

HOUSE BILL REPORT

HB 2851

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to collective bargaining agreements of department of corrections.

Brief Description: Limiting collective bargaining agreements of department of corrections.

Sponsors: Representatives Sehlin, McMorris, Ballasiotes and Silver.

Brief History:

Committee Activity:

Commerce & Labor: 1/29/96, 2/1/96 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 7 members: Representatives McMorris, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Goldsmith; Horn and Lisk.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

Staff: Chris Cordes (786-7117).

Background: The State Personnel Resources Board is authorized to adopt rules governing the state civil service system. This authority includes authority for rules on collective bargaining between state agencies and bargaining units of state employees. Collective bargaining agreements between these parties may include provisions addressing all personnel matters over which the agency lawfully exercises discretion.

The board's rules permit collective bargaining agreements to have initial terms of three years. Automatic renewal or extension of an agreement may extend the period of the contract for no more than one year at a time.

Washington courts have interpreted the civil service system as prohibiting contracting out for services if the services have been "customarily and historically" performed by civil service employees, unless specific legislative authorization for contracting is

given. The Legislature enacted a limited statutory exception to the general prohibition in 1979, that allows agencies to contract for services that had been regularly purchased before the statute was enacted if no employees or employee positions would be terminated by executing or renewing the contract. The Legislature has also enacted specific authority for some agencies to contract for specified services.

The collective bargaining agreement in effect until June 25, 1996, between the Department of Corrections and its bargaining unit of correctional employees prohibits

"contract[ing] or subcontract[ing] services when such action would have the effect of terminating classified institution employees or employee positions within the bargaining unit existing at the time of the execution or renewal of the contract."

The agreement also provides that the agency will not

"contract or subcontract for services for new programs or expansion of existing programs which are to be accomplished under substantially the same conditions and in the same manner as those historically provided by classified employees within the institution."

Summary of Substitute Bill: The provisions are amended that authorize and establish parameters for the adoption of State Personnel Resources Board rules governing collective bargaining between state agencies and state employee bargaining units.

The amendments place limits on collective bargaining agreements entered into, renewed, or extended on or after the bill's effective date by the Department of Corrections. The collective bargaining agreements may not include a prohibition or limitation on contracting for services related to the construction or operation of a prison: (1) for which funds are appropriated in a state capital budget for original planning or construction that begins after the bill's effective date; or (2) for which funds were appropriated in the 1995 capital budget (the Stafford Creek prison in Grays Harbor County).

Changes are made to allow division and numbering of the statute's subsections.

Substitute Bill Compared to Original Bill: The substitute bill makes a grammatical change to return the language to current law regarding the Washington Personnel Resources Board's authority to provide for grievance procedures in collective bargaining agreements.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Legislature is in the middle of a discussion concerning privatization of new state prisons. This discussion will be mooted if the collective bargaining agreement between the Department of Corrections and correctional employees is renegotiated with clauses that prohibit contracting out. This bill is intended to give the Legislature the opportunity to continue the privatization discussions.

Testimony Against: The bill negates terms in the employees' collective bargaining agreement. It is not clear what prisons are intended to be covered. Although correctional employees are not opposed to a small privatization pilot, privatization of a new large prison is a problem because it forecloses opportunities for promotion that come very rarely unless the state opens a new prison. This bill is unprecedented in its restriction of contract terms.

Testified: (In favor) Representative Barry Sehlin, prime sponsor. (Opposed) Gene St. John, Washington Public Employees Association.