

# SENATE BILL REPORT

## SB 5773

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As Reported by Senate Committee On:  
Labor, Commerce & Tribal Affairs, January 27, 2022

**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:** Senators Stanford, Keiser, Conway, Das, Dhingra, Frockt, Hasegawa, Hunt, Kuderer, Lias, Lovelett, Mullet, Nguyen, Nobles, Randall, Saldaña, Van De Wege and Wilson, C..

**Brief History:**

**Committee Activity:** Labor, Commerce & Tribal Affairs: 1/24/22, 1/27/22 [DPS-WM, DNP].

<p style="text-align: center;"><b>Brief Summary of First Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Grants employees of the legislative branch collective bargaining rights.</li></ul>
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### SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

**Majority Report:** That Substitute Senate Bill No. 5773 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, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; Robinson and Saldaña.

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Member; Braun, Rivers and Schoesler.

**Staff:** Jarrett Sacks (786-7448)

**Background:** The Personnel System Reform Act (PSRA) provides for collective

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*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.*

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 Bill (First Substitute):** Employees of the Legislature are granted collective bargaining rights under the PSRA, including employees of the Joint Legislative Audit and Review Committee, Statute Law Committee, Legislative Ethics Board, Legislative Evaluation and Accountability Program Committee, Office of the State Actuary, Legislative Service Center, Legislative Support Services, Joint Transportation Committee, and the Redistricting Commission.

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

- elected members or appointed of 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.

Matters subject to bargaining are wages, hours, and other terms and conditions of employment, and the negotiation of any questions arising under a collective bargaining agreement. The employer is not required to bargain over matters pertaining to retirement benefits, health care benefits, or other employee insurance benefits. The employer and exclusive bargaining representative are prohibited from bargaining over management rights. 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 is invalid and unenforceable.

For the purposes of negotiating agreements, the secretary of the Senate, the chief clerk of the House of Representatives, the Senate Facilities and Operations Committee, the House Executive Rules Committee, and, if applicable, the administrators or directors the relevant legislative agency, commission, or committee must coordinate with each other to:

- select negotiators to negotiate on behalf of the legislative branch;

- create a streamlined process for approving negotiated collective bargaining agreements; and
- create procedures for timely submitting requests for funding to the appropriate legislative committees if appropriations are necessary to implement provisions of an agreement.

Collective bargaining negotiations must commence no later than July 1st 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 appropriate legislative committees 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, all parties must immediately enter into collective bargaining for a mutually agreed upon modification of the agreement. Changes are made to existing provisions of the PSRA to conform with the changes made in the bill. Legislative collective bargaining is exempted from the Joint Committee on Employment Relations statute and legislative employees are excluded from payments for labor relations services to the Office of Financial Management.

#### **EFFECT OF CHANGES MADE BY LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE (First Substitute):**

The following employees are excluded from collective bargaining in addition to the exclusions in the underlying bill: appointed members of the Legislature; members of committees, boards, and commissions; the speaker's attorney and leadership counsel for the minority caucus in the House of Representatives; and commissioners of the Washington State Redistricting Commission. Only caucus chiefs of staff and deputy chiefs are excluded from bargaining, rather than all chiefs of staff. The exclusion of supervisory employees is

removed.

Counsel for the House of Representatives and the Senate must provide direct legal advice to the administration of the House of Representatives and the Senate to be excluded from collective bargaining. The exclusion of House of Representatives and Senate counsel does not include staff counsel for Senate Committee Services, the Office of Program Research, or the caucuses. Security personnel are added to the types of temporary employees included in collective bargaining.

A provision of a collective bargaining agreement that conflicts with the terms of a resolution or concurrent resolution is invalid and unenforceable. Agreements must be finalized by October 1 in order to submit requests for funding necessary to implement a collective bargaining agreement. The Legislature must approve or reject requests for funding as a whole.

Negotiations are prohibited from commencing earlier than June 1, 2023 and agreements are prohibited from taking effect prior to July 1, 2024. An agreement that takes effect between July 1, 2024 and July 1, 2025 must expire by July 1, 2025.

Legislative collective bargaining is excluded from the types of collective bargaining the Joint Committee on Employment Relations (JCER) consults with the Governor on during JCER meetings and employees of the legislative branch are excluded from payments for labor relations services to the Office of Financial Management.

**Appropriation:** None.

**Fiscal Note:** Requested on January 19, 2022.

**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 Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The bill allows legislative employees to choose whether they can collectively bargain. Every worker has the right to be a member of a union if they so choose. Assistant attorneys general and administrative law judges were recently granted the right to bargain and there were not any budget-breaking pay increases or overhauls of the employment system. The exemption dates back to before the existence of civil service laws. Unions can make meaningful changes to the hiring and employment practices for LGBTQ individuals and people of color and allow for mutual aid to protect workers from harassment. The Legislature is a precarious place to work with formal and informal employment practices, collective bargaining would help make employment practices clear and easier to follow. There is a large power imbalance at the Legislature and it is not clear low-level employees have protection. The bill would

allow the Legislature to hire and retain the best and brightest employees.

OTHER: The Legislature can act on its own to alleviate identified employment issues. There is almost no precedent for allowing legislative staff to collectively bargain, so it is unclear what the ramifications are. Oregon allows legislative aides to bargain, but there has not been an adopted contract yet. The bill allows collective bargaining agreements to override non-statutory enactments of the Legislature, including the codes of conduct. The diffused nature of the Legislature makes bargaining difficult and it is not clear how agreements will be adopted. There is no requirement for a secret ballot election to approve representation. Joining a union may taint the perception of nonpartisanship for nonpartisan staff and may put partisan staff in a difficult place depending on the campaign activities of the union.

**Persons Testifying:** PRO: Senator Derek Stanford, Prime Sponsor; Kacie Masten; Bre Jefferson, Former Legislative Staff; Dennis Eagle, WA Federation of State Employees; Seamus Petrie, Self/Washington Public Employees Association; Summer Stinson; Sam Cho, I am testifying in my personal capacity, but I am a Port of Seattle Commissioner; Abbie Zulock, UFCW 21; Kira McCoy, Self; Kamau Chege, Washington Community Alliance.

OTHER: Maxford Nelsen, Freedom Foundation.

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