

HOUSE BILL REPORT

HB 1291

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to the public employees' collective bargaining act as applied to certain juvenile court services and department of corrections employees.

Brief Description: Granting binding arbitration rights to certain juvenile court services and department of corrections employees.

Sponsors: Representatives Green, Upthegrove, Hurst, Sullivan, Moscoso, Ormsby and Kenney.

Brief History:

Committee Activity:

Labor & Workforce Development: 2/9/11, 2/15/11 [DPS].

Brief Summary of Substitute Bill

- Adds certain juvenile detention employees to the employees covered by binding interest arbitration under the Public Employees' Collective Bargaining Act (PECBA).
- Adds employees working for the Department of Corrections to the employees covered by collective bargaining and binding interest arbitration under the PECBA.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Kenney, Miloscia, Moeller, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 5 members: Representatives Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Taylor and Warnick.

Staff: Jill Reinmuth (786-7134).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

1. Collective Bargaining and Interest Arbitration.

The Public Employees' Collective Bargaining Act (PECBA) provides for collective bargaining of wages and working conditions by counties, cities, and other political subdivisions and their employees. For uniformed personnel, the PECBA recognizes the public policy against strikes as a means of settling labor disputes. To resolve impasses over contract negotiations involving uniformed personnel, the PECBA requires binding interest arbitration.

Uniformed personnel include correctional employees who are employed in jails by counties with a population of 70,000 or more, and who are trained for and charged with responsibility for custody of inmates in the jail. The employees listed as uniformed personnel also include, among others: firefighters in all cities and counties, law enforcement officers in larger cities and counties, general authority peace officers and firefighters employed by certain port districts, security forces at a nuclear power plant, and publicly employed advanced life support technicians. Other public employees covered by interest arbitration include state patrol officers.

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 institutions of higher education. The PSRA does not provide for binding interest arbitration.

2. Juvenile Detention Facilities.

The Juvenile Justice Act authorizes superior court judges in certain counties with a population of 1 million or more to transfer responsibility for and administration of juvenile court services to the county executive, subject to approval of the county legislative authority. Pursuant to such a transfer, the King County Department of Adult and Juvenile Detention, through the Juvenile Division, operates the juvenile detention facility and administers alternatives to secure detention.

3. Department of Corrections Facilities.

The Department of Corrections (Department) is responsible for managing state-operated adult prison facilities and supervising adult offenders residing in communities. The Department manages minimum to maximum custody level institutions, partial confinement programs, and community supervision services.

Summary of Substitute Bill:

1. Juvenile Detention Employees.

The binding interest arbitration provisions of the PECBA are extended to certain juvenile detention employees. These employees must be employed by:

- a juvenile detention division created pursuant to a transfer of juvenile court services to the county executive by superior court judges in certain counties with a population of 1 million or more; or
- a detention facility operated by a county with a population of 70,000 or more.

The employees must be responsible for supervising, controlling, monitoring, programming, classifying, and/or maintaining custody of juveniles in juvenile detention facilities or alternatives to secure detention programs.

2. Department of Corrections Employees.

The collective bargaining provisions of the PECBA, instead of the PSRA, are applied to the State of Washington with respect to Department employees. The binding interest arbitration provisions of the PECBA are also extended to Department employees.

Certain bargaining units are "grandfathered" and considered appropriate units under the PECBA. These bargaining units include:

- nonsupervisory classified employees working in correctional institutions, the correctional industries program, the sex offender treatment program, and the regional business service center;
- supervisory classified employees working in correctional institutions, the correctional industries program, the sex offender treatment program, and the regional business service center;
- psychiatric social workers;
- psychology associates;
- chaplains;
- psychiatrists;
- psychologist 3 and 4 nonsupervisory;
- psychologist 3 and 4 supervisory;
- nonsupervisory community corrections;
- supervisors community corrections;
- nonsupervisors – warrants/records unit;
- nonsupervisory marine department;
- nonsupervisory officers at McNeil Island; and
- ferry operators (deckhands) at McNeil Island.

Bargaining representatives recognized under the PSRA are also "grandfathered" and recognized as representing bargaining units under the PECBA.

Other collective bargaining provisions are comparable to the PSRA. For example, the state is represented by the Governor. Bargaining representatives must negotiate one master agreement with the Governor if they represent multiple units. They also must be part of the coalition that negotiates certain subjects, including the dollar amount expended on behalf of

each employee for health care benefits. The scope of bargaining is wages, hours, and other terms and conditions of employment.

The Governor must submit requests to the Legislature for any funds and legislation necessary to implement a collective bargaining agreement. A request must not be submitted unless it has been certified by the Director of the Office of Financial Management as being feasible financially or it reflects the binding decision of an arbitration panel. The Legislature must approve or reject the submission of the request for funds as a whole. If the Legislature rejects or fails to act on the submission, a collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement. The duration of an agreement must not exceed one biennium.

Department employees are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. The interest arbitration panel must consider:

- the employer's authority;
- the parties' stipulations;
- comparisons of hours and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;
- changes in any listed factors during the proceedings; and
- other factors normally or traditionally considered in the determination of wages, hours, and conditions of employment.

The interest arbitration panel's decision is not binding on the Legislature, and if the Legislature does not approve the funding, it is not binding on the state.

The negotiations under the PECBA must begin no later than July 1, 2012, and an agreement must not be effective prior to July 1, 2013. An agreement under the PSRA entered into before July 1, 2012, remains in full force, but may not be renewed or extended beyond July 1, 2013.

Substitute Bill Compared to Original Bill:

Juvenile detention employees who are employed by counties with a population of 70,000 or more (rather than King County only) are covered by binding interest arbitration. Additional existing bargaining units of employees working for the Department are "grandfathered" and considered appropriate bargaining units under the PECBA.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Correctional employees perform dangerous work. Their primary duty is to protect the public from harm. By pursuing their calling, they gave up their right to strike. The idea of a strike runs afoul of their commitment to protect the public.

Binding interest arbitration will help ensure that the safety of the public and correctional employees is never jeopardized. It will provide for meaningful collective bargaining, and a fair and efficient process for resolving conflict.

Binding interest arbitration will allow a neutral arbitrator to settle contract disputes that cannot be resolved in negotiations. It will give the parties a means to address issues when working conditions become untenable. It will help bring about staffing models and safety equipment that are needed to do the job. It will take politics out of labor disputes.

The Legislature has already granted binding interest arbitration rights to law enforcement officers, firefighters, and county correctional officers. Like other first responders, the dangers that community correction officers face go beyond the ordinary. The same rights should be granted to state correctional officers who deal with more dangerous offenders for longer periods of time. Although interest arbitration is an option, it is used very rarely. It has allowed others to improve staffing, accountability, and safety.

There is frustration with the current process. The process is much more convoluted because of the involvement of the Labor Relations Office. It has been difficult to address agency-specific issues. It has been hard to have meaningful conversations with those who manage us.

Jamie Biendl's death has impacted us all. Nothing can prepare a new officer for total immersion into the prison environment. Nothing prepared me for the murder of my colleague or for being the first responder and performing CPR on Jamie Biendl. One life has been lost, one life too many.

The working conditions are unsafe. There are only three officers in the kitchen, and they are feeding 200 to 270 inmates at a time. There are few cameras, and new cameras are sometimes diverted to the big yard. It is the most dangerous time of the day. It is an explosive environment. There are assaults on staff, fights, and stabbings.

The work is tremendously dangerous. The safety concerns range from doing cell extractions without helmets, doing transportation without radios, and working without a sidearm or pepper spray.

The working conditions are unacceptable. In some institutions, correctional officers are outnumbered 60 to one. In others, the ratio is 200 to one. The officers have verbal defense tactics, but not radios, handcuffs, body alarms, panic buttons, or manned control booths. With furloughs and lockdowns, the days are pretty tense sometimes. Staffing ratios need to change, and safety issues need to be addressed.

(Opposed) None.

Persons Testifying: Representative Green, prime sponsor; Tracey Thompson, Michael Boe, Carl Beatty, James Smith II, Ross Steed, John Christy, and Joan Roper, Teamsters Local 117; Roger Roper; Clay Impala, King County Department of Adult and Juvenile Detention; and Matt Zuvich and Dave Thompson, Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying: None.