

HOUSE BILL REPORT

ESHB 2124

As Amended by the Senate

Title: An act relating to extending collective bargaining to legislative employees by creating the office of state legislative labor relations that will consider issues of the subjects of bargaining, the employees for whom collective bargaining would be appropriate, who would provide negotiation services, which entities would be considered the employer, definitions of relevant terms, coalition bargaining, grievance procedures, procedures for disciplinary actions, procedures related to certifying exclusive bargaining representatives, determining bargaining units, adjudicating unfair labor practices, and determining representation questions, procedures for approving negotiated collective bargaining agreements, procedures for submitting requests for funding, and considering approaches taken by other state legislatures, and specifying unfair labor practices, but without mandating what the collective bargaining agreement must provide regarding wages, hours, working conditions, or other provisions related to conditions of employment.

Brief Description: Concerning extending collective bargaining to legislative employees.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Riccelli, Sullivan, Frame, Ramel, Chapman, Ryu, Paul, Simmons, Stonier, Bergquist, Wicks, Valdez, Gregerson, Santos, Ramos, Johnson, J., Walen, Tharinger, Bateman, Callan, Thai, Taylor, Leavitt, Senn, Wylie, Macri, Ormsby, Pollet, Morgan, Bronoske, Kloba, Davis, Slatter, Berg, Lekanoff, Entenman, Ortiz-Self, Duerr, Peterson, Harris-Talley, Cody, Hackney, Chopp, Orwall and Rule).

Brief History:

Committee Activity:

Appropriations: 2/24/22, 2/28/22 [DPS].

Floor Activity:

Passed House: 3/1/22, 56-41.

Senate Amended.

Passed Senate: 3/10/22, 28-20.

Brief Summary of Engrossed Substitute Bill

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.

- Creates the Office of State Legislative Labor Relations (OSLLR) to conduct labor negotiations on behalf of the Legislature as employer of legislative employees.
- Requires the OSLLR to study and report on options for the Legislature to implement collective bargaining for legislative employees.
- Requires collective bargaining with legislative employees to begin no earlier than May 1, 2024, with the first agreements taking effect no sooner than July 1, 2025.
- Permits legislative employees to organize and bargain collectively, but also have the right to refrain from any or all such activities.
- Specifies unfair labor practices for the employer and employee representatives in legislative bargaining relationships.

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; 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 11 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Chandler, Dye, Hoff, Jacobsen, Schmick and Steele.

Minority Report: Without recommendation. Signed by 3 members: Representatives Caldier, Harris and Rude.

Staff: David Pringle (786-7310).

Background:

Employees of state and local governments may collectively bargain only if authorized by state law. 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. The Public Employee Collective Bargaining Act (PECBA) covers local government employees and some state employees, while other chapters cover specified groups of state employees, like faculty.

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 the 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.

Summary of Engrossed Substitute Bill:

The Office of State Legislative Labor Relations (OSLLR) is created. The OSLLR duties include conducting collective bargaining negotiations for the Legislature as the employer of legislative employees. The OSLLR must study issues related to the implementation of collective bargaining for employees of the Legislature, and provide a preliminary report by October 1, 2022, and a final report by October 1, 2023. The reports will examine mandatory, permissive, and prohibited subjects of bargaining, employer representation, bargaining unit determination, and approval and funding procedures. The OSLLR is also to consider common frameworks for grievance procedures and disciplinary actions.

Collective bargaining with legislative employees cannot commence until May 1, 2024, and initial agreements cannot take effect until July 1, 2025.

Legislative employees have the right to organize, bargain collectively, and have the right to refrain from any or all such activities. The right to strike or refuse to perform official duties is not granted.

The Public Employment Relations Commission determines all questions pertaining to ascertaining exclusive bargaining representatives and collectively bargaining.

Bargaining must begin no later than July 1 of each even-numbered year, and agreements must not exceed the duration of one fiscal biennium. Unfair labor practices of employers and employee organizations are enumerated. For employers, these include that employers must not interfere with employee rights, dominate, or interfere with employees conferring with representatives during working hours, or refuse to bargain. For employee representative organizations, unfair practices include for an employee organization to restrain or coerce employees, to discriminate or cause the employer to discriminate against employees, or to refuse to bargain.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment: (1) provides that no employee organization will be certified unless it receives a majority vote in a secret election by mail ballot administered by the Public Employment Relations Commission (PERC); (2) requires the PERC process to include the

right to petition on any representation question; (3) prohibits collective bargaining agreements (CBA) that require wage deductions for contributions to political action committees sponsored by an employee organization in which the employees are members; (4) provides that nothing in the act permits work stoppages (in addition to strikes and refusal to perform official duties), and limits the application of that provision to legislative session and committee assembly days; (5) prohibits bargaining over management rights and establishes topics that are considered management rights, including the size and composition of standing committees, the hours of work during session, retirement plans and retirement benefits, and the cutoff calendar; and (6) specifies that if a policy adopted by the Legislature regarding wages, hours, and terms of conditions of employment conflict with a CBA provision, the CBA prevails, except for code of conduct policies.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 3 through 8, relating to definitions and the commencement of collective bargaining activities, which take effect May 1, 2024.

Staff Summary of Public Testimony:

(In support) As a former Senate staff member, the employees passionately serve the Legislature during the incredible demands of session, but have been denied the opportunity to organize. Giving the employees that right is in the best interests of employees and the state. Diversity would be furthered by passage of the bill. Someone who was employed as a Legislative Assistant from 2014-2017 had no way to protect herself/himself from sexual harassment. As a contracts negotiator that worked as a Legislative Assistant from 2016 to 2018, experience has shown that every public sector workplace is unique, but not so unique as to not be able to sit around a bargaining table. Please amend this bill to include legislative employees within the Personnel Systems Reform Act. Legislative Assistant salaries are small for maintaining two households, and dealing with angry constituents means people deserve better treatment and higher pay.

(Opposed) None.

(Other) This bill seems like a desperate, and not a deliberative effort. A bill that advances collective bargaining for legislative employees needs additional safeguards, like secret ballots and assurances of nonpartisan behavior in the employee organizations.

Persons Testifying: (In support) Kacie Masten; Abbie Zulock; Matt Zuvich, Washington Federation of State Employees; Sam Cho; Seamus Petrie, Washington Public Employees Association; Negheen Kamkar; and Neil Beaver.

(Other) Maxford Nelsen, Freedom Foundation.

Persons Signed In To Testify But Not Testifying: None.