

# SENATE BILL REPORT

## SB 5368

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As Reported by Senate Committee On:  
Labor, Commerce & Consumer Protection, February 21, 2011

**Title:** An act relating to the public employees' collective bargaining act as applied to certain juvenile court services and department of corrections employees.

**Brief Description:** Granting binding arbitration rights to certain juvenile court services and department of corrections employees.

**Sponsors:** Senators Kohl-Welles, Zarelli, Chase, Nelson, Keiser and Conway.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/10/11, 2/21/11 [DPS-WM, DNP].

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Majority Report:** That Substitute Senate Bill No. 5368 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Hewitt, Keiser and Kline.

**Minority Report:** Do not pass.

Signed by Senators Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member.

**Staff:** Ingrid Mungia (786-7423)

**Background:** Collective Bargaining and Interest Arbitration. The Public Employees' Collective Bargaining Act (PECBA) provides for collective bargaining of wages and working conditions by counties, cities, and other political subdivisions and their employees. For uniformed personnel, the PECBA recognizes the public policy against strikes as a means of settling labor disputes. To resolve impasses over contract negotiations involving uniformed personnel, the PECBA requires binding interest arbitration.

Uniformed personnel include correctional employees who are employed in jails by counties with a population of 70,000 or more and who are trained for and charged with responsibility for custody of inmates in the jail. The employees listed as uniformed personnel also include, among others: fire fighters in all cities and counties, law enforcement officers in larger cities

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and counties, general authority peace officers and fire fighters employed by certain port districts, security forces at a nuclear power plant, and publicly employed advanced life support technicians. Other public employees covered by interest arbitration include state patrol officers.

The Personnel System Reform Act (PSRA) provides for collective bargaining of wages, hours, and other terms and conditions of employment with classified employees of state agencies and institutions of higher education. The PSRA does not provide for binding interest arbitration.

Juvenile Detention Facilities. The Juvenile Justice Act authorizes superior court judges in certain counties with a population of one million or more to transfer responsibility for and administration of juvenile court services to the county executive, subject to approval of the county legislative authority. Pursuant to such a transfer, the King County Department of Adult and Juvenile Detention, through the Juvenile Division, operates the juvenile detention facility and administers alternatives to secure detention.

Department of Corrections Facilities. The Department of Corrections (Department) is responsible for managing state-operated adult prison facilities and supervising adult offenders residing in communities. The Department manages minimum to maximum custody level institutions, partial confinement programs, and community supervision services.

**Summary of Bill (Recommended Substitute):** Juvenile Detention Employees. The binding interest arbitration provisions of the PECBA are extended to certain juvenile detention employees. These employees must be employed by a juvenile detention division created pursuant to a transfer of juvenile court services to the county executive by superior court judges in certain counties with a population of one million or more. They must be responsible for supervising, controlling, monitoring, programming, classifying, and/or maintaining custody of juveniles in juvenile detention facilities or alternatives to secure detention programs.

Department of Corrections Employees. The collective bargaining provisions of the PECBA, instead of the PSRA, are applied to the state of Washington with respect to Department employees. The binding interest arbitration provisions of the PECBA are also extended to Department employees.

Certain bargaining units are grandfathered and considered appropriate units under the PECBA. These bargaining units include:

- nonsupervisory classified employees working in correctional institutions, the correctional industries program, the sex offender treatment program, and the regional business service center;
- supervisory classified employees working in correctional institutions, the correctional industries program, the sex offender treatment program, and the regional business service center;
- psychiatric social workers;
- psychology associates;
- chaplains;

- psychiatrists;
- psychologist 3 and 4 nonsupervisory; and
- psychologist 3 and 4 supervisory.
- nonsupervisory community corrections;
- supervisor community corrections;
- nonsupervisors - warrant/records unit;
- nonsupervisory marine department;
- nonsupervisory officers at McNeil island; and
- ferry operators (deckhands) at McNeil Island.

Bargaining representatives recognized under the PSRA are also grandfathered and recognized as representing bargaining units under the PECBA.

Other collective bargaining provisions are comparable to the PSRA. For example, the state is represented by the Governor. Bargaining representatives must negotiate one master agreement with the Governor if they represent multiple units. They also must be part of the coalition that negotiates certain subjects, including the dollar amount expended on behalf of each employee for health care benefits. The scope of bargaining is wages, hours, and other terms and conditions of employment.

The Governor must submit requests to the Legislature for any funds and legislation necessary to implement a collective bargaining agreement. A request must not be submitted unless it has been certified by the Director of the Office of Financial Management as being feasible financially or it reflects the binding decision of an arbitration panel. The Legislature must approve or reject the submission of the request for funds as a whole. If the Legislature rejects or fails to act on the submission, a collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement. The duration of an agreement must not exceed one biennium.

Department employees are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. The interest arbitration panel must consider:

- the employer's authority;
- the parties' stipulations;
- comparisons of hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;
- changes in any listed factors during the proceedings; and
- other factors normally or traditionally considered in the determination of wages, hours, and conditions of employment.

The interest arbitration panel's decision is not binding on the Legislature, and if the Legislature does not approve the funding, it is not binding on the state.

The negotiations under the PECBA must begin no later than July 1, 2012, and an agreement must not be effective prior to July 1, 2013. An agreement under the PSRA entered into before July 1, 2012, remains in full force, but may not be renewed or extended beyond July 1, 2013.

**EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute):** The following bargaining units were added to the units grandfathered under PECBA:

- nonsupervisory community corrections;
- supervisor community corrections;
- nonsupervisors - warrant/records unit;
- nonsupervisory marine department;
- nonsupervisory officers at McNeil island; and
- ferry operators (deckhands) at McNeil Island.

**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: Binding interest arbitration is something that is widely used by police, fire, and adult correctional officers. The Washington Federation of State Employees community corrections component was supposed to be a part of this bill. Adults have binding interest arbitration, and it does not get used. When both parties have an incentive to bring the best set of facts to the table, they do not need to use binding interest arbitration. When we do get to contract negotiations, the atmosphere is supposed to be one to negotiate in good faith. The atmosphere is not in good faith now. Binding arbitration will allow us to get safer conditions and equipment. We work in a hostile environment and sometimes we do not have the proper training or equipment. We want a level playing field and the opportunity to negotiate in good faith. We cannot do our job safely without these provisions. We need your support to pass this binding interest arbitration bill. Interest arbitration is a powerful tool. Other public safety personnel have interest arbitration in the state. It is time to give the same protections to the Department of Corrections (DOC) and Juvenile Detention officers. Correctional staff are public safety professional and deserve to be recognized as such. Interest arbitration is a balance between the need to ensure that public safety is never jeopardized and the need to ensure that public safety professional have a process for meaningful and fair collective bargaining. DOC has this attitude of my way or the highway. We need to start listening. We are asking for a fair playing field. We need to be heard and seen now. Interest arbitration would help people keep safe. Correctional officers should be allowed the same protections as other officers. We need interest arbitration so we can have basic safety measures put into contract. We want the opportunity to bargain for safety measures.

**Persons Testifying:** PRO: Clay Impala, Emmanuel Yniguez, Hector Garcia, Russell Hairston, King County DAJD; Tracey Thompson, Jim Smith, Joan Roaper, Teamsters 117; Michael Boe, Teamster 117 DOC Monroe; John Christy, Teamsters 117, DOC Walla Walla State Penitentiary; Sid Clark, Teamsters 117 Larch; Greg Bellamy, Teamsters 117 Clallam Bay Corrections; Jerry Banner, DOC, CBCC; Sharon Azzinnaro, DOC AHCC/Teamsters; Tamara MacAvoy, citizen; Tamara MacAvoy, DOC MCC; Michelle Watson, DOC Officer; Matt Zuvich, WFSE.