

SENATE BILL REPORT

E2SHB 2449

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 28, 2008
Ways & Means, March 03, 2008

Title: An act relating to improving quality, access, and stability of child care through providing collective bargaining for child care center directors and workers.

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

Sponsors: House Committee on Appropriations (originally sponsored by 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, Liias, Miloscia, McIntire, Kenney, Santos, Cody, Nelson, Rolfes, Chase and Darneille).

Brief History: Passed House: 2/15/08, 70-24.

Committee Activity: Labor, Commerce, Research & Development: 2/25/08, 2/28/08 [DPA-WM, DNP].

Ways & Means: 3/3/08 [DPA, DNP, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin, Murray and Prentice.

Minority Report: Do not pass.

Signed by Senators Holmquist, Ranking Minority Member; King.

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Carrell, Fairley, Keiser, Kohl-Welles, Oemig, Rasmussen, Regala, Roach and Tom.

Minority Report: Do not pass.

Signed by Senators Hatfield and Honeyford.

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.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Hobbs, Parlette and Schoesler.

Staff: Paula Moore (786-7449)

Background: 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 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. To resolve impasses over contract negotiations, the PECBA requires binding arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation.

Summary of Bill (Recommended Amendments): The 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.

Public Employees and Employer. Solely for purposes of collective bargaining, child care center directors and workers are public employees and the Governor is the public employer. The directors and workers include all employees of child care centers who work on-site at the centers and the owners of child care centers. Child care centers are licensed centers that have at least one slot filled by a child for whom they receive child care subsidies.

Child care centers that are not covered are those centers that are:

- operated directly by another unit of government or a tribe;
- operated by an individual partnership, corporation, or other entity that owns ten or more child care centers statewide; or
- operated by a local nonprofit organization whose primary mission is to provide social services and that pays membership dues or assessments to either:
 - a national organization, exempt from income tax under Section 501(c)(3) of the Internal Revenue Code, with more than \$3 million in membership dues and assessments; or
 - a regional council that is affiliated with a national organization, exempt from income tax under Section 501(c)(3) of the Internal Revenue Code, with more than 200 affiliates.

Bargaining Units. For purposes of collective bargaining, the only appropriate units are determined by PERC. The units must include directors and workers employed at centers located in Department of Social and Health Services (DSHS) regions or subregions. PERC may group together regions to minimize the number of units.

Each year, child care centers must provide to the Department of Early Learning (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.

Bargaining Subjects. The exclusive representatives of child care center directors and workers and the Governor have a mutual obligation to negotiate in good faith over specified subjects of bargaining. These subjects must be within the purview of the state and the community of interest of directors and workers. The mandatory subject of bargaining is the manner and rate of subsidy and reimbursement, including tiered reimbursements.

The permissive subjects of bargaining are: professional development and training; mechanisms and funding to improve access of centers to health care insurance and other benefit programs; other economic support for child care centers; and related grievance procedures.

Retirement benefits are not subject to collective bargaining.

Coalition Bargaining. Negotiations of a collective bargaining agreement must be by a coalition of all the exclusive bargaining representatives. The coalition must bargain for a master collective bargaining agreement covering all of the child care center directors and workers represented by the coalition.

Requests for Funds and Legislative Changes. The Governor must submit a request to the Legislature for any funds and legislative changes necessary to implement the subsidy and reimbursement provisions of 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, the agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

Initial and Ongoing Costs. Initial costs must be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative. Ongoing additional costs to the state in making deductions for the representation fee will be subject to collective bargaining between the exclusive bargaining representative and the Governor.

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 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 child care provider subsidy rates and reimbursement programs by public entities along the west coast of the United States; and the financial ability of the state to pay for the subsidy and reimbursement provisions of a collective bargaining agreement. Child care center directors and workers are not granted 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.

Rights Not Affected. The rights are not affected for: child care centers to choose, direct, and terminate the services of any child care worker; employees and employers under the National Labor Relations Act; and the Legislature in determining standards for professional development and training, quality criteria, or ratings through programs such as a quality rating system.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): The Washington State Institute for Public Policy study is removed.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended Amendments): The requirement that PERC determine bargaining units based on DSHS subregions is deleted. PERC is permitted, but not required, to group together DSHS regions to minimize the number of units for child care center directors and workers. Negotiation of a collective bargaining agreement must be conducted by a coalition of all the exclusive bargaining representatives who represent the units of child care center directors and workers. Mandatory and permissive items subject to collective bargaining for child care centers are established. The sole mandatory item is the manner and rate of subsidy and reimbursement. The permissive items are professional development and training, mechanisms and funding to improve the access of child care centers to health insurance and other benefits programs, other economic support for child care centers, and related grievance procedures. Initial costs must be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative. Ongoing additional costs to the state in making deductions for the representation fee will be subject to collective bargaining between the exclusive bargaining representative and the Governor. An arbitration panel for child care center directors and workers must consider a comparison of child care provider subsidy rates and reimbursement programs by public entities along the west coast of the United States and the financial ability of the state to pay for the subsidy and reimbursement provisions of a collective bargaining agreement. The exemptions are modified by including a national organization that is exempt from income tax with more than \$3 million in membership dues and assessments annually, the previous language established the threshold at \$5 million. The WSIPP study requirement ends January 1, 2014. Removes the provision requiring subsidy rate parity for those child care centers that are exempt from bargaining.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute Bill (Labor, Commerce, Research & Development): PRO: The focus of this bill is on children. The

subsidy rate is below the actual cost of providing day care. Subsidy rates that provide the actual costs for providing quality care are critical to the success of early learning in day care centers. The process has resulted in a nontraditional model of collective bargaining, and creates enabling legislation to allow child care center workers and directors something they currently lack. They would be allowed to come together and work with the state to raise standards. The WSIPP study is a good step, and we are confident that the study will confirm that unionized child care workers will drive quality in the industry. There must be a way for workers to come together and do what is best for the children. The League of Education Voters is committed to early learning. This bill supports the policy work the Legislature has done to support early learning. This is a way to address the low wages and high turnover of child care center providers.

CON: This bill will result in fewer child care centers taking in subsidized children, which will have a negative impact on children. There is no evidence that service in these centers will improve as a result of unionization. Teacher trainers could be used in these centers at a cheaper cost to the state. In-home child care providers have not seen an improvement in the quality of care, training, or health care from their representation by SEIU. The money required to implement this bill should be put towards professional development. Fees should be paid to places that will directly impact child care centers. The bill raises too many unanswered questions and should not mandate a union. The Legislature can talk to the providers, and does not need this bill to do that. This bill will discourage workers from going into the field, and discourage people from opening centers. We need to study how many children are dropped from care as a result of the bill. The Legislature should study the family home providers and see if there is improvement from child care as a result of that bill before you pass this bill. The YMCA's of Washington are still opposed to the bill; this is not good for child care.

OTHER: The nontraditional collective bargaining provided for in the bill relies on mandatory participation and does not provide for right of refusal. The Legislature can adjust subsidy rates and does not need this bill to do that. Individual's religious rights are not safeguarded by the bill. Parity should not be eliminated.

Persons Testifying (Labor, Commerce, Research & Development): PRO: Representative Pettigrew, prime sponsor; Adair Damman, SEIU 925; Monica La Rievere, Riverside Childcare; Cathy Raye Hyland, Community Montessori; George Scarola, League of Education Voters.

CON: Tom Emery, Love and Laughter Learning Center; Brad Burnett, Purple Palace Daycare; Ginger Still, Kids World; Candi Doran, Little Orcas Learning Center; Colleen Hill, Country Kids Playhouse; Liv Finne, Washington Policy Center; Margo Logan, Washington Parents For Safe Childcare; Mike West, YMCA's of Washington.

OTHER: Scott Dilley, Evergreen Freedom Foundation; Fred Yancy, Washington Alliance of Boys/Girls Clubs.

Staff Summary of Public Testimony (Ways & Means): None.

Persons Testifying (Ways & Means): No one.