FINAL BILL REPORT
SSB 6054

C 401 L 03
Synopsis as Enacted

Brief Description: Clarifying the application of the industrial welfare act to public employers.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Rossi and Fairley; by request of Office of Financial Management).

Senate Committee on Ways & Means
House Committee on Commerce & Labor
House Committee on Appropriations

Background: The Industrial Welfare Act, now codified in chapter 49.12 RCW, was first enacted in 1913 to protect the industrial working conditions of women and children. In 1973, the statute was expanded to cover all industrial workers.

Today, the statute includes a variety of provisions protecting workers, including the regulating of wages and working conditions of minors, legal actions to recover underpayment of wages, wage and employment discrimination based on sex, sick leave for care of family members, and other miscellaneous workplace issues.

The Industrial Welfare Act is administered by the Department of Labor and Industries, which has promulgated a variety of regulations under the act, including rules dealing with payment of wages, employment records, workplace sanitation, and meal and rest periods. The meal and rest period regulations require periodic rest and meal breaks during each employee's work shift.

While the family care provisions of the Industrial Welfare Act are expressly applicable to employees of the state and its political subdivisions, it is unclear whether the remainder of the act applies to public employees. In state institutions operated by the Department of Corrections (DOC) and the Department of Social and Health Services (DSHS), state employees have collectively bargained to work a straight eight-hour shift, without designated rest and meal breaks, instead of a nine-hour shift that includes designated break times.

Current litigation alleges that "straight eight" work shifts by the institutional staffs of DSHS and DOC violate the Industrial Welfare Act. Among other arguments, plaintiffs in the litigation allege that the act applies to public employers because they are not expressly excluded from the act's coverage. The defendant state agencies respond, among other arguments, that the Industrial Welfare Act was intended by the Legislature to protect only workers in industrial and commercial settings, and that the working conditions for public employees are regulated by other laws, including the state Civil Service Act, the Washington Industrial Safety and Health Act (WISHA), and other statutes.

The Legislature may adopt a curative amendment to a law, with the amendment having retroactive effect, if the amendment is enacted during a controversy regarding the meaning of the law.

Summary: The family care provisions of the Industrial Welfare Act were intended by the Legislature to be expressly applicable to state agencies and political subdivisions, but the remainder of the act was not intended by the Legislature to be applicable to public employers. The declared purpose of the bill is to clarify the application of the Industrial Welfare Act and, for that reason, the bill is declared to be remedial, curative, and retroactive.

However, in the future, public employers will be subject to the Industrial Welfare Act, but public employees may, through the collective bargaining process or other employment agreements, waive or supersede the requirements of the act in matters pertaining to rest and meal periods. The Industrial Welfare Act can also be superseded by any state statute or state rule, or by a local ordinance, resolution, or rule if the local measure was adopted prior to April 1, 2003.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 20, 2003