

SENATE BILL REPORT

ESSB 6007

As Passed Senate, February 7, 2024

Title: An act relating to employment standards for grocery workers.

Brief Description: Concerning employment standards for grocery workers.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Conway, Keiser, Hasegawa, Dhingra, Randall, Saldaña, Liias, Hunt, Nguyen, Kuderer, Van De Wege, Frame, Nobles, Pedersen, Salomon, Shewmake, Stanford, Trudeau, Valdez and Wilson, C.).

Brief History:

Committee Activity: Labor & Commerce: 1/25/24, 1/30/24 [DPS, DNP, w/oRec].

Floor Activity: Passed Senate: 2/7/24, 32-16.

Brief Summary of Engrossed First Substitute Bill

- Requires an incumbent grocery establishment employer to provide a successor grocery establishment employer (successor) and any collective bargaining representative certain information for each eligible grocery worker.
- Requires the successor to maintain a preferential hiring list of eligible grocery workers; retain the hired workers for at least 180 days and maintain workers based on seniority during the transition period; consider offering continued employment if the performance is satisfactory; and post a public notice of the change of control within five days of the transfer documents.
- Prohibits the discharge of eligible employees retained during the transition period without cause and retaliation against workers for enforcing their rights.
- Requires large successors that do not hire or retain a worker for the transition period or 180 days from their employment start date to pay the

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worker an allowance.

- Allows a private right of action and provides certain remedies.
- Requires a 180-day notice with certain analysis and explanation to certain officials before closure of an establishment after change of control from a merger in a designated food desert.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 6007 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senators Braun and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; MacEwen.

Staff: Susan Jones (786-7404)

Background: Worker Adjustment and Retraining Notification. In 1988, Congress passed the Worker Adjustment and Retraining Notification (WARN) Act to provide workers with time to prepare for the transition between the jobs they currently hold and new jobs. This transition may involve the provision of information about where new jobs may be found, or it may involve providing workers with other employment or retraining opportunities before they lose their jobs. The WARN Act requires employers to provide written notice at least 60 calendar days in advance of covered plant closings and mass layoffs.

A WARN notice is required when a business with 100 or more full-time workers—not counting workers who have less than six months on the job and workers who work fewer than 20 hours per week—is laying off at least 50 people at a single site of employment, or employs 100 or more workers who work at least a combined 4000 hours per week, and is a private for-profit business, private non-profit organization, or quasi-public entity separately organized from regular government.

In Washington, employers must provide the WARN notice to the Employment Security Department (ESD) and to the chief elected official of the community where the layoff or closure will occur. ESD maintains a database of information regarding WARN notices.

Job Retention Acts and Ordinances. California and New York City have passed grocery worker retention acts. The City of Seattle has passed job retention ordinances for cannabis

and hotel employees.

Summary of Engrossed First Substitute Bill: Grocery Employee Contact Information and Preferential List. An incumbent grocery establishment employer (incumbent) must provide a successor grocery establishment employer (successor) and any collective bargaining representative contact information for each eligible grocery worker within 15 days after the execution of the transfer document. The successor may obtain the information from the collective bargaining representative if the incumbent does not provide the information.

Successor Grocery Employer Requirements. The successor must:

- maintain a preferential hiring list of eligible grocery workers from the incumbent for a 180-day period (transition period) after the establishment is fully operational and open to the public under the successor;
- retain written verification of job offers for three years;
- retain the hired workers, except for cause, for at least 180 days and maintain workers based on seniority during the transition period;
- after the transition period, make a written performance evaluation for each retained worker and consider offering continued employment if the performance is satisfactory; and
- post a public notice of the change of control within five days of the transfer documents during closure and until the successor is open to the public.

Retaliation against workers for enforcing their rights is prohibited.

Large Successor Workers Allowance. Large successors, who will own, control, or operate 20 or more grocery establishments, that do not hire or retain a worker for the later of the transition period or 180 days from their employment start date must pay the worker an allowance. The allowance is one week for each year of employment with the incumbent at the higher of their average compensation rate from the previous three years with the incumbent or their final regular rate of compensation. There are limited exceptions for workers quitting or being discharged for cause.

Remedies. An aggrieved employee or their representative may bring a private right of action. Remedies may include hiring or reinstatement rights, front or back pay, the value of benefits, and attorneys' fees and costs. Prior to filing an action, the employee must provide written notice to the employer of the action. The employer has 30 calendar days right to cure.

There are exceptions to the act for establishments in designated food deserts under certain conditions and when there are less than 300 employees for both the incumbent and successor.

Local Governments. There is a 180-day notice required to certain officials before closure of

an establishment after the change of control from a merger in a designated food desert. The notice must provide certain analysis and explanation. The act does not preempt local governments from providing equal or greater worker protection.

Definitions. Grocery establishment means a retail store in this state that is over 15,000 square feet in size and that sells primarily household foodstuffs for off-site consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. Other household supplies or other products must be secondary to the primary purpose of food sales. A distribution center owned and operated by a grocery establishment and used primarily to distribute goods to or from its owned stores is considered a grocery establishment, regardless of its square footage. A grocery establishment does not include a retail store that has ceased operations for 12 months or more.

Successor grocery employer means the person that owns, controls, or operates the grocery establishment after the change in control. A successor grocery employer may be the same entity as an incumbent employer when a change in control occurs, but the covered employer remains the same. Successor grocery employer does not include: (1) any person that owns or controls 25 or fewer grocery establishments in the state, or (2) an establishment operated by a franchisee pursuant to a franchise agreement if the franchisee operates 25 or fewer grocery establishments in the state.

Eligible grocery worker means any individual whose primary place of employment is at the grocery establishment subject to a change in control, and who has worked for the incumbent grocery employer for at least six months prior to the execution of the transfer document. Eligible grocery worker does not include a managerial, supervisory, or confidential employee.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Mergers of major grocers have impacts on communities. We need to protect the workers impacted by the merger. The attorney general has filed suit to protect the consumers and suppliers. We need to make sure worker's jobs are protected in the event of a merger or sale. Grocery workers need job security in the time of mergers. The bill exempts smaller grocers and convenience stores. It is tailored to larger mergers.

Grocery workers are the backbone of our communities. They assure communities have access to food and medicine. The bill preserves a skilled workforce that can better serve the community. These job takes a lot skill. The grocery workers are concerned with cutting hours and increasing prices. Without this bill we will see higher prices and lower wages. Consolidation can be economically devastating to the community with closures. It is a roulette on which workers are impacted. Nothing guarantees whose store will get bought out and keep their jobs. This give security to workers.

CON: We know the intent is not to negatively impact the grocers, but it will. Workers are concerned they will be pressured to join a union. We don't know how a successor would function without retaining workers.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Isaac Wagnitz, UFCW Local 367; Yasmin Ashur; Tom Lambro, UFCW 3000; James Perez; Michael Whalen, UFCW367.

CON: Katie Beeson, Washington Food Industry Association.

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