

# HOUSE BILL REPORT

## HB 2348

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**As Reported by House Committee On:**  
Commerce & Labor

**Title:** An act relating to the disclosure of labor relations materials.

**Brief Description:** Exempting labor relations materials from public disclosure.

**Sponsors:** Representatives Sells, Chase, Jarrett, Campbell, Miloscia, Lovick, Ormsby, Green, Morrell, Hankins, Darneille and Simpson.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/26/07, 2/27/07 [DPS].

**Brief Summary of Substitute Bill**

- Makes mediation communications and evidence of a showing of interest under public employee collective bargaining exempt from public disclosure.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

**Staff:** Joan Elgee (786-7106).

**Background:**

The Public Employment Relations Commission (PERC) is responsible for resolving disputes involving most public employers and employees, and the unions that represent those employees. Responsibilities of the Commission include mediation of disputes and determination of bargaining representatives. For purposes of determining a bargaining representative, a union must submit a showing of interest by authorization cards or letters.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Other unions may move to intervene in the proceedings. The Marine Employees' Commission (MEC) has similar responsibilities with respect to ferry employees.

The Public Records Act requires state and local government agencies to make all public records available for public inspection and copying unless they fall within certain statutory exemptions. There is an exemption for preliminary drafts, notes, and recommendations.

By rule, the PERC and the MEC do not disclose: (1) evidence furnished as a showing of interest in support of a representation petition or motion for intervention; or (2) notes and memoranda made by any member of the commission or its staff while acting as a mediator.

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**Summary of Substitute Bill:**

The PERC and the MEC records of mediation communications and evidence submitted as a showing of interest in support of any representation petition or motion for intervention are confidential and privileged and not subject to public disclosure.

**Substitute Bill Compared to Original Bill:**

The substitute bill makes the exemption applicable to the MEC as well as the PERC.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill codifies a practice that has been established in the labor relations field for over 70 years. Note that petitions can also be to decertify a union. It's inherently coercive to allow others to look at the cards and disclosure would have a chilling effect on the bargaining process. The showing of interest usually has the person's name and home address on it and should be private. When organizing, one of the first things people ask is if anyone else can see the cards and up until now, I've been able to say no.

Regarding mediation, we would be asking the parties to divulge parts of their bargaining strategy. The parties have an expectation that notes will be kept confidential and then destroyed.

The PERC has a rule that the cards and mediation notes are confidential but we have been told the rule is not sufficient because of the strict requirements of the public disclosure law.

(In support with concern) I've never seen any of this information disclosed in my years of experience. We would like to have state ferry employees added to the bill.

(Opposed) We object to any effort to prevent state employees and the citizens from learning more about how their money is being spent and to take away our rights. There is no logical reason for these items to be exempt from public disclosure.

We have no interest in the cards but the records of mediation are a matter of great public interest. How the state handles these disputes is of public interest as salaries are the greatest expense of any operating budget. We don't need to see the records while the process is ongoing but the citizens have a right to see that the mediation is working properly, fairly, and impartially.

**Persons Testifying:** (In support) Ken Latsch, Public Employment Relations Commission; and Herb Harris, Washington Public Employee's Association.

(In support with concern) Gordon Baxter, Inland Boatmen's Union, Masters Mates & Pilots Union, and Office and Professional Employees International Union Local 8.

(Opposed) Deborah Johnson, Free Conscience; Rowland Thompson, Allied Daily Newspapers; and Michael Farley, Fair Washington Labor Association.

**Persons Signed In To Testify But Not Testifying:** None.