

HOUSE BILL REPORT

SHB 1127

As Passed Legislature

Title: An act relating to certified exclusive bargaining representatives.

Brief Description: Addressing bargaining with certified exclusive bargaining representatives.

Sponsors: House Committee on Labor & Workforce Development (originally sponsored by Representatives Moeller and Sells).

Brief History:

Committee Activity:

Labor & Workforce Development: 1/19/11, 2/2/11 [DPS].

Floor Activity:

Passed House: 2/23/11, 93-2.

Senate Amended.

Passed Senate: 4/12/11, 47-0.

House Concurred.

Passed House: 4/15/11, 93-2.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires the Public Employment Relations Commission to intervene if a covered employer and a bargaining representative disagree as to the merger of two or more bargaining units that are represented by the same bargaining representative.
- Establishes as an unfair labor practice for a covered employer to refuse to bargain with the certified bargaining representative.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sells, Chair; Reykdal, Vice Chair; Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Green, Kenney, Miloscia, Moeller, Ormsby, Roberts, Taylor and Warnick.

Staff: Alison Hellberg (786-7152).

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.

Background:

Under the Public Employees' Collective Bargaining Act (Act), local government and certain other public employees have the right to organize and designate collective bargaining representatives. In the event that a covered employer and a bargaining representative disagree as to the selection of a bargaining representative, the Public Employment Relations Commission (Commission) must be invited to intervene. State law and Commission rules designate procedures for the Commission's intervention. The Commission may conduct an election to ascertain the exclusive bargaining representative. If a prospective bargaining representative shows written proof of at least 30 percent representation of the employees within the unit, the Commission must hold an election.

In each application for certification as an exclusive bargaining representative the Commission must decide the appropriate unit for collective bargaining. In determining, modifying, or combining a bargaining unit, the Commission is required to consider: the duties, skills, and working conditions of the employees; the history of collective bargaining by the employees and their bargaining representatives; the extent of organization among the employees; and the desire of the employees.

Unfair labor practices for covered employers and bargaining representatives are enumerated in the Act. The Commission is directed to prevent unfair labor practices and issue appropriate remedial orders. It is an unfair labor practice for a covered employer to:

- interfere with, restrain, or coerce public employees in the exercise of their rights;
- control, dominate, or interfere with a bargaining representative;
- discriminate against a public employee who has filed an unfair labor practice charge;
- or
- refuse to engage in collective bargaining.

Summary of Substitute Bill:

In the event that a covered employer and a bargaining representative disagree as to the merger of two or more bargaining units in the employer's workforce that are represented by the same bargaining representative, the Commission must be invited to intervene.

It is an unfair labor practice for a covered employer to refuse to bargain with the bargaining representative.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a very simple bill. If the employer and the bargaining representative agree, bargaining units should be consolidated. Section one of the bill is necessary because

the Commission is not following the statutory factors. Recent decisions by the Commission have even questioned underlying bargaining units. Sometimes over time it makes sense to combine multiple units. It is more efficient to bargain together. The opinions of the local people dealing with issues should be taken into consideration. This bill makes the process more efficient and makes good economic sense.

Section two of the bill is important because the employer cannot tell the employee with whom they bargain. It is up to the employees to determine the bargaining representative. Local bargaining units elect a local governance group and the union provides professional staff. The professional staff serve as the bargaining representative. An employer decided it wanted to negotiate with the rest of the employees and not the professional staff. This is a major concern that this bill seeks to address.

(With concerns) The Commission has concerns with section one of the bill. The Legislature has given the Commission authority to determine appropriate bargaining units. There are a lot of considerations in determining an appropriate bargaining unit. This is an issue of employee rights, not the rights of unions or employers. The Commission deals with these issues on a regular basis. Often when consolidation is agreed upon, bargaining units have included supervisors, which is an inherent conflict of interest, or units have included employees with interest arbitration rights and those without interest arbitration rights. There is a process in statute to clarify or appeal unit determinations. This bill undermines employee rights and the authority of the Commission.

(Opposed) None.

Persons Testifying: (In support) Representative Moeller, prime sponsor; and Pat Thompson, Washington State Council of County and City Employees.

(With concerns) Cathy Callahan, Public Employment Relations Commission.

Persons Signed In To Testify But Not Testifying: None.