

SENATE BILL REPORT

SB 6835

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 05, 2008

Title: An act relating to labor and management relations.

Brief Description: Prescribing rights of employees, employers, and labor organizations, not subject to the federal labor relations act.

Sponsors: Senators Kohl-Welles and Keiser.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/04/08, 2/05/08 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6835 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 Holmquist, Ranking Minority Member; Hewitt and King.

Staff: Kathleen Buchli (786-7488)

Background: The National Labor Relations Board (NLRB) is an independent federal agency that administers the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector. The NLRB has two principal functions: to determine, through secret-ballot elections, whether employees wish to be represented by a union in dealing with their employers and if so, by which union; and to prevent and remedy unfair labor practices by either employers or unions. The NLRB's jurisdiction is limited to enterprises that involve a substantial effect on interstate commerce. This is based on the yearly amount of business done by the enterprise, stated in terms of total dollar volume of business, and is different for different kinds of enterprises. For example, symphony orchestras are covered if they receive at least \$1 million in gross annual revenues. Retail enterprises are covered if their annual volume of business is at least \$500,000. Employers who provide social services are covered if they receive at least \$250,000 in gross annual revenues.

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 Public Employment Relations Commission (PERC) is an independent Washington State agency responsible for resolving disputes involving most public employers and employees, and the unions that represent those employees. When public employers and unions are unable to agree on a written contract establishing the wages, hours, and working conditions of bargaining unit employees, PERC provides mediation to help the parties reach an agreement. PERC's jurisdiction is determined by state law and includes the following groups: state civil service employees; state higher education classified (civil service) employees; community and technical college faculty; public utility district employees; and home care independent providers.

Summary of Bill (Recommended Substitute): PERC's jurisdiction is extended to symphony orchestras, operas, and performing arts theaters that do not meet the NLRB's jurisdictional requirements.

PERC must certify exclusive bargaining representatives and decide the unit appropriate for the purpose of collective bargaining. An employee organization seeking certification as the exclusive bargaining representative of a bargaining unit, or employees seeking decertification of their exclusive bargaining representative, must make a confidential showing to the commission of credible evidence demonstrating that at least 30 percent of the employees in the bargaining unit are in support of the petition. PERC must determine any question concerning representation by conducting a secret ballot election among the employees in the bargaining unit, and must certify the exclusive bargaining representative that has been determined to represent a majority of employees in a bargaining unit.

PERC must conduct mediation activities upon request of either party to assist in the settling of unresolved matters. A collective bargaining agreement may include procedures for final and binding grievance arbitration of the disputes arising about interpretation or application of the agreement.

The exclusive bargaining representative may deduct membership dues and fees from the salary of the bargaining unit member. If the bargaining unit member asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body, the member must pay to a nonreligious charity or other charitable organization an amount of money equivalent to the membership dues and fees.

PERC may prevent a person from engaging in unfair labor practices. Unfair labor practices include interfering with the exercise of collective bargaining rights, discriminating against a bargaining unit member, and refusing to bargain collectively with an employer.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended Substitute): The application of the bill is limited to symphony orchestras, operas, and performing arts theaters that do not fall under the jurisdiction of the NLRB.

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 Original Bill: PRO: This bill will resolve an ongoing problem for musicians who are employed by small venues and have no recourse under the National Labor Relations Act. Currently, there are no enforcement mechanisms in place for these venues, and an employer is not required to talk to an employee, even if there is a union involved. The only recourse employees have now is to strike.

CON: This is significant legislation, and was considered by the Legislature in the 1970's and rejected at that time. This will result in new state regulations to implement. The fiscal note raises questions because the bill will set up new regulations for collective bargaining, and 200,000 small businesses are likely to be impacted. These factors are likely to have an impact on PERC's budget. These businesses will not understand these regulations. This bill moves PERC into the private sector. If the fiscal note is correct and there is no fiscal impact, then it is unclear what problem this bill intends to fix. Workers can collectively bargain today, and they do not need this bill. The scope should be narrowed to musicians. There are concerns that this will impact agriculture workers. Small retailers should also be exempt from the bill.

OTHER: This would allow collective bargaining for those who do not meet National Labor Relations Board standards. There would be no problems with administration; PERC would be able to absorb costs in their current budget. There are rules in place today on elections, and the principles of labor relations are not changing.

Persons Testifying: PRO: Joan Sandler, American Federation of Musicians, Local 76-493; Warren Johnson, American Federation of Musicians, Local 76-493; Rebecca Evans, American Federation of Musicians, Local 76-493.

CON: Gary Smith, Independent Business Association; Troy Nichols, National Federation of Independent Business, Washington; Dan Fazio, Washington Farm Bureau; Vicky Marin, Washington Retail Association.

OTHER: Cathy Callahan, Public Employment Relations Commission; Ken Latsch, Public Employment Relations Commission.