
Commerce & Labor Committee

HB 2403

Brief Description: Providing for collective bargaining at four-year institutions of higher education.

Sponsors: Representatives Kenney, Conway, Veloria, Linville, Campbell, O'Brien, Fromhold, Lovick, Hunt, Hurst, Miloscia, Jackley, Kagi, Schual-Berke, Kessler, Gombosky, Berkey, Cody, Chase, Morris, Dickerson, Tokuda, Cooper, Darneille, Kirby, Upthegrove, Edwards, Romero, Santos, Lysen, Quall, McIntire, Wood, Haigh, McDermott, Simpson and Sullivan.

Brief Summary of Bill

- Establishes procedures for exclusive bargaining representatives of faculty at the public four-year institutions of higher education to collectively bargain with the board of regents or trustees over wages, hours, and terms and conditions of employment.

Hearing Date: 1/21/02

Staff: Chris Cordes (786-7103).

Background:

Although academic personnel at public institutions of higher education are state employees, they are exempt from the state civil service law. As a result, they are not covered by the state civil service collective bargaining law. A separate collective bargaining law specifically governs collective bargaining for community college faculty.

In 1977 the Public Employment Relations Commission held that it did not have jurisdiction under the public employees' collective bargaining law over faculty collective bargaining at Eastern Washington University. This decision was upheld in Spokane County Superior Court. The court also found that the University's Board of Trustees had implied power, but not an obligation, to negotiate with its employees or their representatives over terms of employment. For a number of years, Eastern Washington University and its faculty have entered into voluntary collective bargaining agreements.

Summary of Bill:

The boards of regents or trustees of the four-year public institutions of higher education and the exclusive bargaining representatives of their respective faculties have a mutual obligation to bargain in good faith over wages, hours, and terms and conditions of employment under a new collective bargaining law administered by the Public Employment Relations Commission (PERC). "Faculty" means employees who have faculty status or who perform faculty duties, but not certain employees, such as administrators, temporary employees, or graduate student employees.

Legislative Findings

The Legislature finds a public interest in developing cooperative labor relations within the public four-year institutions of higher education. The Legislature recognizes that shared governance between the administration and faculty is a long-accepted manner of governing public four-year institutions of higher education that it intends to preserve and encourage. The Legislature also recognizes the state's policy to encourage the pursuit of excellence in teaching, and requires all parties to endeavor to preserve academic freedom.

Subjects of Bargaining

Required subjects of collective bargaining include wages, hours, and terms and conditions of employment, except that bargaining is prohibited over:

- the merits or organization of any activity or program established by law or employer resolution, except for the terms and conditions of employment for those employees affected by the activity or program;
- fees that are not a condition of employment; or
- student admission requirements, conditions for award of degrees, or the content or evaluation of courses and research programs.

The parties may, but are not required, to bargain criteria and standards for appointment, promotion, evaluation, and tenure of faculty.

Collective bargaining agreements may provide for arbitration of grievances. If an agreement is concluded after the previous agreement expired, the new agreement may take effect the day after the old agreement expired.

If the parties are unable to settle unresolved matters, either party may request the assistance of the PERC 24 hours after serving written notice on the other party.

Legislative Review

If appropriations are necessary to implement a collective bargaining agreement's compensation provisions:

- The Governor must submit a request for funds to the Legislature within 10 days of the agreement's ratification by the exclusive bargaining representative or, if the Legislature is not in session, 10 days after the Legislature convenes.
- The Governor's request must first be certified by the Office of Financial Management as financially feasible for the state.
- The request must be approved or rejected by the Legislature as a whole. If the

Legislature rejects or fails to act on the request, either party may request to reopen all or part of the agreement.

The institutions of higher education may provide additional faculty salary increases that exceed those provided by the Legislature.

Determining Bargaining Units and Exclusive Bargaining Representatives

The PERC resolves disputes over membership in a bargaining unit, taking into consideration the duties, skills, and working conditions of the employees and the extent of organization among the employees, among other issues. It is the intent of the Legislature that only one bargaining unit is allowed for faculty at each institution of higher education.

The PERC resolves any disputes in the selection of an exclusive bargaining representative by conducting an election or, under some circumstances, conducting a cross-check of membership records. Questions concerning representation may not be raised until one year after a certification is issued. If a collective bargaining agreement is in effect, questions concerning representation may be raised only within the period 60 to 90 days before the agreement expires, with some exceptions.

An employee organization seeking a certification election to determine the exclusive bargaining representative, or faculty seeking decertification, must show support of at least 30 percent of the faculty in the bargaining unit. Another employee organization may be listed on an election ballot if it shows support of at least 10 percent of the faculty in the bargaining unit. If an employer files a petition, it must demonstrate the good faith basis for the employer's claim that a question exists concerning representation of the faculty.

The representation election is determined by the majority of valid ballots cast. The employee organization that has been determined by the commission to be an exclusive bargaining representative must represent all faculty in the bargaining unit without regard to membership in the organization.

Union Security Provisions

The employer must deduct membership dues and fees from a bargaining unit employee's pay, and transmit the funds to the exclusive bargaining representative, if the employee authorizes the deduction in writing. The payroll deduction authorization may be irrevocable for up to one year.

A collective bargaining agreement may include union security provisions, but not a closed shop. If union security is included in the agreement, it is enforced by monthly deductions from the pay of bargaining unit employees.

Special provisions apply to employees who assert a right of nonassociation based on bona fide religious beliefs. These employees may pay dues to a nonreligious charity agreed upon by the employee and the exclusive bargaining representative.

Unfair Labor Practices

The employer may not:

- interfere with, restrain, or coerce faculty members exercising their rights;
- interfere with an employee organization;
- encourage or discourage union membership by discrimination in regard to hiring or other terms of employment;
- discriminate against a faculty member for filing charges or testifying on related matters; or
- refuse to bargain collectively with the faculty exclusive bargaining representative.

The employee organization may not:

- restrain or coerce faculty members exercising their rights;
- cause an employer to discriminate against a faculty member (to encourage or discourage union membership);
- discriminate against a faculty member for filing charges or testifying on related matters; or
- refuse to bargain collectively with the employer.

Strikes and Lockouts

Both employee strikes and employer lockouts are prohibited. Either party may request the superior court in the county in which the labor dispute exists to issue an appropriate order against either or both parties.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Requested on January 18, 2002.

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