

SENATE BILL REPORT

ESHB 2124

As Reported by Senate Committee On:
Ways & Means, March 7, 2022

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

Committee Activity: Ways & Means: 3/05/22, 3/07/22 [DPA, DNP].

Brief Summary of Amended Bill

- Grants employees of the legislative branch collective bargaining rights.
- Creates the Office of State Legislative Labor Relations.

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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Mullet, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Braun, Gildon, Muzzall, Rivers, Wagoner and Warnick.

Staff: Amanda Cecil (786-7460) and Jarrett Sacks (786-7448)

Background: 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 higher education institutions. Employees covered by the PSRA include all state civil service employees, unless an exemption applies. Members and employees of the Legislature are excluded from state civil service laws and, as a result, are not covered by the PSRA and do not have the right to collectively bargain.

Summary of Amended Bill: The Office of State Legislative Labor Relations. The Office of State Legislative Labor Relations (Office) is created to assist with the implementation and management of collective bargaining for employees of the legislative branch of government. The director of the Office will be hired jointly by the Secretary of the Senate and the Chief Clerk of the House, in consultation with legislative employees, the Senate Facilities and Operations Committee and the House Executive Rules Committee, and legislative human resource officers. The duties of the Office include conducting negotiations on behalf of the employer.

The director of the Office, in consultation with with the Secretary of the Senate, the Chief Clerk of the House, and the administrative heads of legislative agencies must examine issues related to collective bargaining with staff of the legislative branch and develop best practices and options for the Legislature to consider when implementing and administering collective bargaining. The director must provide a report to the appropriate committees of the Legislature on issues pertaining to collective bargaining, such as the subjects of bargaining, which employees may be appropriate for bargaining, and certification and grievance procedures. The report must include a summary of any statutory changes needed to address the considerations related to the director's finding related to the collective bargaining process for legislative employees. A preliminary report is due to the appropriate committees of the Legislature by October 1, 2022, and a final report by October 1, 2023.

Legislative Branch Employee Bargaining Rights. Legislative employees have the right to organize, bargain collectively, and to refrain from any or all such activities. The right to

strike, engage in work stoppages, or refuse to perform official duties during the legislative session or committee assembly is not granted. Bargaining over certain management rights is prohibited, including the size and composition of standing committees, the employer's budget and size of the workforce, hours worked during legislative session, and retirement plans or health benefits. A collective bargaining agreement that conflicts with a statute or a code of conduct policy adopted by a chamber of the Legislature or a legislative agency is invalid and unenforceable. A collective bargaining agreement prevails in the event the collective bargaining agreement conflicts with a policy adopted by the Legislature related to wages, hours, and terms and conditions of employment.

The Public Employment Relations Commission (commission) determines all questions pertaining to ascertaining exclusive bargaining representatives and collectively bargaining. An employee organization may not be recognized or certified unless it receives the votes of a majority of employees in the petitioned for bargaining unit voting in a secret election by mail ballot. The commission's process must allow for an employee, group of employees, employee organizations, employer, or their agents to have the right to petition on any question concerning representation.

The employer and the exclusive bargaining representative of a bargaining unit of legislative employees may not enter into a collective bargaining agreement that requires the employer to deduct, from the salary or wages of an employee, contributions for payments for political action committees sponsored by employee organizations with legislative employees as members.

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

Bargaining must begin no later than July 1st 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 WAYS & MEANS COMMITTEE AMENDMENT(S):

- Requires a majority vote in a secret election by mail ballot for an employee organization to be certified as an exclusive bargaining representative of legislative employees.
- Prohibits collective bargaining agreements that require the employer to deduct contributions for payments for political action committees sponsored by employee organizations with legislative employees as members.

- In addition to not permitting striking or refusing to perform official duties, the bill does not permit participation in work stoppages, but only during the legislative session or committee assembly.
- Prohibits bargaining over management rights and establishes topics that are considered management rights.
- A provision of a collective bargaining agreement that conflicts with a statute or a code of conduct policy adopted by a chamber of the Legislature or a legislative agency is invalid and unenforceable.
- The collective bargaining agreement prevails in the event the collective bargaining agreement conflicts with a policy adopted by the Legislature related to wages, hours, and terms and conditions of employment.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Collective bargaining will help address issues faced by marginalized people face in the workplace. Government should be representative of our communities and this bill will help with recruitment and retention by providing an avenue for self advocacy that is not seen as lobbying. Every workplace is unique but none is so unique that employees and management to meet and discuss a better and safer workplace. Past employees that have spoken out were fired or ostracized. This is similar to the expansion of collective bargaining at the Attorney General's Office and that office is better off having gotten the right to bargain.

OTHER: The experience of employing employees that collectively bargain might be good for the body. This bill feels rushed. Elections should be done via secret ballot elections.

Persons Testifying: PRO: Jazmine Smith, The Washington Bus; Mehar Singh, The Washington Bus; Joe Kendo, Washington State Labor Council, AFL-CIO; Abbie Zulock; Seamus Petrie, Washington Public Employees Association; Negheen Kamkar, Former Staffer; Kacie Masten; Caroline Cress, Association of Washington Assistant Attorneys General (AWAAG), WFSE Local 5297.

OTHER: Maxford Nelsen, Freedom Foundation; Mike Sellars, Public Employment Relations Commission .

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