

# HOUSE BILL REPORT

## ESB 5152

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**As Passed House:**  
February 29, 2000

**Title:** An act relating to clarifying who are appointed personnel for the purpose of public employees' collective bargaining.

**Brief Description:** Clarifying who are appointed personnel for the purpose of public employees' collective bargaining.

**Sponsors:** Senators Kline, Fairley, Costa, Gardner and Goings.

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/21/00, 2/23/00 [DP].

**Floor Activity:**

Passed House: 2/29/00, 94-3.

**Brief Summary of Engrossed Bill**

- Limits the exclusion of appointed persons from the definition of "public employees" under the local government collective bargaining law to members of boards or commissions and adds an exclusion for court commissioners and magistrates.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 5 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; Wood, Democratic Vice Chair; Hurst and McIntire.

**Minority Report:** Do not pass. Signed by 2 members: Representatives B. Chandler, Republican Vice Chair and McMorris.

**Staff:** Chris Cordes (786-7103).

**Background:**

Employees of cities, counties, and other political subdivisions of the state, including employees of superior and district courts, bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA). The statute covers all employees of these public employers unless specifically exempt. Exempt employees include those who are appointed to office pursuant to statute, ordinance, or resolution for a specified term of office.

By statute, prosecuting attorneys are authorized to appoint deputy prosecutors. The prosecuting attorney may revoke the appointments of these deputy prosecutors at will. Other local officials, such as county auditors and assessors, have similar authority to appoint deputies.

In 1998 the Washington State Supreme Court held that deputy prosecutors are at-will employees appointed for a specified term of office that coincides with the term of the prosecuting attorney. Therefore, deputy prosecutors are not "public employees" for purposes of the PECBA, and are not subject to the Public Employment Relations Commission's (PERC) jurisdiction. Prior to this decision, the PERC had certified collective bargaining units of deputy prosecutors in several counties.

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**Summary of Bill:**

The definition of "public employee" under the PECBA is modified by (1) limiting the exclusion of "appointed persons" to those persons who are appointed as a member of a multimember board, commission, or committee, and (2) adding an exclusion for court commissioners and magistrates of superior and district courts.

A prosecuting attorney's statutory authority to appoint deputy prosecuting attorneys is amended to state that the definition of "public employee" under the PECBA does not permit a prosecuting attorney to alter the at-will employment relationship of his or her appointed deputy prosecutors beyond the prosecuting attorney's term of office. The definition also does not require a prosecuting attorney to alter the at-will relationship of the appointed deputy prosecutors.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This bill corrects a Supreme Court decision that misinterpreted the statutory exclusion for "appointed" officials. The statute was only intended to exclude those who were appointed as members of an official body. The deputy prosecutors

have nearly 20 years of bargaining history with county prosecutors. That relationship was very stable and this bill returns all parties to the status quo. In fact, the bill answers some questions about the relationship by very specifically spelling out the "at-will" status under which deputy prosecutors are employed.

**Testimony Against:** None.

**Testified:** (In support) Senator Adam Kline, prime sponsor; Pat Thompson, Washington State Council of County and City Employees; and Tom McBride, Washington Association of Prosecuting Attorneys.

(Response to questions) Marvin Schurke, Public Employment Relations Commission.