

SENATE BILL REPORT

SB 6410

As of February 10, 2016

Title: An act relating to requiring periodic certification elections for labor unions representing public employees.

Brief Description: Requiring periodic certification elections for labor unions representing public employees.

Sponsors: Senators Hewitt and Warnick.

Brief History:

Committee Activity: Commerce & Labor: 2/01/16, 2/03/16 [DPS-WM, DNP].
Ways & Means: 2/08/16.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: That Substitute Senate Bill No. 6410 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; King and Warnick.

Minority Report: Do not pass.

Signed by Senators Hasegawa, Ranking Minority Member; Conway and Keiser.

Staff: Jarrett Sacks (786-7448)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Julie Murray (786-7711)

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. 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. Academic personnel for community and technical colleges, faculty for four-year institutions of higher education, and certificated employees of school districts all collectively bargain under separate laws.

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.

These laws govern the manner in which the Public Employment Relations Commission (Commission) determines the exclusive bargaining representative for a bargaining unit of employees. In general, the Commission may conduct either an election, perform a cross-check of organization membership records with employment records, or both. Certificated school district employees cannot organize by cross-check. Under the PSRA, an exclusive bargaining representative existing prior to June 12, 2002, can continue as the exclusive representative without an election. Questions of certification cannot be raised within one year of certification.

Employees covered by a current collective bargaining agreement who seek to decertify or change unions must file a petition to do so during a 30-day window, which has a start and end date relative to the expiration date of the agreement. For state employees, the 30-day window begins 120 days and ends 90 days prior to the expiration of the contract. For all other employees with statutory collective bargaining rights, the 30-day window begins 90 days and ends 60 days prior to contract expiration.

If a valid agreement, with renewals and extensions, is in place for three years for educational employees or faculty of four-year institutions of education, the question of representation can only be raised between 60 and 90 days prior to the third anniversary of the agreement.

Summary of Bill (Recommended Substitute): Once a bargaining representative has been certified by the Commission, the Commission must conduct periodic secret ballot elections to determine the bargaining representative for:

- collectively bargained academic personnel of community and technical colleges;
- faculty of four-year institutions of higher education;
- certificated employees of school districts;
- employees collectively bargained under the PECBA; and
- employees collectively bargained under the PSRA.
- Washington State Department of Transportation ferry employees.

Elections take place every four years. The type of employee determines whether the periodic election occurs on an even or odd-numbered year. For example, academic personnel conduct an election on even-numbered years, while city police would hold elections on odd-numbered years. For the secret ballot election, the existing representative must be on the ballot along with the option of no union representation. Other representatives may appear on the ballot by providing proof of interest from at least 10 percent of the bargaining unit. The Commission certifies the representative that receives a majority of votes cast.

If the incumbent representative loses, the new bargaining representative may terminate the existing agreement 60 days after its certification. If a majority of votes cast select no union representation, then the existing agreement terminates on its expiration date, or its third anniversary date, whichever is sooner. No question of representation may be raised within one year of an attempted certification or a successful decertification.

The following provisions are eliminated:

- the authorization for the Commission to perform cross-checks to determine the exclusive bargaining representative under the PECBA;

- the authorization for exclusive representatives existing before 2002 to continue without an election under the PSRA; and
- provisions that establish the 30-day window for questions of representation to be raised.

EFFECT OF CHANGES MADE BY COMMERCE & LABOR COMMITTEE (Recommended Substitute): Adds ferry employees to the list of collectively bargained employees that must conduct periodic elections. Changes the election cycle from every other year to every four years. Specifies that PERC has rulemaking authority to determine the timing of the elections within each election year. Clarifies the procedures if a new bargaining representative is elected.

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 (Commerce & Labor): PRO: The bill increases the choices available to public employees and increases accountability. Decertification is extremely difficult to get done under current law. The collective bargaining laws, how to decertify, and how to change representation are not transparent and are difficult to understand for the average worker. Once certified, the unions act as monopolies and representation hardly ever changes. Unions have no incentive to provide good services.

CON: The bill is unnecessary. Employees already have plenty of opportunities for choice and representation. The bill will create division between management and the workers and distracts from the union's true purpose.

Persons Testifying on Original Bill (Commerce & Labor): PRO: Senator Hewitt, prime sponsor; Dennis Redmon, citizen; Ann Streit, citizen; Mike LaFave, Worker Rights Alliance; Bruce Gallagher, citizen; Carmen Bolton, teacher; Janet Andree, citizen; Max Nelsen, Freedom Foundation; Gerald Marsh, citizen; Jim Johnson, citizen.

CON: Paul Moore, Teamsters 117; Bernal Beca, AFT Washington; Steve Segall, WFSE Member.

Persons Signed In To Testify But Not Testifying on Original Bill: No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Wisconsin elections cost \$1.50 per voter. The Public Employment Relations Commission's fiscal note uses \$2.00 per voter to base its costs. It is the high end of the spectrum, but well worth the cost.

CON: There are serious fiscal problems in the state; the McCleary decision and our mental health funding crisis are examples. There are other more serious priorities to consider. The price of this bill is instability within bargaining units.

Persons Testifying (Ways & Means): PRO: Maxford Nelsen, Freedom Foundation.

CON: Matt Zuvich, Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying: No one.