

HOUSE BILL REPORT

HB 1490

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to the public employees' collective bargaining act as applied to department of corrections employees.

Brief Description: Applying the public employees' collective bargaining act to department of corrections employees.

Sponsors: Representatives Sells, Reykdal, Tharinger, Pollet, Walsh, Green, Fitzgibbon, Goodman, Hope, Moscoso, Freeman, Lytton, Ormsby, Stanford, Ryu, Liias, Fey and Bergquist.

Brief History:

Committee Activity:

Labor & Workforce Development: 2/7/13, 2/14/13 [DPS].

Brief Summary of Substitute Bill

- Applies the collective bargaining provisions of the Public Employees' Collective Bargaining Act (PECBA), instead of the Personnel System Reform Act (PSRA), to classified employees working for the Department of Corrections (Department).
- Provides that the scope of mandatory bargaining is the same as described in the PSRA and includes wages, hours, and other terms and conditions of employment.
- Extends the binding interest arbitration provisions of the PECBA to Department employees.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

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.

Minority Report: Do not pass. Signed by 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy and Short.

Staff: Alexa Silver (786-7190).

Background:

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, among others: 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; firefighters in all cities and counties; law enforcement officers in larger cities and counties; general authority peace officers and firefighters 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.

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 Substitute Bill:

The collective bargaining provisions of the Public Employees' Collective Bargaining Act (PECBA), instead of the Personnel System Reform Act (PSRA), are applied to the State of Washington with respect to classified employees working for the Department of Corrections (Department), excluding confidential employees, members of the Washington Management Service, and internal auditors. The mediation and binding interest arbitration provisions of the PECBA are also extended to Department employees. Exclusive bargaining representatives and bargaining units are "grandfathered" and considered appropriate units and representatives under the PECBA.

Other collective bargaining provisions are comparable to the PSRA. For example, the scope of bargaining is wages, hours, and other terms and conditions of employment and does not include management rights. The state is represented by the Governor. Bargaining

representatives must negotiate one master agreement with the Governor if they represent multiple units within the Department. 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 Governor must submit requests to the Legislature for any funds and legislation necessary to implement a collective bargaining agreement or arbitration award. A request must not be submitted unless it has been certified by the Director of the Office of Financial Management as being financially feasible. The Legislature must approve or reject the request for funds as a whole. If the Legislature rejects the request or fails to act, an agreement or award may be reopened. The parties may enter into collective bargaining if a significant revenue shortfall occurs.

The duration of an agreement must not exceed one biennium. The terms of an agreement remain in effect for up to one year after its expiration, after which time the employer may unilaterally implement the terms of the employer's last offer at the bargaining table.

Department employees are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. The mediator and the arbitration panel may consider only matters subject to bargaining and may not consider the number of names to be certified for vacancies, promotional preferences, or the dollar amount expended per employee for health care benefits. The interest arbitration panel must consider:

- the financial ability of the Department to pay for compensation and benefit provisions;
- the employer's authority;
- the parties' stipulations;
- comparisons of hours and conditions of employment of like personnel of like state government employers of similar size in the western United States;
- the ability of the state to retain employees working for the Department;
- the overall compensation presently received by Department employees, including direct wage compensation, vacations, holidays, pensions, insurance benefits, and all other direct or indirect monetary benefits;
- 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 decision of an arbitration panel is not binding on the Legislature, and if the Legislature does not approve funds to implement the agreement, is not binding on the state or the Department.

The negotiations under the PECBA must begin no later than July 1, 2014, and an agreement may not be effective prior to July 1, 2015. An agreement under the PSRA entered into before July 1, 2014, remains in full force, but may not be renewed or extended beyond July 1, 2015. If a new agreement under the PECBA is not reached by July 1, 2015, the provisions of an existing agreement remain in effect until an agreement under PECBA is reached, up to one year from the expiration date. The employer may unilaterally implement after that date.

Substitute Bill Compared to Original Bill:

The substitute bill applies the Public Employees' Collective Bargaining Act to classified employees of the Department of Corrections (Department), rather than all employees, and excludes certain categories of employees. It clarifies that management rights are not subject to bargaining. It modifies the grandfathering of bargaining units and representatives and specifies that a master agreement must be negotiated only when the bargaining representative represents more than one unit within the Department.

The substitute bill adds other provisions from the Personnel System Reform Act related to legislative approval, revenue shortfalls, and unilateral implementation.

With respect to the factors that an arbitration panel considers, the substitute bill adds: the financial ability of the Department to pay; comparison with like state government employers in the western United States (rather than like employers on the west coast of the United States); the ability of the state to retain employees at the Department; and the overall compensation presently received by Department employees. The substitute bill requires the Office of Financial Management to certify that an award is financially feasible. It also provides that an arbitration panel's decision is not binding on the Legislature.

The substitute bill permits an existing agreement to remain in effect for up to one year from its expiration date and permits the employer to unilaterally implement after that date.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 15, 2013.

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

Staff Summary of Public Testimony:

(In support) Law enforcement has binding interest arbitration rights, and Department of Corrections (Department) employees should not be any different. Like police officers, firefighters, county corrections, and the Washington State Patrol, Department employees have chosen a life of service and sacrifice to protect the public, rehabilitate the worst offenders, and keep the community safe. They put their lives on the line to make the community safe, but their safety is up for grabs. Employees in prisons have given up the fundamental right to strike because of their role in public safety. They deserve respect, dignity, and a level playing field in negotiations. The work they do is dangerous; staff are assaulted, offenders assault each other, and offenders hurt themselves. Noncustody prison workers, including counselors, administrative staff, cooks, and nurses, work alongside custody officers and interact with offenders. If there were an emergency, noncustody staff would assist.

The workforce of community corrections officers has been greatly diminished due to budget conditions. Most offenders who are supervised now are categorized as high violent offenders. With the advent of the swift and certain sanctioning model, community

corrections officers arrest the violator instead of using other sanctions. Offenders know that when they have contact with a community corrections officer, they are most likely going to jail, which creates a risky situation. Safety training is necessary, but gets lost at the bigger bargaining table. Community corrections centers receive multiple bomb threats each week.

This bill would give teeth to Engrossed Senate Bill 5907. The administrators have not taken employees' safety seriously, and employees have no real leverage to address safety issues. Interest arbitration provides a neutral third party to settle contract disputes and issues related to officer safety. It compels the parties to treat each other with respect and dignity at the bargaining table.

(Neutral) There are other options for addressing current bargaining units. This bill should perhaps also be harmonized with House Bill 1540, which gives another group of employees interest arbitration.

(Opposed) None.

Persons Testifying: (In support) Representative Sells, prime sponsor; Michelle Woodrow, Serena Davis, and Robert A. Gran, Teamsters Local 117; Shane Zey and Chris Hallgren, Monroe Correctional Complex; Sid Clark and Robert Stricker, Larch Corrections Center; Mathew Zuvich and Billy R. Smith, Washington Federation of State Employees; Dan Johnson, Cedar Creek Corrections Center; Carl Beatty; and Geoff Simpson, Washington State Council of Fire Fighters.

(Neutral) Charity Atchison, Public Employment Relations Commission.

Persons Signed In To Testify But Not Testifying: None.