

SENATE BILL REPORT

SB 5772

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 27, 2007

Title: An act relating to certifying an employee organization for the purposes of state collective bargaining.

Brief Description: Certifying an employee organization for the purposes of state collective bargaining.

Sponsors: Senators Kohl-Welles, Franklin, Keiser and Kline.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/20/07, 2/27/07 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5772 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senators Clements, Ranking Minority Member; Hewitt and Holmquist.

Staff: Kathleen Buchli (786-7488)

Background: The Public Employees' Relations Commission (Commission) determines the exclusive bargaining representative of a bargaining unit of public employees. The collective bargaining laws authorize the Commission to conduct either an election or a cross-check of organization membership records or bargaining authorization cards with employment records. These laws include the Public Employees' Collective Bargaining Act, the Personnel System Reform Act, and the state law governing collective bargaining for faculty at public four year institutions of higher education.

The Commission has adopted rules to specify the manner in which cross-checks are conducted. If an application for certification of an organization as an exclusive bargaining representative is submitted to the Commission, along with a 70 percent showing of interest, a cross-check may be conducted.

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.

First, the organization provides the Commission with authorization cards signed and dated by employees in the bargaining unit. Next, the employer provides the Commission with employment records containing the names and signatures of employees in the bargaining unit.

Finally, the Commission compares the records furnished by the parties, and then gives the parties a tally sheet containing the number of employees in the bargaining unit, the number of records examined, and the number of employee records counted as valid evidence of representation. If there are valid cards for a majority of the employees in the bargaining unit, the Commission certifies the organization as the exclusive bargaining representative.

Summary of Bill (Recommended Substitute): The manner in which cross-checks are conducted under the Public Employees' Collective Bargaining Act, the Personnel Service Reform Act, and the state law governing collective bargaining for faculty at public four-year institutions of higher education is modified.

A cross-check, comparing bargaining authorization cards against the employer's records, may be conducted if the application for certification of an organization as an exclusive bargaining representative is submitted along with a majority (more than 50 percent) showing of interest. An organization is certified as the exclusive bargaining representative of the bargaining unit if there are valid cards for a majority (more than 50 percent) of the employees in the bargaining unit. Instead of a cross-check, the petitioner may request that an election be held.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended Substitute): An option is added for the petitioner to request that an election be held under the Public Employee's Collective Bargaining Act, the Personnel Service Reform Act, and the state law governing collective bargaining for faculty at public four year institutions of higher education.

Bargaining authorization cards are compared to the employer's records, rather than the Department of Personnel's records.

Appropriation: None.

Fiscal Note: Available for HB 1913, companion bill.

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 Original Bill: PRO: This bill is common sense and straightforward, and reestablishes what historically has happened in Washington for years before Personnel Services Reform and that is the majority rule (50 percent plus one). This bill eliminates the cost and the time of a regulatory process to hold elections when it is not necessary. This bill strengthens collective bargaining. The majority of workers want representation. This bill protects employee choice by leaving the decision-making to the employees.

CON: A no conflict of interest clause should be added to this bill. This legislation would make it easier to get into a union than it is to get out of a union. The cards distributed to workers implied that if the worker wanted more information on unions he or she could fill out the information requested, sign the card, and mail it. This was deceiving because the cards

that were filled out weren't used for information purposes, but were actually union authorization cards. The secret ballot is the best way for employees to make their choice. The secret ballot prevents any coercion or retaliation. This bill should also address de-certification; the process should be the same.

OTHER: Currently, cross-checks are used to determine the outcome of representation cases at 50 percent plus one. The standard for cross-checks is set at 70 percent plus one as a safeguard, so that another petitioning union cannot get the minimum 30 percent showing of interest. The concern with going to 50 percent plus one is that there could be an error on the list received from the employer. If an error were to occur, this would cause a problem in certifying a representative with the close margin of error that exists with 50 percent plus one. In addition, at the time when a cross-check is conducted, employees do have an opportunity to withdraw their authorization card, or employees can terminate their employment which could lead to less than 50 percent for certification.

Persons Testifying: PRO: Dennis Eagle, Washington Federation of State Employees; Robbie Stern, Washington State Labor Council.

CON: Wendy Mitchell, Washington State Residential Care Council; Dennis Redmon, Fair Washington Labor; Debbie Johnson, Free Conscience; Daniel Meyer, private citizen/state employee.

OTHER: Cathy Callahan, Public Employment Relations Commission.