

SENATE BILL REPORT

SB 6290

As of January 18, 2010

Title: An act relating to collective bargaining for certain employees of institutions of higher education and related boards.

Brief Description: Addressing collective bargaining for certain employees of institutions of higher education and related boards.

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

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/18/10.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Kathleen Buchli (786-7488)

Background: Certain employees of institutions of higher education are exempt from state civil service. These include: members of the governing board of each institution of higher education and related boards; all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; executive heads of major administrative or academic divisions; principal assistants to executive heads of major administrative or academic divisions; and other managerial or professional employees having substantial responsibility for directing or controlling program operations.

With some exceptions, employees of institutions of higher education who are exempt from state civil service are given collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA). Those exceptions include: executive employees, including members of the governing boards of each institution of higher education and related boards; all presidents and vice presidents; deans, directors, and chairs; executive heads of major administrative or academic divisions; managers who formulate policy or direct the work of an administrative unit; managers who manage, administer, and control a program; managers who have substantial responsibility for human resources administration, legislative relations, public information, internal audits and investigations, or the preparation and administration of budgets; managers who are functionally above the first level of supervision and exercise authority that is not merely routing or clerical in nature and requires

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the consistent use of independent judgment; administrative assistants; confidential employees; and employees who assist assistant attorneys general.

Summary of Bill: The exceptions to the list of employees of institutions of higher education who are exempt from state civil service and are given collective bargaining rights under PECBA are modified. Removed from the exceptions and consequently permitted to bargain under PECBA are: directors; managers who formulate policy or direct the work of an administrative unit; managers who manage, administer, and control a program; managers who have substantial responsibility for human resources administration, legislative relations, public information, internal audits and investigations, or the preparation and administration of budgets; and managers who are functionally above the first level of supervision and exercise authority that is not merely routing or clerical in nature and requires the consistent use of independent judgment. This group is also modified to include supervisors.

Appropriation: None.

Fiscal Note: Requested on January 13, 2010.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The intent of the underlying bill was to give collective bargaining rights for some exempt personnel. In organizing under that statute in Everett, we have encountered problems. The hearings with the Public Employment Relations Commission (PERC) are time consuming and are being conducted to determine the meaning of the statute and who fits into the groups under the statute. A lot of money is being spent to determine the meaning of the terms and who is covered under the statutes in these hearings with PERC. One of the problems is that there are no definitions for the terms used in the statute. The terms used in the statute are used differently by different community and technical colleges. A hearing to determine the meaning of these terms for one college may not directly apply in determining the meaning for those terms in another college. The process for PERC hearings, and their associated costs to PERC and the colleges, is likely to be repeated.

CON: When this came up in 2007, the parties worked together to develop the law in place today. Discussion included who would be included and who would be exempt. The exemption language was drafted using other existing statutes, including Washington Management Services exemptions and faculty collective bargaining statutes. We are not sure what problem the bill is seeking to solve and the suggested change is extreme. We would like the opportunity to discuss it further with the unions. This law has worked well in three of the four times it has been used. It is an issue in Everett, and the process taken by PERC is like the process taken by other public employers; this is a process applied throughout when there is a representation question. Given its newness it seems to be working and could benefit from tweaking. The change you are proposing is different than the longstanding policy you have with state agency managers. It is not in our benefit to unionize public employees and we do not have the money to pay for it. There is a law that protects people from paying to work for the public, this will get people in to keep people in office.

OTHER: This is a matter of policy between the proponents and some of the employers. The litigation in Everett is not done yet. The hearing costs include the costs of the hearing officer and the court reporter. A resolution in the Everett case does not necessarily apply to other colleges but some standards may be generally applicable. Each case must be taken on its own.

Persons Testifying: PRO: Carla Shafer, Everett Community College; Sandra Schroeder, American Federation of Teachers, Washington.

CON: Louis Pisano, University of Washington, Council of Presidents; John Boesenberg, State Board of Community and Technical Colleges; Paul W. Locke, citizen.

OTHER: Ken Latsch, Public Employment Relations Commission.