

SENATE BILL REPORT

SB 5021

As Reported by Senate Committee On:
Labor & Commerce, January 24, 2019

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

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

Sponsors: Senators Van De Wege, Walsh, Keiser, Conway, Hunt, Hobbs, Wellman, Hasegawa and Kuderer.

Brief History:

Committee Activity: Labor & Commerce: 1/17/19, 1/24/19 [DPS-WM].

Brief Summary of First Substitute Bill

- Grants interest arbitration to Department of Corrections employees under the Personnel System Reform Act.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5021 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña, Walsh and Wellman.

Staff: Jarrett Sacks (786-7448)

Background: The Public Employees' Collective Bargaining Act. Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA). For certain uniformed personnel, the PECBA requires binding interest arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation. Under interest arbitration, an impartial third-party makes decisions regarding the unresolved terms of the contract.

Uniformed personnel include, among others:

- firefighters;
- law enforcement officers in cities and counties of a certain size;

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- general authority peace officers and firefighters employed by certain port districts;
- certain correctional employees of jails in counties with populations of 70,000 or more;
- security forces at nuclear power plants; and
- Washington State Patrol officers.

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 binding interest arbitration, but does allow 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. DOC manages minimum to maximum custody level institutions, partial confinement programs, and community supervision services.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): Employees of DOC, except for confidential employees, members of the Washington Management Service, and internal auditors, are granted interest arbitration under the PSRA.

Procedures are established for the parties to attend mediation if negotiations reach an impasse, and for selecting an arbitrator if an agreement cannot be reached through mediation. The fees and expenses of the arbitrator, the court reporter, and other costs will be shared equally between the parties; however, 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 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 DOC to retain employees;
- the overall compensation presently received by 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 to the Governor and certified by the director of the Office of Financial Management as financially feasible. 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 DOC.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: PRO: The bill codifies the current practice of interest arbitration for DOC employees. The current practice is carried out through memorandums of understanding between the unions and the Governor's Office. This means that a new Governor could take interest arbitration away. DOC employees do not have the right to strike, but also do not have the right to interest arbitration like other uniformed personnel. Corrections employees perform dangerous work and are trying to resolve difficult issues with limited resources. Having a third party resolve disputes can stop tragedy before it happens. An imbalance in negotiating power can lead to dangerous situations and hurt employee retainment. Interest arbitration levels the playing field.

Persons Testifying: PRO: Senator Kevin Van De Wege, Prime Sponsor; Bill Copland, Washington Federation of State Employees; Michelle Woodrow, Teamsters 117; Gordon Baxter, International Organization of Masters, Mates and Pilots; James Deuel, Teamster 117.

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