

SENATE BILL REPORT

SB 5724

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 1, 2005
Ways & Means, February 7, 2006

Title: An act relating to collective bargaining regarding hours of work for individual providers.

Brief Description: Requiring collective bargaining regarding hours of work for individual providers.

Sponsors: Senators Kohl-Welles, Benson, Franklin, Benton, Keiser, Esser, Pridemore, Kline, Roach, Regala and McAuliffe.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/17/05, 3/1/05 [DPS-WM, DNP].

Ways & Means: 4/1/05, 2/7/06 [DPS(LCRD), DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5724 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.

Signed by Senators Parlette, Ranking Minority Member; Hewitt and Honeyford.

Staff: Jennifer Strus (786-7316)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5724 as recommended by Committee on Labor, Commerce, Research & Development be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Fairley, Kohl-Welles, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler and Thibaudeau.

Minority Report: Do not pass.

Signed by Senator Pflug.

Staff: Tim Yowell (7435)

Background: The Department of Social and Health Services (DSHS) contracts with agency and individual home care workers to provide long-term care services for elderly and disabled

clients who are eligible for publicly funded services through DSHS's Aging and Adult Services and Developmental Disabilities programs. Home care workers provide DSHS clients with personal care assistance with various tasks including toileting, bathing, dressing, walking, meal preparations, and household chores. The workers are hired and fired by the client, but are paid by DSHS.

The Home Care Quality Authority (HCQA) is responsible for establishing qualifications for individual providers, recruiting and training individual providers, and assisting clients in finding care by establishing a referral agency.

Home care workers have collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA) administered by the Public Employment Relations Commission (PERC). Workers do not have the right to strike and are covered by the binding interest arbitration provisions of the PECBA. For purposes of bargaining, the Governor is the "public employer."

This law was revised in 2004 to explicitly state that wages, hours, and working conditions are determined solely through collective bargaining and, except for the HCQA, no state agency may establish policies or rules governing wages or hours of home care workers. However, this new provision also states that it does not modify various responsibilities of DSHS, including the authority to establish a consumer's plan of care and determine the hours of care for which a consumer is eligible. In addition, it does not modify the Legislature's right to make programmatic modifications to the state's long-term care services program.

Summary of Substitute Bill: If DSHS proposes rules or policies that apply generally to a significant group of individual providers or consumers and the application of those policies or rules may result in a significant change in the number of hours worked by a significant number of individual providers, the proposed rule or policy is a mandatory subject of bargaining. However, this bargaining requirement does not apply to rules or policies that implement a programmatic modification made by the Legislature to the long-term care services program.

Substitute Bill Compared to Original Bill: To be the subject of bargaining, the proposed policies or rules must apply generally to a significant group of individual providers or consumers and the application of those policies or rules might result in a significant change in the number of hours worked by a significant number of individual providers.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For (Labor, Commerce, Research & Development): DSHS has cut the number of hours for which home care workers are paid for their services. The cut in hours is not necessarily related to the care to the workers' clients. In fact, many workers continue to provide services to their clients even though they are no longer reimbursed for it. Even though home care workers' wage have risen and they now are eligible for workers' compensation

benefits, DSHS has cut their hours to the extent that some may have to find other jobs in order to earn a living.

Testimony Against (Labor, Commerce, Research & Development): None.

Who Testified (Labor, Commerce, Research & Development): PRO: Catherine Byrd, Service Employees International Union Local 775.

Testimony For (Ways & Means): This is just correcting a drafting error, because in SEIU's view last year's legislation already made hours a mandatory topic of bargaining. The bill wouldn't require negotiation over individual cases and plans of care. It would just assure that workers have a seat at the table and are consulted before policies are changed in a way that significantly affects their livelihood. The bill doesn't require the state to repeal any existing policies, only to negotiate them. Some workers lost 10-20 percent of their paid hours worked last year because of the shared living rule. That in turn caused some of them to lose eligibility for publicly-funded health benefits.

Testimony Against (Ways & Means): None.

Testimony Other (Ways & Means): The bill would require the state to bargain with the person paid to provide the care about the number of hours of care the person cared for needs. Additionally, if agreement can't be reached, because homecare workers have access to binding arbitration, the issue would be decided by an arbitrator, who might know nothing about disabled people or their care needs. The bargaining table is not the proper place to make decisions about how much care a disabled person needs to receive. The proposed legislation could prevent the state from achieving the benefits of improved program designs, because new approaches might result in a reduction in the number of paid homecare hours, and so would have to be collectively bargained.

Who Testified (Ways & Means): PRO: Randi Abrams, Service Employees International Union Local 775; Jeff Johnson, Washington State Labor Council; Nora Kelly, SEIU Local 775..

OTHER: Joseph Olson, Governor's Office on Labor Relations; Penny Black, DSHS Aging and Disability Services Administration.