is to determine representation issues, adopt rules relating to the election of exclusive bargaining representatives, and process and adjudicate disputes that arise from such elections.

Covered Employees. The collective bargaining system is to cover all civil service employees, except: (1) confidential employees; (2) members of the Washington Management Service; (3) internal agency auditors; and (4) employees of the Office of Financial Management, DOP, PERC, and the Attorney General's Office.

Negotiation Process. For negotiating collective bargaining agreements, state agencies are represented by the Governor or a designee. Institutions of higher education may choose to be represented by their respective governing boards, in consultation with the Office of Financial Management, or may choose to be represented by the Governor or a designee.

Exclusive bargaining representatives must negotiate one master collective bargaining agreement that covers all the bargaining units represented by that exclusive bargaining representative. Exclusive bargaining representatives who represent fewer than 500 employees must bargain in a coalition of exclusive bargaining representatives that together represent 500 or more employees.

The Governor must submit, and the Legislature must approve or reject as a whole, a request for funds to implement a collective bargaining agreement. If the Legislature rejects or fails to act on the submission, the parties may reopen negotiations or the exclusive bargaining representative may seek to implement the impasse resolution procedures provided for under the act. Renegotiation of agreements approved by the Legislature are mandatory if a significant revenue shortfall occurs.

The terms of a collective bargaining agreement negotiated under the new law remain in effect after expiration of the agreement until a new agreement is negotiated, up to one year. After the one-year period, the employer may unilaterally implement according to law.

Scope of Bargaining. Bargaining is required over wages, hours, and other terms and conditions of employment. Employers may bargain, but are not required to bargain, over the retirement system and retirement benefits, health care benefits (except the dollar amount expended per employee), and certain civil service rules regarding examinations, appointments to service, job classifications, and affirmative action (other civil service rules may be superseded by the collective bargaining agreement).

Bargaining over health care dollar amounts must be conducted with one statewide coalition. Except for institutions of higher education, this is also true for the number of names to be certified for vacancies and promotional preferences.

Bargaining over management rights is prohibited. Collective bargaining agreements may not contain provisions that conflict with statute. The agreements prevail over conflicting executive orders, administrative rules, or agency policies.

Collective bargaining agreements must contain grievance procedures and all disciplinary actions or employee terminations must be processed under the procedures of the agreement.

Rights of Employees and Management. Management has the right to direct and supervise employees; take necessary emergency action; determine the employer's functions and programs, use of technology, and organizational structure; and determine the employer's budget, size of workforce, and financial basis for layoffs.

Employees have the right to organize and bargain collectively free of interference, restraint, and coercion. They also have the right to be free from such activities, but may be required to pay a fee to an exclusive bargaining representative.

Nothing contained in the provisions permits or grants to any employee the right to strike or refuse to perform his or her official duties.

Bargaining Units/Representation. Existing bargaining units are considered appropriate units unless they contain both supervisors and nonsupervisors or include more than one institution of higher education. PERC determines appropriate units and unit modifications. Two or more units with the same exclusive bargaining representatives may be consolidated.

Union Security. Collective bargaining agreements may contain a union security provision requiring the payment of agency shop fees by bargaining unit employees. Employees who assert the right of nonassociation based on religious beliefs may pay the fee to the employee organization for a program within the organization that is in harmony with the employee's conscience.

Unfair Labor Practices. Unfair labor practices are enumerated. PERC is directed to prevent unfair labor practices and adjudicate unfair labor practice complaints. PERC may seek enforcement of its orders through superior court.

Appropriation: None.

Fiscal Note: Requested on January 20, 1999.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Testimony For: Current law allows only seniority to be considered for lay-offs and rehiring and restricts the number of candidates that can be considered for a job. There are over 2,000 job classifications currently. The bill allows the state to streamline and modernize management. The contracting out language will ensure competitive bidding that will provide greater efficiencies and allow state workers to compete. Collective bargaining would work more efficiently under this bill.

Testimony Against: The bill doesn't go far enough in reform. Team work incentives need to be included.

Testified: Fred Hellberg, Governor's Office (pro); Dennis Karras, Dept. of Personnel (pro); Gary Moore, Dept. of Labor & Industries (pro); Robby Stern, WA State Labor Council (pro); Eugene St. John, WA Public Employees Assn.; Greg Devereaux, Fed. of State Employees (pro); Ellie Menzies, Kim Cook, Service Employees Union (pro); Don Briscoe, Professional and Technical Engineers (pro); Gene Mossberger, DCF (pro); John Marshall (con); Clif Finch, AWB; Carolyn Logue, Nat. Fed. of Ind. Bus.; Eugene St. John, WPEA.