

SENATE BILL REPORT

SHB 1200

As Passed Senate - Amended, April 12, 2023

Title: An act relating to requiring public employers to provide employee information to exclusive bargaining representatives.

Brief Description: Requiring public employers to provide employee information to exclusive bargaining representatives.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Alvarado, Bronoske, Fitzgibbon, Berry, Bateman, Reed, Simmons, Bergquist, Ramel, Doglio, Ormsby, Ortiz-Self, Fosse, Pollet and Chopp).

Brief History: Passed House: 3/2/23, 56-41.

Committee Activity: Labor & Commerce: 3/21/23, 3/27/23 [DPA, DNP, w/oRec].

Floor Activity: Passed Senate - Amended: 4/12/23, 29-20.

Brief Summary of Bill (As Amended by Senate)

- Requires certain public employers to provide exclusive bargaining representatives employee information, such as contact information, date of hire, salary, and jobsite location, of employees in bargaining units if the employer has that information in its records.
- Allows an exclusive bargaining representative to bring a court action if a public employer fails to comply with the requirement to provide information.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Robinson and Stanford.

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: Do not pass.

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

Minority Report: That it be referred without recommendation.

Signed by Senator MacEwen.

Staff: Jarrett Sacks (786-7448)

Background: Collective Bargaining. Various statutes provide for collective bargaining between public employers and their employees. The Public Employees' Collective Bargaining Act (PECBA) provides for collective bargaining of wages, hours, and working conditions with employees of cities, counties, and other political subdivisions, as well as to certain employees of institutions of higher education. The Personnel System Reform Act 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. Educational employees of school districts and academic employees of community and technical colleges also bargain under their own separate statutes.

Duty to Provide Information. Parties to a collective bargaining agreement (CBA) have a duty to bargain in good faith. Part of the duty to bargain includes a duty to provide relevant information needed by the other party for the proper performance of its duties in the collective bargaining process. This obligation extends to information that is useful and relevant for contract negotiations, as well as information necessary for the administration of the CBA. Information pertaining to employees in the bargaining unit is presumptively relevant.

Access to Employees. Public employers must provide the exclusive bargaining representative reasonable access to new employees of the bargaining unit for the purposes of presenting information about their exclusive bargaining representative to the new employee. The access to the new employee must occur within 90 days of the employee's start date within the bargaining unit, must not be for less than 30 minutes, and must occur during the new employee's regular work hours at the employee's regular worksite, or at a location mutually agreed to by the employer and exclusive bargaining representative. Employees are not required to attend the meetings or presentations.

Public Records Act. The Public Records Act (PRA) requires all state and local government entities to make available to the public all public records, unless a specific exemption applies or disclosure is prohibited under other law. The PRA exempts certain information held by any public agency in personnel records, including residential addresses, phone numbers, personal email addresses, emergency contact information, and social security numbers. Private information of public employees may be protected under the PRA to the extent that disclosure would be highly offensive to a reasonable person and is not of legitimate public concern.

Summary of Amended Bill: Certain public employers are required to provide employee information to the exclusive bargaining representative for each employee in a bargaining unit, if the employer has the information in the employer's records. The following information must be provided:

- the employee's name and date of hire;
- the employee's contact information, including:
 1. cellular, home, and work telephone numbers;
 2. work and the most up-to-date personal email addresses; and
 3. home address or personal mailing address; and
- employment information, including the employee's job title, salary or rate of pay, and work site location or duty station.

The bill applies to the following public employers:

- all employers subject to PECBA;
- school district employers;
- community and technical colleges; and
- Western Washington University, Central Washington University, Eastern Washington University, and the Evergreen State College.

The employer must provide the information within 21 business days from the date of hire for new employees in an appropriate bargaining unit, and every 120 business days for all employees in an appropriate bargaining unit. The employer must provide the information in an editable format. When there is a state-level representative for a bargaining unit, the employer may provide the information to the state-level representative. The exclusive bargaining representative may use the information only for representation purposes and the bill does not give the authority to sell or provide access to lists of employees or employee information requested for commercial purposes.

If an employer fails to comply with the requirement to provide employee information, the exclusive bargaining representative may bring a court action to enforce compliance. The court may order the employer to pay costs and reasonable attorneys' fees incurred by the exclusive bargaining representative.

The requirements of the bill do not apply to an employer specifically prohibited under its requirements as a cleared United States Department of Defense (DOD) contractor from providing the employee information listed in the bill. The exclusion only applies to employees covered by such a requirement and the employer must provide the required information for all employees not covered by DOD requirements. The exclusion does not limit the employee information an employer must provide pursuant to its duty to bargain in good faith or any other duty or obligation under applicable collective bargaining law, nor does the exclusion prohibit bargaining over the provision of employee information.

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 Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Exclusive bargaining representatives need the ability to contact employees to be able to represent them. Sometimes, they find out about new hires many months after hiring. Inaccurate information makes their jobs more difficult. A similar policy has worked in Oregon. This version of the bill changes the timelines to accommodate concerns from cities and counties. the unions do not receive information from people in the address confidentiality program and the bill is limited to representation purposes. Sometimes, unions need to contact non-members in collective bargaining units because responsibilities apply to all represented employees. King County already shares this information and it is low effort and has minimal costs.

CON: Most work related contact information should be provided, but personal information should not. What personal information to provide should be left to the employee. The list itself may be subject to public disclosure and preventing that disclosure would require litigation. The bill is largely unnecessary and lacks meaningful protections for employee information. Collective bargaining agreements already allow for this exchange of information and is negotiated. Contact information is required to be disclosed already. The bill has no opt-out and there is no meaningful protection against the information being shared with third parties. The bill is at odds with the purposes of collective bargaining.

Persons Testifying: PRO: Representative Emily Alvarado, Prime Sponsor; Jenn Hansen; Michael White, King County; Seamus Petrie, Washington Public Employees Association.

CON: James McMahan, WA Assoc Sheriffs & Police Chiefs; Maxford Nelsen, Freedom Foundation.

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