

HOUSE BILL REPORT

SSB 5173

As Passed House - Amended:
March 6, 2014

Title: An act relating to the respecting holidays of faith and conscience act.

Brief Description: Respecting holidays of faith and conscience.

Sponsors: Senate Committee on Commerce & Labor (originally sponsored by Senators Hasegawa, Kline, Frockt and Chase).

Brief History:

Committee Activity:

Judiciary: 2/25/14, 2/26/14 [DPA];

Appropriations: 2/27/14, 3/1/14 [DPA(JUDI)].

Floor Activity:

Passed House - Amended: 3/6/14, 64-32.

**Brief Summary of Substitute Bill
(As Amended by House)**

- Entitles employees of the state and its political subdivisions to two unpaid holidays per year for reasons of faith or conscience or organized religious activities.
- Provides that an employer must allow an employee to take the unpaid holidays on specific days for reasons of faith or conscience or organized religious activities, unless the absence would create an undue hardship or the employee is necessary to maintain public safety.
- Allows public school students to be absent for up to two days per school year, without penalty, for reasons of faith or conscience or organized religious activities.
- Requires institutions of higher education and state-funded workforce training programs to accommodate student absences for up to two days to allow students to take holidays for reasons of faith and conscience or organized religious activities.

HOUSE COMMITTEE ON JUDICIARY

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.

Majority Report: Do pass as amended. Signed by 9 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Goodman, Kirby, Klippert, Orwall, Roberts, Shea and Walkinshaw.

Minority Report: Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Haler and Muri.

Staff: Omeara Harrington (786-7136).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Judiciary. Signed by 31 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Christian, Cody, Dahlquist, Dunshee, Fagan, Green, Haigh, Haler, Harris, Hudgins, G. Hunt, S. Hunt, Jinkins, Kagi, Lytton, Morrell, Parker, Pettigrew, Schmick, Seaquist, Springer, Sullivan, Taylor and Tharinger.

Staff: David Pringle (786-7310).

Background:

Legal Holidays and School Holidays.

Legal holidays are identified in statute, and include: Sundays, New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, the Fourth of July, Labor Day, Veterans' Day, Thanksgiving Day and the day after, and Christmas Day. Statute provides a list of school holidays that match the list of legal holidays. School must not be taught on listed school holidays.

Employee Leave.

Employees of the state and its political subdivisions are entitled to one paid holiday per calendar year in addition to legal holidays. An employee may select the day upon which the additional holiday is taken after consultation with his or her employer pursuant to personnel guidelines. Employees of school districts and nonclassified employees of institutions of higher education who are appointed or under contract to perform services for less than one year are not entitled to an additional paid holiday.

Federal and state laws protect employees from workplace discrimination on a number of protected bases, including religion. Under Title VII of the federal Civil Rights Act, absent undue hardship on the employer's operation of its business, an employer must provide reasonable accommodation for the employee's sincerely held religious beliefs or practices. A reasonable accommodation may include schedule changes or leave for religious observances.

Compulsory School Attendance.

Compulsory school attendance laws require children from the age of eight until they turn age 18 to attend public school full-time, unless they attend a private school, are homeschooled, are 16 years or older and employed, or have graduated. The school district superintendent may additionally excuse a child from attendance for reasons of physical or mental inability to

attend, attendance at a residential or correctional facility, or because the child's parents have requested a temporary absence, unless absence would have a serious adverse effect upon the child's progress. Students temporarily excused by a superintendent may be claimed as full-time equivalent students, to the extent they would otherwise have been claimed, for purposes of basic education funding allocation and instructional requirements.

Summary of Amended Bill:

Employees of the state and its political subdivisions are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. Employees of school districts and nonclassified employees of institutions of higher education who are appointed or under contract to perform services for less than one year, and employees of public institutions of higher education, including community colleges, technical colleges, and workforce training programs, are also entitled to the two unpaid holidays per year. If an employee wishes to take the additional holidays on specific days for reasons of faith or conscience, or for an organized activity conducted under the auspices of a religious denomination, church, or religious organization, the employer must allow the employee to do so unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. The Office of Financial Management must promulgate, by rule, a definition of "undue hardship."

An additional exception to compulsory public school attendance is permitted. A child may be excused from school, subject to approval by the student's parent, for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, for up to two days per school year without penalty. These absences cannot mandate school closures. Students excused for these absences may be claimed as full-time equivalent students, to the extent they would otherwise have been claimed, for purposes of basic education funding allocation and instructional requirements.

Institutions of higher education and state-funded workforce training programs must develop policies to accommodate student absences for up to two days per academic year for reasons of faith or conscience, or for an organized activity conducted under the auspices of a religious denomination, church, or religious organization, without adverse impact to the students' grades.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony (Judiciary):

(In support) This bill has brought together many people from different religious communities. The standard holiday calendar is a Gregorian calendar, but for many the holiday calendar is a

lunar calendar, which changes from year to year. It is important to allow two unpaid holidays or school absences to accommodate holy days. There have been multiple instances of employers not allowing employees to take leave to observe religious holidays, and parents have to negotiate with schools to allow absences for religious holidays. For some, celebrating a religious holiday would force them to lose their employment. This will be of particular benefit to the Muslim and Jewish communities, and to people of other faiths whose holy days do not fall on legal holidays. This will alleviate the conflict that can arise between religious liberty and normal civic life and calendars. Many of the people this bill will affect are immigrants who have fled their countries of origin and live with physical and psychological scars. These individuals identify with American ideals, and strive to contribute. Employers do not have to accommodate days off if the employee's absence would cause an undue hardship.

This bill has been in consideration since the 2013 session so it has had ample time to be vetted. It received a unanimous vote in the Senate. There have been some additional suggestions made and likely a striking amendment will be proposed to incorporate these suggestions.

(Other) The section of the bill regarding workforce training programs, as drafted, will only affect the private vocational sector. These are not degree programs or public institutions. Because the rest of the bill only affects the public sector, an amendment is suggested to either remove that section entirely or amend it to only apply to "state-funded" workforce programs.

Law enforcement agencies need to be able to ensure staffing levels are sufficient for public safety reasons. It is unclear what would constitute a bona fide hardship, so the bill should be amended to allow a denial of a holiday on a specific day if the employee is necessary to maintain public safety.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill passed the Senate 47 to zero. This issue has been on the agenda for several years now. Since passing out of the Senate this year, the bill has been collecting support. The fiscal note contains a variety of costs and savings, but there is an inconsistency in the fiscal analysis. Please keep the bill moving. Jewish holidays are based on the lunar calendar, and must be taken on different days each year. Those that take these days generally can request them well in advance, so the disruptions and cost to employers can be minimized. We don't want special treatment, just the right to assemble and worship without employment consequences. While there will be some costs to employers to accommodate these religious celebrations, for most agencies the costs will be very small. Just as they absorb costs for Christmas, they should do so for other religious holidays. A former employee of a state agency left because she was not able to celebrate the occasions of her faith. Many people in my community are low-income, and if they leave their jobs, it will have state budget implications. Speaking on behalf of the largest Islamic center in South Seattle, every year there are complaints from the congregation where employed people are not allowed to take leave time to celebrate religious holidays. By passing this, the committee will be helping the

South Seattle congregation whose members might otherwise lose their jobs to keep their faith.

(Opposed) None.

Persons Testifying (Judiciary): (In support) Senator Hasegawa, prime sponsor; Zaynab Farole, Muslim Civic Leadership; Abdirahman Mohamed, Abu Bakr Islamic Center of Washington; Jamila Farole, Muslim Civic Leadership; Rabbi Seth Goldstein, Jewish Coalition of Justice; Trevor Sandison, Faith Action Network; and Miguel Perez-Gibson.

(Other) Nova Gattman, Workforce Board; and Rob Huss, Washington State Patrol.

Persons Testifying (Appropriations): Senator Hasegawa, prime sponsor; Nancy Shapiro, Jewish Federation; Velma Veloria, Faith Action Network; Faisa Farole and Jamila Farole, Muslim Civic Leadership; and Abdirahman Mohamed, Abu-Bakr Islamic Center of Washington.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.