

SENATE BILL REPORT

SB 6183

As Reported by Senate Committee On:
Governmental Operations, February 6, 2014

Title: An act relating to requiring public employee collective bargaining sessions to be open meetings.

Brief Description: Requiring public employee collective bargaining sessions to be open meetings.

Sponsors: Senators Braun, Tom, Becker, Angel, Bailey, Sheldon, Baumgartner, Honeyford, Brown and Holmquist Newbry.

Brief History:

Committee Activity: Governmental Operations: 1/30/14, 2/06/14 [DP, DNP].

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Majority Report: Do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Dandel and Rivers.

Minority Report: Do not pass.

Signed by Senators Hasegawa, Ranking Member; Conway and McCoy.

Staff: Samuel Brown (786-7470)

Background: Open Public Meetings Act (OPMA). The OPMA requires that all meetings of the governing body of a public agency be open to the public and all persons must be allowed to attend. For the purposes of the OPMA, a public agency is defined broadly and includes, but is not limited to, any state board, commission, department, education institution, agency, local government, and special purpose district. A governing body is defined as a multi-member board, commission, committee, council, or other policy or rulemaking body of a public agency, or any committee thereof that is acting on behalf of the public agency.

Four types of public agency meetings are exempt from the OPMA:

- proceedings concerned with licensing or permitting businesses and professions, or disciplinary proceedings involving entities licensed by the public agency;
- portions of meetings where the agency acts in a quasi-judicial capacity;
- matters governed by the Administrative Procedure Act; and

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- collective bargaining sessions, including contract negotiations, grievance meetings, and discussions relating to interpretation or application of labor agreements, and collective bargaining strategy sessions.

Collective Bargaining. The state collective bargaining law provides for bargaining of wages, hours, and other terms and conditions of employment by the state and representatives of classified employee bargaining units representing non-excluded and non-exempt state employees. Under the Public Employees' Collective Bargaining Act, local government employees have the right to organize and designate collective bargaining representatives to negotiate wages, hours, and other terms and conditions of employment.

Summary of Bill: The OPMA is applied to contract negotiations in collective bargaining with public employee units. Collective bargaining sessions with public employee organizations involving contract negotiations must be open to the public. However, an individual contract negotiation session may be private if both the public employee organization and the public agency, or their representatives, agree.

Appropriation: None.

Fiscal Note: Not requested.

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: Making these sessions open to the public will provide citizens with greater insight and mitigate some of the more outrageous positions and behavior. We want a public that respects and values the work our public sector workers do, and you get there by creating transparency and trust.

These negotiations are fundamentally about determining the use of tax expenditures, service levels, governmental accountability measures, and future liabilities. Secrecy can lead to abuse. Eleven states allow some public access to collective bargaining sessions, and five require all of them be open to the public. Oregon schools have been conducting open bargaining sessions for about 15 years. Both sides benefit from the ability to observe the process firsthand and unfiltered. Teachers' unions have proposed conducting bargaining in public.

All important education decisions are in collective bargaining agreements. In many cases, it can be difficult to get a copy of the agreement for months. Often, there are dueling news releases about what the negotiations are over. It would be nice to have reporters in the room to give the public a fair impression. Both parties can still agree to have the negotiations in an executive session.

CON: The Legislature tried opening up caucus meetings and conference committee meetings, it came to a standstill, and the concept was abandoned. Nobody negotiates in public. It does not work. This is a recipe for gridlock. Collective bargaining is a process where a lot of good and bad ideas are exchanged, but the important part is that it creates a

safe place for people to have frank conversations. Opening the process changes the dynamic, leading to grandstanding and mugging for the camera rather than trying to come to an agreement.

Once parties reach a tentative agreement, the ratification is done in public session. We do not see this same dynamic in legislative negotiations. Contract negotiations are slow, boring, and time consuming, and would not be very edifying. Collective bargaining is akin to the rules of evidence, where some of the negotiations are not admissible in court and the discussions cannot be held against you.

OTHER: We recognize that there are times when things cannot be said in front of the public. There is no Public Records Act exemption for materials exchanged during negotiations, and we would like to keep things that way.

Persons Testifying: PRO: Senator Braun, prime sponsor; Maxford Nelsen, Jami Lund, Freedom Foundation.

CON: Dennis Eagle, WA Federation of State Employees; Joe Kendo, WA State Labor Council; Pat Thompson, County and City Employees; Steve Segall, WA Federation of State Employees Local 443.

OTHER: Rowland Thompson, Allied Daily Newspapers of WA.