

State Government Committee

HB 1268

Brief Description: *Enacting the civil service reform act of 2001.*

Sponsors: *Representatives Romero, Campbell, Conway, Kenney, Kessler, Hurst, Keiser, Simpson, Ogden, Lovick, McIntire, Ruderman, O'Brien, Schual-Berke, Poulsen, Kagi, Cody, Edmonds, Wood and Haigh; by request of Governor Locke.*

Brief Summary of Bill

- *Restructures the state civil service system, transferring rule making authority from the Washington Personnel Resources Board to the Department of Personnel, and appeal authority from the Personnel Appeals Board to the Washington Personnel Resources Board.*
- *Allows agencies and institutions of higher education to contract out for services under certain circumstances.*
- *Expands the scope of collective bargaining for state employees to include wages, hours, and terms and conditions of employment.*

Hearing Date: *2/16/01*

Staff: *Jim Morishima (786-7191).*

Background:

I. Civil Service

Civil Service Rules: *The Washington Personnel Resources Board (WPRB) consists of three members appointed by the Governor subject to Senate confirmation. The WPRB must adopt a variety of rules including rules regarding:*

- *Classification of state employees;*
- *Layoff criteria - layoffs must be by seniority;*
- *Certification of names for vacancies. Selection must be from the seven names scoring*

- *the highest on the eligibility list (the "Rule of 7"); and*
- *Other working conditions such as transfers, sick leave, vacation, and discipline.*

Employees of institutions of higher education may "opt out" of the civil service rules and have their employment governed exclusively by a collective bargaining agreement.

Salary and Fringe Benefit Surveys: The Department of Personnel (DOP) is responsible for the administration of the civil service system. The DOP must conduct periodic salary and fringe benefit surveys. The surveys are subject to certain deadlines and the DOP must furnish certain supporting documents along with the surveys.

Appeals: The Personnel Appeals Board (PAB) consists of three members appointed by the Governor subject to Senate confirmation. The PAB has the jurisdiction to decide appeals in most personnel actions including dismissals, demotions, allocation of positions, and violations of civil service rules.

II. Contracting Out

Because of a 1978 decision of the Washington Supreme Court, agencies and institutions of higher education may not contract out for services regularly and historically provided by classified state employees. The Legislature responded the next year by clarifying that agencies and institutions of higher education may purchase services by contract if the services were regularly purchased by contract prior to 1979. However, a contract may not be executed or renewed if it would have the effect of terminating classified state employees.

III. Collective Bargaining

Collective bargaining for classified state employees is governed by WPRB rules and administered by the DOP.

Scope of Bargaining: Classified state employees have the right to bargain over grievance procedures, and personnel matters over which the agency or institution may lawfully exercise discretion. Agencies and institutions of higher education may not exercise discretion over subjects covered by statute or WPRB rules including recruitment, hiring, discipline, sick leave, vacations, and wages.

Bargaining Unit Determination: Bargaining units are determined under WPRB rules. Supervisors and non-supervisors may be in the same unit. The WPRB conducts elections and certifies exclusive bargaining representatives.

The Washington Management Service (WMS) is governed under DOP rules separate from the rules governing other classified employees. The law does not specify whether members of the WMS may be included in bargaining units.

The Negotiation Process: Bargaining units bargain with their employing agency or institution of higher education. The civil service law does not grant classified state employees the right to strike. The DOP mediates disputes and the WPRB conducts impasse arbitration.

Union Security: Employees in a bargaining unit may be required to pay periodic dues if a majority of the employees in the bargaining unit vote for union security.

Summary of Bill:

I. Civil Service

Civil Service Rules: Beginning July 1, 2002, the authority to adopt civil service rules, including rules pertaining to job classifications and layoff criteria, are transferred from the WPRB to the DOP. Certain rules, including rules pertaining to discipline, leave, and hours of work, may be superseded by collective bargaining agreements. The "Rule of 7" and layoffs by seniority are no longer required. Institutions of higher education may locally administer rules adopted by the DOP.

The WPRB must review the current classification system by July 1, 2002. The WPRB must adopt new classification rules by March 15, 2003, and the DOP must implement the rules by January 1, 2004.

The employees of institutions of higher education may not "opt out" of the civil service rules after July 1, 2001. The "opt out" provisions are repealed on July 1, 2003.

Salary and Fringe Benefit Surveys: The specific requirements for salary and fringe benefit surveys are removed. However, the DOP must still conduct the surveys.

Appeals: On July 1, 2004, the PAB is abolished. The duties of the PAB are transferred to the WPRB.

II. Contracting Out

An agency or institution of higher education may contract out for services if:

- The contract contains performance measures;*
- Classified employees are allowed to provide alternate solutions, and, in the event those solutions are not approved, bid for the contract using competitive contracting procedures;*
- The contract contains provisions requiring the contracting entity to consider employing displaced classified employees;*
- The agency or institution has established contract monitoring and termination procedures; and*
- The agency or institution has shown that the contract would lead to savings or efficiencies, taking into account the possibility of improper performance.*

The following competitive contracting procedures are specified:

- The agency or institution must inform the affected classified employees 90 days before sending out bids for contracts. The employees then have 60 days to submit alternate proposals;*
- If the employees intend to submit a contract bid, they must inform the agency or institution;*
- The DOP must provide training in the bidding process and in bid preparation;*

- *The director of the Department of General Administration (GA) must establish procedures to ensure a) that bids are submitted and evaluated fairly, and b) that there exists a competitive market for the service;*
- *The employees' bid must contain the full cost of providing the service; and*
- *The agency or institution may contract with the GA to provide the bidding process.*

The Joint Legislative Audit and Review Committee must conduct a performance audit to evaluate the effectiveness of the contracting out provisions by January 1, 2005.

III. Collective Bargaining

Beginning July 1, 2002, collective bargaining will be administered by the Public Employment Relations Commission (PERC). The PERC must determine representation issues, adopt rules relating to the election of exclusive bargaining representatives, and process and adjudicate disputes that arise from such elections.

Scope of Bargaining: The subjects of bargaining are expanded to include wages, hours, and terms and conditions of employment. Employers may (but are not required to) bargain over retirement benefits, health care benefits, and certain civil service rules regarding examinations, appointments, job classifications, and affirmative action. Bargaining over management rights is prohibited.

Bargaining over health care dollar amounts must be conducted in 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 Unit Determination: The PERC determines bargaining units and certifies exclusive bargaining representatives. Existing bargaining units and exclusive bargaining representatives are "grandfathered." Members of the WMS may not be included in a collective bargaining unit.

The Negotiation Process: The Governor represents state agencies in negotiations. Institutions of higher education may be represented by their governing boards or may choose to be represented by the Governor. The Governor and an exclusive bargaining representative must negotiate a master collective bargaining agreement covering all bargaining units covered by the representative. Except for higher education employees, exclusive bargaining representatives representing fewer than 500 employees must bargain in one coalition.

When negotiating collective bargaining agreements, the Governor must consult with the Joint Select Committee on Employee Relations. Once an agreement is reached, the Governor must submit a funding request to the Legislature, which the Legislature must accept or reject as a whole. If a significant revenue shortfall occurs, modifications to agreements approved by the Legislature must be negotiated. The terms of an expired collective bargaining agreement remain in effect until a new agreement is negotiated, up to one year. After one year, the employer may unilaterally implement according to law.

The right to strike is not granted. If the parties fail to reach an agreement, either party

may initiate mediation. If no agreement is reached within 100 days of the previous agreement's termination, the PERC must appoint an independent fact-finder.

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 non-association 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.

Rulemaking Authority: *No express authority.*

Appropriation: *None.*

Fiscal Note: *Available.*

Effective Date: *The bill contains a variety of effective dates:*

- *Sections 203, 204, 213 through 223, 227, 229 through 232, 242, 244, 247, 249, 301 through 307, 309 through 316, 318, 319, and 402 take effect July 1, 2002.*
- *Section 224 takes effect March 15, 2003.*
- *Sections 208, 235 through 239, and 403 take effect July 1, 2003.*
- *Sections 225, 226, 234, and 404 take effect July 1, 2004.*