

SENATE BILL REPORT

2SSB 5021

As Amended by House, April 10, 2019

Title: An act relating to granting interest arbitration to certain department of corrections employees.

Brief Description: Granting interest arbitration to certain department of corrections employees.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Van De Wege, Walsh, Keiser, Conway, Hunt, Hobbs, Wellman, Hasegawa and Kuderer).

Brief History:

Committee Activity: Labor & Commerce: 1/17/19, 1/24/19 [DPS-WM].

Ways & Means: 2/18/19, 2/25/19 [DP2S, w/oRec].

Floor Activity:

Passed Senate: 3/04/19, 47-0.

Passed House: 4/10/19, 83-9.

<p style="text-align: center;">Brief Summary of Second Substitute Bill</p> <ul style="list-style-type: none">• Grants interest arbitration to Department of Corrections employees under the Personnel System Reform Act.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5021 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Saldaña, Walsh and Wellman.

Staff: Jarrett Sacks (786-7448)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5021 be substituted therefor, and the second substitute bill do pass.

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.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Billig, Carlyle, Conway, Darneille, Hunt, Keiser, Lias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Warnick and Wilson, L..

Staff: Amanda Cecil (786-7460)

Background: The Public Employees' Collective Bargaining Act. Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA). For certain uniformed personnel, the PECBA requires binding interest arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation. Under interest arbitration, an impartial third-party makes decisions regarding the unresolved terms of the contract.

Uniformed personnel include, among others:

- firefighters;
- law enforcement officers in cities and counties of a certain size;
- general authority peace officers and firefighters employed by certain port districts;
- certain correctional employees of jails in counties with populations of 70,000 or more;
- security forces at nuclear power plants; and
- Washington State Patrol officers.

The Personnel System Reform Act. 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. The PSRA does not provide for binding interest arbitration, but does allow parties to agree on their own procedures for resolving impasses in collective bargaining.

The Department of Corrections. The Department of Corrections (DOC) is responsible for managing state-operated adult prison facilities and supervising adult offenders residing in communities. DOC manages minimum to maximum custody level institutions, partial confinement programs, and community supervision services.

Summary of Second Substitute Bill: Employees of DOC, except for confidential employees, nonsupervisory marine department employees, members of the Washington Management Service, and internal auditors, are granted interest arbitration under the PSRA.

Procedures are established for the parties to attend mediation if negotiations reach an impasse, and for selecting an arbitrator if an agreement cannot be reached through mediation. The fees and expenses of the arbitrator, the court reporter, and other costs will be shared equally between the parties; however, each party is responsible for the costs of its attorneys and other costs related to developing and presenting their cases.

The arbitrator may only consider matters regarding wages, hours, and other terms and conditions of employment. In making its determination, the arbitrator must take into account:

- the financial ability of DOC to pay for compensation and benefit provisions of the collective bargaining agreement;
- the constitutional and statutory authority of the employer;
- stipulations of the parties;
- a comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like state government employers of similar size in the western United States;
- the ability of DOC to retain employees;
- the overall compensation presently received by DOC employees, including direct wage compensation, vacations, holidays, and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;
- changes in any of the factors listed; and
- other factors that are normally or traditionally taken into consideration in the determination of matters regarding wages, hours, and other terms and conditions of employment.

Interest arbitration awards must be submitted to the Governor and certified by the director of the Office of Financial Management as financially feasible. A decision by the arbitration panel is binding on both parties. However, interest arbitration decisions are not binding on the Legislature. If the Legislature does not approve the funds necessary to implement the interest arbitration award, the award is not binding on the state or DOC.

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 on First Substitute (Labor & Commerce): PRO: The bill codifies the current practice of interest arbitration for DOC employees. The current practice is carried out through memorandums of understanding between the unions and the Governor's Office. This means that a new Governor could take interest arbitration away. DOC employees do not have the right to strike, but also do not have the right to interest arbitration like other uniformed personnel. Corrections employees perform dangerous work and are trying to resolve difficult issues with limited resources. Having a third party resolve disputes can stop tragedy before it happens. An imbalance in negotiating power can lead to dangerous situations and hurt employee retainment. Interest arbitration levels the playing field.

Persons Testifying (Labor & Commerce): PRO: Senator Kevin Van De Wege, Prime Sponsor; Bill Copland, Washington Federation of State Employees; Michelle Woodrow,

Teamsters 117; Gordon Baxter, International Organization of Masters, Mates and Pilots; James Deuel, Teamster 117.

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

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: DOC employees have had access to interest arbitration for the past three contract cycles. This was authorized by the Governor as a dispute resolution process to resolve contractual issues through a memorandum of understanding in our collective bargaining agreement. This was in part a response to Officer Jayme Biendl murder and as a result has allowed us to negotiate over safety, compensation, and other staffing issues that fall outside the scope of traditional bargaining. We have met with the agency and the Office of Financial Management to discuss the fiscal note that is attached to the bill but have not yet seen updated information. We believe that although it is appropriate to add additional staffing we feel that the travel expenses and the arbitration expenses identified by DOC should be recalculated. The Federation and Teamsters already use interest arbitration so there would not be any new travel necessary because any issues are already dealt with at the existing bargaining tables with the same staff. We think that the fiscal note ought to be cut nearly in half and we would urge your support it is a bipartisan bill that does great stuff to keep our workers safe.

Persons Testifying (Ways & Means): PRO: Matt Zuvich, Washington Federation of State Employees; Brenda Wiest, Teamsters 117.

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

EFFECT OF HOUSE AMENDMENT(S): A null and void clause is added.