

HOUSE BILL ANALYSIS

SSB 5115

Brief Description: Changing judicial review of public employment relations commission proceedings.

Sponsors: Senators Heavy and Prentice

Hearing: March 25, 1999

Brief Summary of Bill

The Public Employment Relations Commission (PERC) adjudicative decisions are appealed directly to the Court of Appeals rather than to Superior Court.

BACKGROUND:

PERC provides services to resolve labor-management disputes involving public employees covered by collective bargaining laws. One means of resolution PERC uses to resolve collective bargaining disputes is adjudication.

Normally, the adjudication process begins when a party files a petition with PERC. Depending on the type of case, the executive director or another officer reviews the petition and makes a preliminary determination. If a hearing is still necessary, a hearing officer or examiner is assigned. The parties may present evidence and arguments at the hearing. The parties may be represented by attorneys and may file briefs. Hearings are recorded by a court reporter.

Parties may have a right to appeal a decision of a hearing officer or examiner. The four types of cases that are appealable are those involving unfair labor practices, determinations of the appropriate groupings of employees, modifications to existing bargaining units, and the right to pay a charity in lieu of paying union dues.

Appeals are made to Superior Court and then to the Court of Appeals. Of the cases filed with PERC in 1996, eight were appealed to Superior Court. Of all the PERC cases

appealed since 1976, 53% of the Superior Court decisions were appealed to the Court of Appeals. Superior Court decisions were affirmed in 61% of these cases. The average time period for Superior Court to decide a PERC case is 12 months, which is 34% of the total time a case spends in court. The Court of Appeals takes an average of 16 months to issue a decision.

A Superior Court may decide to have any adjudicative decision by a state agency reviewed directly by the Court of Appeals if the court determines that (1) the case involves fundamental and urgent issues, (2) delay in resolving the case would be detrimental to any party or the public, (3) an appeal to the Court of Appeals would be likely, and (4) resolution of the case would have precedential value. Superior Courts have bumped— six PERC cases (7.3%) since 1976.

Decisions of environmental boards and growth management hearing boards that meet similar criteria are directly reviewed by the Court of Appeals.

SUMMARY OF BILL:

Appealable adjudicative decisions by PERC are appealed directly to the Court of Appeals, rather than to Superior Court.

The person filing the appeal has three options for which Court of Appeals division hears a case. The person may choose the Court of Appeals for the division containing Thurston county, the county of the public employer, or the county where the person resides or has his/her business.

RULES AUTHORITY: The bill does not contain provisions addressing the rule making powers of an agency.

FISCAL NOTE: Not requested.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.