

HOUSE BILL REPORT

2SSB 5021

As Passed House - Amended:

April 10, 2019

Title: An act relating to granting interest arbitration to certain department of corrections employees.

Brief Description: Granting interest arbitration to certain department of corrections employees.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Van De Wege, Walsh, Keiser, Conway, Hunt, Hobbs, Wellman, Hasegawa and Kuderer).

Brief History:

Committee Activity:

Labor & Workplace Standards: 3/21/19, 3/26/19 [DP];

Appropriations: 4/5/19, 4/6/19 [DPA].

Floor Activity:

Passed House - Amended: 4/10/19, 83-9.

Brief Summary of Second Substitute Bill (As Amended by House)

- Grants interest arbitration for certain employees of the Department of Corrections 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

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.

Majority Report: Do pass as amended. Signed by 26 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Mosbrucker, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Tarleton, Tharinger and Volz.

Minority Report: Do not pass. Signed by 6 members: Representatives Stokesbary, Ranking Minority Member; Dye, Hoff, Kraft, Sutherland and Ybarra.

Staff: David Pringle (786-7310).

Background:

The Public Employees' Collective Bargaining Act (PECBA) provides for collective bargaining of wages, hours, and working conditions with employees of cities, counties, and other political subdivisions. The PECBA also applies to the state with respect to the officers of the Washington State Patrol (WSP).

The PECBA explicitly authorizes interest arbitration to resolve impasses over contract negotiations between uniformed personnel and their employers. Uniformed personnel include firefighters in cities and counties, law enforcement officers in larger cities and counties, and the WSP officers.

Under interest arbitration procedures, parties must first attempt to mediate any unresolved mandatory subject of bargaining. If mediation is unsuccessful, the Director of the Public Employment Relations Commission (PERC) will certify any unresolved issues for the arbiter to consider. The PECBA establishes procedures and timeframes for arbitration.

In addition, for the WSP, the Governor is required to submit to the Legislature a request for funds to implement the compensation provisions of an agreement. Before the Governor may submit the request, the Director of the Office of Financial Management (OFM) must have certified it to be feasible financially or, in the case of interest arbitration, certified that the request reflects the decision of an arbitration panel.

The Personnel System Reform Act.

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 interest arbitration, but requires mediation and allows parties to agree on their own procedures for resolving impasses in collective bargaining.

The Department of Corrections.

The Department of Corrections (DOC) is responsible for managing state-operated adult prison facilities and supervising adult offenders residing in communities.

Most DOC employees are represented by either the Teamsters Union Local 117 (Teamsters) or the Washington Federation of State Employees (WFSE). The Teamsters and the WFSE

each entered into different memorandums of understanding (MOUs) with the OFM that grant interest arbitration if the parties are unable to reach agreement.

Summary of Amended Bill:

Employees of the DOC, except for confidential employees, nonsupervisory marine department employees, members of the Washington Management Service, and internal auditors, are granted interest arbitration under the PSRA.

Provisions are established requiring the parties to attend mediation if negotiations reach an impasse, for selecting an arbitrator if an agreement cannot be reached through mediation; and other procedures. The fees and expenses of the arbitrator, the court reporter, and other costs will be shared equally between the parties. Each party is responsible for the costs of its attorneys and other costs related to developing and presenting their cases.

The arbitrator may only consider matters regarding wages, hours, and other terms and conditions of employment. In making its determination, the arbitrator must take into account:

- the financial ability of the DOC to pay for compensation and benefit provisions of the collective bargaining agreement;
- the constitutional and statutory authority of the employer;
- stipulations of the parties;
- a comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, 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 DOC to retain employees;
- the overall compensation presently received by the DOC employees, including direct wage compensation, vacations, holidays, and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;
- changes in any of the factors listed; and
- other factors that are normally or traditionally taken into consideration in the determination of matters regarding wages, hours, and other terms and conditions of employment.

Interest arbitration awards must be submitted by the Governor to the Director of the OFM for certification. A decision by the arbitration panel is binding on both parties. However, interest arbitration decisions are not binding on the Legislature. If the Legislature does not approve the funds necessary to implement the interest arbitration award, the award is not binding on the state or the DOC.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

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

(In support) Correctional officers face issues of inadequate staffing levels, lack of training, and unsafe working conditions. Most of the time, these issues can be settled in the bargaining process. However, some issues that have high costs are not settled in negotiations. Interest arbitration is not a new concept and other similar work forces who act as first responders and law enforcement already have interest arbitration. Although interest arbitration is allowed under the current executive administration, it might change with a future administration.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) The bill has been changed to reduce the fiscal impact, including incorporating the input of the Office of Financial Management. The travel costs that are indicated as increasing in the fiscal note seem unnecessary to carry out the new obligations under the bill. By passing this bill, Department of Corrections employees would be placed in a position of greater parity with law enforcement and other first responders.

(Opposed) None.

Persons Testifying (Labor & Workplace Standards): Don Malo, Washington Federation of State Employees; and James Deuel.

Persons Testifying (Appropriations): Brenda Wiest, Teamsters Local 117; and Matt Zuvich, Washington Federation of State Employees.

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

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