
Commerce & Labor Committee

HB 2449

Brief Description: Providing collective bargaining for child care center directors and workers.

Sponsors: Representatives Pettigrew, Conway, Goodman, Kagi, Haler, Priest, Morrell, Green, Appleton, Sullivan, Wood, Sells, Williams, Haigh, Campbell, Simpson, Wallace, Barlow, Ormsby, Kessler, Jarrett, Dunshee, Walsh, Hudgins, Moeller, VanDeWege, Blake, Hasegawa, Hunt, Lias, Miloscia, McIntire, Kenney, Santos, Cody, Nelson, Rolfes, Chase and Darneille.

Brief Summary of Bill

- Provides for collective bargaining between the Governor and two units of child care center directors and workers under the Public Employees' Collective Bargaining Act.
- Modifies provisions governing the child care career and wage ladder.

Hearing Date: 1/25/08

Staff: Jill Reinmuth (786-7134).

Background:

Public Employee Collective Bargaining

Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA) administered by the Public Employment Relations Commission (PERC). Individual providers (home care workers), adult family home providers, and family child care providers also have collective bargaining rights under the PECBA.

The exclusive bargaining representative is determined by the PERC if the public employer and public employees are in disagreement as to the selection of a bargaining representative. The PERC determines the exclusive bargaining representative by conducting either an election or a cross-check of membership records. If there is more than one organization on the ballot and none of the three or more choices receive a majority vote of the public employees within the bargaining unit in an initial election, there is a run-off election.

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.

The employer and exclusive bargaining representative have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining: grievance procedures and personnel matters, including wages, hours, and working conditions. For uniformed personnel and some other bargaining units, the PECBA recognizes the public policy against strikes as a means of settling labor disputes. To resolve impasses over contract negotiations, the PECBA requires binding arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation.

Career and Wage Ladder

The Department of Early Learning (Department), subject to the availability of funds, is required to establish a child care career and wage ladder in licensed child care centers that:

- dedicate at least 10 percent of child care slots to children whose care is subsidized by the state or any local government;
- agree to adopt the career and wage ladder, which, at a minimum, must be at the same pay schedule as existed in a pilot project operated by the state between 2000 and 2003; and
- meet further program standards established by the Department.

The career and wage ladder must include wage increments for levels of education, years of relevant experience, levels of work responsibility, relevant early childhood education credits, and relevant requirements in the State Training and Registry System (STARS).

The Department is also required to establish procedures for the allocation of funds appropriated to implement the career and wage ladder among these child care centers. Notwithstanding these procedures, certain centers located in urban areas of DSHS Region 1 must receive a minimum of 15 percent of these funds and certain centers participating in the DSHS tiered reimbursement pilot project in Spokane have first priority for funding. In the 2007-09 biennium, a total of \$3 million was appropriated to implement the ladder.

Child care centers adopting the career and wage ladder are required to increase wages for child care workers who have earned a high school diploma or GED certificate, gain additional years of experience, or accept increasing levels of responsibility in providing child care, in accordance with the career and wage ladder. The adoption of a career and wage ladder must not prohibit the provision of wage increases based upon merit.

The Department is required to pay wage increments for child care workers employed by child care centers adopting the career and wage ladder who earn early childhood education credits or meet relevant requirements in the STARS, in accordance with the career and wage ladder.

Summary of Bill:

The Public Employees' Collective Bargaining Act (PECBA) is amended to apply to the Governor with respect to child care center directors and workers, and to govern collective bargaining between the Governor and the directors and workers' exclusive bargaining representatives. There are also changes to the laws directing the Department of Early Learning (Department) to establish a child care career and wage ladder.

Public Employees and Employer

Solely for purposes of collective bargaining, child care center directors and workers are "public employees." The directors and workers are owners and employees who work on-site at licensed centers that have at least one slot filled by a child for whom they receive child care subsidies. (Employees who work at centers operated directly by another unit of government or a tribe are not covered.)

Solely for purposes of collective bargaining, the Governor is the "public employer."

Bargaining Units

For purposes of collective bargaining, the only appropriate units are two units of child care center directors and workers as follows:

- directors and workers employed at centers in Island, Kitsap, Pierce, San Juan, Skagit, Snohomish, and Whatcom counties, the part of King County outside the City of Seattle, and the part of the City of Seattle west of the Duwamish River.
- directors and workers employed at centers in the remaining areas of the state.

Each year, child care centers must provide to the Department a list of the names and addresses of current directors and workers. Upon request, the Department must provide to a labor organization a list of all directors and workers in the unit that the organization seeks to organize.

Exclusive Representatives

The exclusive representatives are determined in the manner specified in the PECBA, except that:

- if none of the choices receives a majority of the votes cast in the initial election, there is a run-off election; and
- to show at least 30 percent representation within a unit to accompany a request for an initial election, the written proof of representation is valid only if collected not more than two years prior to filing the request.

Mandatory Subjects of Bargaining

The exclusive representatives of child care center directors and workers and the Governor have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining. Mandatory subjects are limited to the following matters within the purview of the state:

- professional development and training, including the career and wage ladder and other incentives;
- mechanisms to improve access of centers to health care insurance and other benefit programs;
- economic compensation to centers, such as child care subsidies and reimbursements, including tiered reimbursements;
- other economic matters; and
- related grievance procedures.

Requests for Funds and Legislative Changes

The Governor must submit a request to the Legislature for any funds and legislative changes necessary to implement collective bargaining agreements covering child care center directors and workers. The Legislature may approve or reject the submission of the request for funds only as a whole. If the Legislature rejects or fails to act on the submission, a collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

Mediation and Arbitration; No Right to Strike

Child care center directors and workers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. For all personnel who are subject to binding interest arbitration under the PECBA, an interest arbitration panel must consider: the employer's authority, the parties' stipulations, and the cost of living.

For child care center directors and workers, the panel must also consider: a comparison of subsidy rates and reimbursement programs by public entities along the west coast, and the financial ability of the state to pay for the compensation and benefit provisions of the agreement. The panel may consider: the public's interest in reducing turnover and increasing retention, the state's interest in promoting a stable child care workforce; and the state's fiscal interest in reducing reliance upon public benefit programs. The panel's decision is not binding on the Legislature, and if the Legislature does not approve the decision, it is not binding on the state.

Child care center directors and workers do not have the right to strike.

Representation Fees

The state must deduct representation fees from monthly amounts of child care subsidies due to child care centers and transmit the fees to the exclusive representatives. Child care centers operated by churches or other religious bodies for which payment of fees is contrary to bona fide religious tenets must pay equivalent amounts to nonreligious charities or other charitable organizations mutually agreed upon by the center and the exclusive representative.

Other Collective Bargaining Provisions

The following are not modified:

- The rights of child care centers to choose, direct, and terminate the services of child care workers who provide care in the centers.
- The rights of employers and employees under the National Labor Relations Act are not modified.
- The right of the Legislature to modify the delivery of state services through child care subsidy programs, including the standards for eligibility of child care centers participating in subsidy programs.

Career and Wage Ladder

The number of slots which must be dedicated to children whose care is subsidized is reduced from 10 percent of slots to one slot.

The requirement that the ladder be at the same pay schedule as existed in the pilot project is eliminated.

The requirement that the ladder include wage increments for years of relevant experience and levels of work responsibility is eliminated.

In developing procedures for the allocation of funds to implement the ladder, the Department must implement any agreements reached through collective bargaining. The stakeholders with whom the Department must consult in developing the allocation formula do not explicitly include organizations representing child care teachers and providers.

The provisions describing allocation of funds to certain child care centers located in urban areas of DSHS Region One are eliminated.

Appropriation: None.

Fiscal Note: Requested on January 16, 2008.

Effective Date: The bill contains an emergency clause and takes effect immediately.