

HOUSE BILL REPORT

HB 1806

As Reported by House Committee On:
Labor & Workplace Standards
Appropriations

Title: An act relating to extending collective bargaining rights to employees of the legislative branch of state government.

Brief Description: Extending collective bargaining rights to employees of the legislative branch of state government.

Sponsors: Representatives Riccelli, Walen, Sells, Berry, Ryu, Fitzgibbon, Shewmake, Paul, Leavitt, Senn, Morgan, Bateman, Berg, Bronoske, Callan, Davis, Duerr, Fey, Goodman, Gregerson, Macri, Orwall, Peterson, Ramel, Ramos, Rule, Dolan, Simmons, Chopp, Bergquist, Tharinger, Valdez, Wicks, Pollet, Stonier, Ormsby, Harris-Talley, Hackney, Kloba and Frame.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/25/22, 2/1/22 [DPS];
Appropriations: 2/4/22, 2/7/22 [DP2S(w/o sub LAWS)].

Brief Summary of Second Substitute Bill

- Authorizes collective bargaining for legislative branch employees.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Sells, Chair; Berry, Vice Chair; Bronoske and Ortiz-Self.

Minority Report: Do not pass. Signed by 1 member: Representative Hoff, Ranking Minority Member.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 2 members: Representatives Mosbrucker, Assistant Ranking Minority Member; Harris.

Staff: Trudes Tango (786-7384).

Background:

Generally, the Personnel System Reform Act (PSRA) provides collective bargaining for employees of state agencies who are covered by the civil service laws. Legislators and employees of the legislative branch are exempt from the state civil service laws, and therefore, the PSRA does not apply to them.

Matters subject to collective bargaining under the PSRA include wages, hours, and other terms and conditions of employment and the negotiation of any question arising under a collective bargaining agreement. The employer is not required to bargain over matters related to retirement benefits, healthcare benefits, or other employee insurance benefits. Bargaining over the rights of management is not allowed.

For purposes of negotiations, state agencies are represented by the Governor. Collective bargaining agreements must be submitted to the Office of Financial Management by October 1, and to the Legislature as part of the Governor's budget proposal. The Legislature must accept or reject the request for funds necessary to implement the agreements as a whole.

The Public Employment Relations Commission (PERC) determines appropriate bargaining units and certifies exclusive bargaining representatives.

Summary of Substitute Bill:

The Personnel System Reform Act (PSRA) applies to all employees of the legislative branch, including employees of the: (1) Joint Legislative Audit and Review Committee (JLARC); (2) Statute Law Committee; (3) Legislative Ethics Board (LEB); (4) Legislative Evaluation and Accountability Program (LEAP) Committee; (5) Office of the State Actuary (OSA); (6) Legislative Service Center (LSC); (7) Office of the Legislative Support Services (LSS); (8) Joint Transportation Committee (JTC); and (9) Redistricting Committee (RDC).

The following employees and types of employees are excluded from collective bargaining:

- members elected or appointed to the Legislature;
- the chief clerk, deputy chief clerk, secretary of the Senate, and deputy secretary of the Senate;
- directors and assistant directors of legislative staff work groups, and administrators, directors, and members of committees, boards, and commissions;
- caucus chiefs of staff and deputy chiefs of staff;

- counsel for the House of Representatives and the Senate that provide direct legal advice to the administration of the House of Representatives and Senate;
- the speaker's attorney and leadership counsel to the minority caucus of the House of Representatives;
- commissioners of the Redistricting Commission; and
- employees hired on a temporary or seasonal basis, except for legislative and committee assistants, session aides, and security personnel, temporarily hired for the legislative session.

The matters subject to collective bargaining include wages, hours, and other terms and conditions of employment and the negotiation of any question arising under a collective bargaining agreement. The employer is not required to bargain over matters related to retirement benefits, healthcare benefits, or other employee insurance benefits. Bargaining over matters related to management rights is not allowed.

If a conflict exists between policies adopted by the Legislature related to matters subject to bargaining, the collective bargaining agreement prevails. A provision of a collective bargaining agreement that conflicts with the terms of a statute, resolution, or concurrent resolution adopted by the Legislature is invalid and unenforceable.

For purposes of negotiating agreements, the Secretary of the Senate, Chief Clerk of the House, Senate Facilities and Operations Committee, House Executive Rules Committee, and other legislative branch offices, must coordinate with each other to:

- select a negotiator or negotiators to negotiate on their behalf;
- create a streamlined process for approving negotiated agreements; and
- create procedures for timely submitting requests for funding if appropriations are necessary to implement provisions of a collective bargaining agreement.

Collective bargaining negotiations must commence no later than July 1 of each even-numbered year and the duration of any agreements may not exceed one fiscal biennium. After the expiration of an agreement, the terms and conditions remain in effect until the effective date of a new agreement, not to exceed one year from the expiration of the agreement. After one year, the employer may unilaterally implement according to law.

Collective bargaining negotiations may not commence earlier than June 1, 2023, and agreements may not take effect prior to July 1, 2024. Any agreement that takes effect between July 1, 2024, but prior to July 1, 2025, must expire by July 1, 2025.

If appropriations are necessary to implement the compensation and fringe benefit provisions of a collective bargaining agreement, the employer must submit a request for funds to the Legislature according to the procedures established by the employer under the bill. Requests for funds to implement the provisions of a collective bargaining agreement may not be submitted unless the agreement has been finalized by October 1 prior to the regular legislative session in which funds are requested. The Legislature must approve or reject

requests for funds as a whole. If the Legislature rejects or fails to act on the submission, either party may reopen the agreement. Alternatively, the exclusive bargaining representative may implement the procedures for mediation provided for by law.

If, after the compensation and fringe benefit provisions of an agreement are approved by the Legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the Governor or by resolution of the Legislature, the parties must immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

Legislative collective bargaining is exempted from the Joint Committee on Employment Relations statute. Legislative employees are exempted from the requirement for agencies to pay for labor relations services from the Office of Financial Management.

Substitute Bill Compared to Original Bill:

The substitute made changes related to: (1) who can bargain and who is excluded, by, among other things, including temporary security personnel and supervisors, specifying which counsels and chiefs of staff are excluded, and excluding Commissioners of the Redistricting Commission; (2) specifying that the first negotiations may not occur before July 1, 2023; (3) specifying that provisions in an agreement that conflict with a resolution and concurrent resolution are invalid; (4) specifying procedural requirements for submitting requests for funding to implement provisions of an agreement; (5) excluding legislative collective bargaining from the types of bargaining the Joint Committee on Employment Relations (JCER) consults with the Governor on during JCER meetings; (6) excluding legislative employees from the requirement related to agencies paying the Office of Financial Management for labor relations services; and (7) other procedural matters.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) All workers should have the ability to collectively bargain. It would not be required, but it would be an option. Collective bargaining agreements can have positive impacts on shifting workplace culture. A staff union would bring meaningful and systemic changes to the way staff of color are hired and retained. Currently, there is no formal or organized way for staff to share their concerns. The power dynamics in this environment make it difficult to address sexual harassment issues. A union would provide a safe place

for staff to be heard.

(Opposed) None.

(Other) There are other ways to address issues of pay and work conditions. There is little precedent for this. It is unclear how it will impact legislative operations. A collective bargaining agreement could override nonstatutory enactments, such as the Code of Conduct. Some employees would likely not be able to vote because secret ballots are generally no longer used. Nonpartisan staff would be tainted if they voted. For some partisan staff, it would be difficult to join a union that actively supports the opposite party for which that staff person works.

Persons Testifying: (In support) Representative Marcus Riccelli, prime sponsor; Kacie Masten; Abbie Zulock, United Food and Commercial Workers International Union 21; Bre Jefferson; Matt Zuvich, Washington Federation of State Employees; Seamus Petrie, Washington Public Employees Association; Nikkole Hughes; Sam Cho; Carolyn Brotherton; Summer Stinson, Economic Opportunity Institute; and Kate Burke.

(Opposed) None.

(Other) Maxford Nelsen, Freedom Foundation.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Labor & Workplace Standards. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Dye, Harris, Hoff, Jacobsen, Schmick and Steele.

Minority Report: Without recommendation. Signed by 1 member: Representative Rude.

Staff: David Pringle (786-7310).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workplace Standards:

The second substitute bill adds a requirement that a collective bargaining agreement provide a process for handling sexual harassment claims against legislative members, including union representation, employment protection, and specified disciplinary actions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: 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 about parity in workers' rights between state legislative employees and other public sector employees. It does not require legislative staff to unionize—it gives them the right to choose to do so. State legislative employees have very challenging jobs in a sometimes difficult work environment. They should be allowed to unionize like legislative staff for counties and cities can.

(Opposed) None.

(Other) There is little precedent for unionization of legislative staff, and it could dramatically alter how the Legislature operates. The diffuse nature of the Legislature will make it difficult for it to act as a single employer for collective bargaining purposes. Nonpartisan and some caucus staff could be put in an interesting situation to be represented by a partisan labor organization.

Persons Testifying: (In support) Joe Kendo, Washington State Labor Council, American Federation of Labor and Congress of Industrial Organization; and Seamus Petrie, Washington Public Employees Association.

(Other) Maxford Nelsen, Freedom Foundation.

Persons Signed In To Testify But Not Testifying: None.