

SENATE BILL REPORT

SB 5551

As Reported by Senate Committee On:
Commerce, Labor & Sports, February 15, 2017
Ways & Means, February 22, 2017

Title: An act relating to requiring periodic certification elections for labor unions representing public employees.

Brief Description: Requiring periodic certification elections for labor unions representing public employees.

Sponsors: Senators Rossi, Baumgartner, Braun, Bailey, Brown, Becker, Honeyford, Wilson and Angel.

Brief History:

Committee Activity: Commerce, Labor & Sports: 2/06/17, 2/15/17 [DP-WM, DNP].
Ways & Means: 2/20/17, 2/22/17 [DP, DNP].

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires secret ballot elections every four years to determine the bargaining representative for collectively bargained public employees.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Baumgartner, Chair; Braun, Vice Chair; King, Rossi and Wilson.

Minority Report: Do not pass.
Signed by Senators Keiser, Ranking Minority Member; Conway, Hasegawa and Saldaña.

Staff: Jarrett Sacks (786-7448)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.
Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget; Bailey, Becker, Fain, Padden, Rivers, Schoesler, Warnick and Zeiger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.

Signed by Senators Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Billig, Carlyle, Conway, Darneille, Hasegawa, Keiser, Miloscia and Pedersen.

Staff: Amanda Cecil (786-7460)

Background: The Public Employment Relations Commission (PERC) administers and enforces most public sector collective bargaining laws. The Public Employees' Collective Bargaining Act (PECBA) provides for collective bargaining of wages and working conditions by counties, cities, and other political subdivisions and their employees. The Personnel System Reform Act (PSRA) provides for collective bargaining of wages, hours, and other terms and conditions of employment with classified employees of state agencies and institutions of higher education. Academic personnel for community and technical colleges, faculty for four-year institutions of higher education, and certificated employees of school districts collectively bargain under separate laws.

Certifying Union Representation. A union files a petition on behalf of the employees it wants to represent. A showing of interest must be filed with all petitions, which requires signed and dated cards from at least 30 percent of employees in the proposed bargaining unit stating the desired outcome of the petition. If a petition is supported by 30 percent of employees in the proposed bargaining unit, an election or cross-check is held.

A cross-check, where the showing of interest cards are compared to employment records, is conducted if the petitioning union submits showing of interest cards from at least 70 percent of the employees in the proposed bargaining unit, or at least 50 percent of the employees for state civil service and certain higher education employees. In general, certificated school district employees and faculty of community and technical colleges cannot organize by cross-check.

Elections are held either by mail, telephone, or online. The choices include the petitioning union, any intervening unions, and an option of no representation. The election is determined by a majority of ballots returned.

Changing or Decertifying Union Representation. To change unions, the union seeking to become the new bargaining representative must file a petition with PERC. Employees may also decertify a union representing them by filing a petition with PERC. Similar to certifying representation, to change or remove a union, the petition must receive a showing of interest of 30 percent of the employees in the bargaining unit. If the petition is supported by 30 percent of the employees in the bargaining unit, an election or cross-check occurs. The election is determined by a majority of ballots returned.

Employees covered by a current collective bargaining agreement who seek to decertify or change unions must file a petition during a 30-day window, which has a start and end date relative to the expiration of the agreement. For state employees, the 30-day window begins 120 days and ends 90 days prior to the expiration of the contract. For all other employees with statutory collective bargaining rights, the 30-day window begins 90 days and ends 60 days prior to contract expiration. If the bargaining unit's current contract has expired, a

petition may be filed at any time. If an election occurs, no questions of representation involving the same employees may be filed for one year from the certification date.

Summary of Bill: Once a bargaining representative has been certified by PERC, secret ballot elections must be conducted every four years to determine the bargaining representative for:

- employees collectively bargained under PECBA;
- employees collectively bargained under the PSRA;
- collectively bargained academic personnel of community and technical colleges;
- collectively bargained faculty of four-year institutions of higher education;
- certificated employees of school districts; and
- Washington State Department of Transportation ferry employees.

The type of employee determines whether the periodic election occurs on an even or odd-numbered year. For example, bargaining units of academic personnel of community and technical colleges have elections on every other even-numbered year, whereas city police would hold elections on every other odd-numbered year. PERC has rule making authority to provide for the regular timing and conduct of the elections.

The ballots for the periodic election must automatically include the current bargaining representative and the option of no representation. PERC certifies the bargaining representative by a majority of the votes cast. If a bargaining representative other than the incumbent representative is certified, the existing collective bargaining agreement may be terminated by the new representative 60 days after its certification, or at any time by agreement of the public employer. If a majority of votes cast select no representation, the existing agreement is terminated at its expiration date or the third anniversary date, whichever is sooner.

The following provisions are eliminated:

- the authorization for PERC to perform cross-checks to determine the exclusive bargaining representative under PECBA;
- the authorization for exclusive bargaining representatives existing before 2002 to continue without an election under the PSRA; and
- provisions that establish the 30-day window for questions of representation to be raised.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony (Commerce, Labor & Sports): PRO: With periodic elections, the unions would have to do a good job. It is a fairly difficult process to initiate a decertification, and for some collective bargaining units, it is logistically impossible. Some

unions have been in existence for 50 years with no elections. Employees don't have the same resources as a union to file a petition. Employees should get the choice periodically.

CON: The bill would distract from union's work. Employees can already decertify. The bill eliminates the cross-check procedure, which is a good method for preventing intimidation. The bill would require additional staff for PERC. Current law is patterned after federal law, which has never required periodic elections.

Persons Testifying (Commerce, Labor & Sports): PRO: Senator Dino Rossi, Prime Sponsor; Patrick Connor, NFIB/Washington; Gerald Marsh, citizen; Maxford Nelsen, Freedom Foundation.

CON: Brenda Wiest, Teamsters 117; Greg Devereux, WFSE.

Persons Signed In To Testify But Not Testifying (Commerce, Labor & Sports): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This is a workers' rights bill by allowing employees a regular choice of representation. Without this check, the employees end up working for the union instead of the union working for the employees. The fiscal note might be on the high end. Wisconsin administers a similar process for 25 percent less than the PERC fiscal note is estimating.

CON: Recertification requires new employees and costs in addition to current work loads. Employees can currently decertify. Current bargaining units were previously covered by other unions and the decertification process allowed this to change. Unions are non-profit organizations and leadership is elected every two years. This is a veiled tax on employees.

Persons Testifying (Ways & Means): PRO: Senator Dino Rossi, Prime Sponsor; Maxford Nelsen, Freedom Foundation.

CON: Brenda Wiest, Teamsters 117; Steve Segall, citizen.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.