

# HOUSE BILL REPORT

## SB 6231

---

### As Reported by House Committee On: Judiciary

**Title:** An act relating to the statute of limitations for unfair labor practice complaints filed in superior court.

**Brief Description:** Concerning the statute of limitations for unfair labor practice complaints filed in superior court.

**Sponsors:** Senators Kuderer, Van De Wege, Conway, Wellman, Chase, Hasegawa, Saldaña and Keiser.

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 2/22/18 [DP].

#### **Brief Summary of Bill**

- Amends seven different collective bargaining statutes to provide that the six-month statute of limitations for an unfair labor practice applies whether the complaint is filed with the Public Employment Relations Commission or in superior court.

---

### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 7 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Goodman, Hansen, Kirby, Orwall and Valdez.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Rodne, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Haler, Klippert and Shea.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Muri.

**Staff:** Cece Clynch (786-7195).

#### **Background:**

---

*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.*

The goal or policy behind statutes of limitation is to require claims to be brought when the evidence is still available and while witnesses can still recall the events. There are numerous statutes of limitation. Which one applies depends upon the cause of action. A statute which is sometimes referred to as the "catchall" statute of limitations provides that actions for relief for which there is not a specific statute of limitations provided must be commenced within two years.

The federal National Labor Relations Act governs collective bargaining rights in the private sector in the United States. The state Public Employees' Collective Bargaining Act (PECBA) and other state laws govern collective bargaining rights in the public sector. The PECBA and other public sector collective bargaining laws are administered and enforced by the Public Employment Relations Commission (PERC). The PERC also administers and enforces the collective bargaining laws applicable to certain symphony orchestras that do not meet the jurisdictional standards of the National Labor Relations Board.

The PECBA, other public sector collective bargaining laws, and the collective bargaining laws applicable to certain symphony orchestras provide that a cause of action against a union for an unfair labor practice may be filed with either the PERC or a superior court. These statutes further provide that "a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission."

In 2011 Division Three of the Court of Appeals held that the six-month statute of limitations applied whether an unfair labor practice claim was filed with the PERC or with the court. In 2017, in a different case, the Washington Supreme Court rejected the reasoning of Division Three and held that, because the language of the statute only referred to claims filed with the PERC, the two-year catchall statute of limitations applied to unfair labor practice claims filed in court.

---

### **Summary of Bill:**

Seven different collective bargaining statutes are amended to provide that the six-month statute of limitations for an unfair labor practice applies whether the complaint is filed with the Public Employment Relations Commission or in superior court. These statutes apply to collective bargaining rights under:

- chapter 28B.52 RCW (Community Colleges—Collective Bargaining);
- chapter 41.56 RCW (Public Employees Collective Bargaining Act);
- chapter 41.59 RCW (Educational Employment Relations Act);
- chapter 41.76 RCW (Faculty Collective Bargaining Act);
- chapter 41.80 RCW (Personnel System Reform Act);
- chapter 47.64 RCW (Marine Employees—Public Employment Relations); and
- chapter 49.39 RCW (Symphony Musicians).

---

**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 technical fix bill. Currently, at both the federal level and the Public Employment Relations Commission level, there is a six-month statute of limitations on unfair labor practice claims. This was also the common understanding of the statute of limitations with respect to unfair labor practice complaints filed in superior court until the recent Washington Supreme Court case. What this bill does is align all filings, making the six-month limitations period applicable to all.

(Opposed) None.

**Persons Testifying:** Senator Kuderer, prime sponsor; and Jo Kendo, Washington State Labor Council.

**Persons Signed In To Testify But Not Testifying:** None.