

HOUSE BILL REPORT

SHB 2017

As Passed House:
February 13, 2020

Title: An act relating to collective bargaining for administrative law judges.

Brief Description: Concerning collective bargaining for administrative law judges.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Frame, Dolan, Fitzgibbon, Stanford, Kilduff, Macri, Ryu, Valdez, Tarleton and Pollet).

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/18/19, 2/19/19 [DP];
Appropriations: 1/22/20, 1/30/20 [DPS].

Floor Activity:

Passed House: 2/13/20, 57-40.

Brief Summary of Substitute Bill

- Grants administrative law judges collective bargaining rights under the Personnel System Reform Act.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 4 members: Representatives Sells, Chair; Chapman, Vice Chair; Gregerson and Ormsby.

Minority Report: Do not pass. Signed by 3 members: Representatives Mosbrucker, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Hoff.

Staff: Trudes Tango (786-7384).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair;

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.

Bergquist, 2nd Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Kilduff, Macri, Pettigrew, Pollet, Ryu, Senn, Springer, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 12 members: Representatives Stokesbary, Ranking Minority Member; Caldier, Chandler, Corry, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele, Sutherland and Ybarra.

Minority Report: Without recommendation. Signed by 1 member: Representative Rude, Assistant Ranking Minority Member.

Staff: David Pringle (786-7310).

Background:

The Personnel System Reform Act.

With certain exceptions, state employees covered by the state civil service laws have collective bargaining under the Personnel System Reform Act (PSRA) for wages, hours, and other terms and conditions of employment. Under the PSRA, state agencies are generally represented by the Governor for purposes of negotiations.

The PSRA provides for multi-employer bargaining and coalition bargaining. Exclusive bargaining representatives of more than one bargaining unit must negotiate one master collective bargaining agreement covering all of the represented employees. Exclusive bargaining representatives that represent fewer than 500 employees each must bargain in a coalition, with one master agreement covering all of the employees represented by the coalition.

Administrative Law Judges.

The administrative appeals process provides an avenue for people and businesses to dispute agency decisions. The Office of Administrative Hearings (OAH) conducts administrative hearings on behalf of certain state agencies and some local governments. Its largest caseloads relate to unemployment benefits for the Employment Security Department, child support decisions for the Department of Social and Health Services, and Medicaid appeals for the Health Care Authority.

The OAH is under the direction of a Chief Administrative Law Judge (ALJ), appointed by the Governor with consent of the Senate. The Chief appoints ALJs, who usually specialize in certain areas of practice, and may contract with individuals to serve as an ALJ for specified hearings.

There are approximately 112 ALJs. The ALJs are not subject to the state civil service laws; therefore, the PSRA does not apply to ALJs.

Summary of Substitute Bill:

Certain ALJs are granted collective bargaining rights under the PSRA. The ALJs in supervisory positions, ALJs serving on a contractual basis, confidential employees, and any ALJ who reports directly to the Chief ALJ are excluded.

The only unit appropriate for the purposes of collective bargaining is a statewide unit of all ALJs who are not otherwise excluded from bargaining.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Labor & Workplace Standards):

(In support) The OAH handles over 50,000 cases per year. Retention of ALJs is a big issue. A large percentage of ALJs leave within the first few years because the compensation for ALJs is far below that of their public sector peers. Providing the ability to collectively bargain their wages will help. The ALJs do not have the same security as similarly situated public employees. There is no salary grid to provide predictability and financial planning. The work of the ALJs has a huge impact on citizens of the state. The ALJs do the same work as administrative adjudicators within agencies, but ALJs do not have the same salaries as adjudicators within the agencies.

(Opposed) None.

(Other) The OAH hears appeals for more than 20 different state agencies with over 100 different state programs. The turnover rate of ALJs has been a significant issue and a challenge for the OAH.

Staff Summary of Public Testimony (Appropriations):

(In support) This is a small agency, and the bill would apply to about 100 employees. These are exempt employees now, and not having access to bargaining has worked out poorly for these employees. The ALJs have fallen behind their benchmark values, and have no means to address these concerns. The Public Employment Relations Commission observed that mixing types of employees (exempt/classified) in the same coalition might be a problem. These front line employees have very comparable workers in other agencies. Administrative Law Judges at other agencies have bargaining, but those at the Office of Administrative Hearings do not. At 12 percent behind public sector peers, recruitment and retention problems have arisen. Compensation levels are the primary reason for departures.

(Opposed) None.

Persons Testifying (Labor & Workplace Standards): (In support) Representative Frame, prime sponsor; Jeff Manson; Jenna Crouch; Karl Boettner; and Dennis Eagle, Washington Federation of State Employees.

(Other) Lorraine Lee, Office of Administrative Hearings.

Persons Testifying (Appropriations): Dennis Eagle and Jeff Manson, Washington Federation of State Employees; and Karl Boettner, Washington Federation of State Employees and Office of Administrative Hearings.

Persons Signed In To Testify But Not Testifying (Labor & Workplace Standards): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.