

SENATE BILL REPORT

SHB 1655

AS OF APRIL 1, 1991

Brief Description: Providing for state employee collective bargaining.

SPONSORS: House Committee on Commerce & Labor (originally sponsored by Representatives Heavey, Winsley, D. Sommers, Orr, Moyer, Cole, Wood, Jones, Tate, Kremen, Miller, Riley, Phillips, Belcher, R. Johnson, Sheldon, Dellwo, Zellinsky, Cooper, H. Myers, O'Brien, Morris, Prentice, Basich, Anderson, Spanel, Day, Franklin, Peery, Leonard, Cantwell, Ogden, G. Fisher, Grant, Dorn, Hargrove, Rayburn, Ludwig, R. Fisher, Nelson, Holland, P. Johnson, Rasmussen, Van Luven, Fraser, Bowman and Pruitt).

HOUSE COMMITTEE ON COMMERCE & LABOR

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Patrick Woods (786-7430)

Hearing Dates: April 3, 1991

BACKGROUND:

Under the state civil service system and the higher education personnel law, classified employees have the right to collectively bargain on grievance procedures and personnel matters over which the agency or institution may "lawfully exercise discretion." Because state civil service and the higher education personnel law provide rules for most major personnel functions such as recruitment, hiring, discipline, sick leave, vacations and salary schedules, collective bargaining for these classified employees is limited.

A typical bargaining agreement might contain provisions dealing with bargaining unit procedures and union activity rules, management and employee rights, labor-management committees, procedures for communicating impacts of changes in civil service rules, provisions supplementing civil services rules, such as vacation scheduling or education and training opportunities, and items specific to the work of the bargaining unit, such as uniforms and clothing, safety rules, and duty stations.

SUMMARY:

Collective bargaining for classified state employees is expanded to include bargaining over wages, hours, insurances, and terms and conditions of employment. Bargaining is authorized for all employees classified under a consolidated civil service system that includes employees under both the

state civil service and the higher education personnel law. Contract bargaining, except for supplemental agreements, takes place with the governor's office. The agreements are effective for two years from July 1, 1993, to June 30, 1995, and each succeeding fiscal biennium. The right to strike is granted for all employees except for "essential employees."

COLLECTIVE BARGAINING

Rights of employees. Classified state employees have the right to self-organization, to join employee organizations, to bargain collectively, and to engage in other lawful concerted activities for mutual aid and protection, free from interference or restraint, or to refrain from such activities except for a fee requirement under a union security provision.

Management rights. The employer has the right to carry out the statutory mandates and goals of an agency and is not required to bargain over matters of inherent managerial policy. Management must, however, bargain on policy matters affecting wages, hours, insurances, and terms and conditions of employment as well as the impact on these matters, at the request of exclusive bargaining representatives.

Scope of bargaining. Collective bargaining is authorized over wages, hours, insurances, and other terms and conditions of employment, and the negotiation of any question arising under an agreement, but may not include matters pertaining to: (1) recruitment and rating of candidates for employment; or (2) retirement benefits. The parties may not agree to any provision that is inconsistent with the principle of comparable worth.

In case of any conflict with civil service law or administrative rules or with a health insurance issue as adopted by the State Health Care Authority, the provisions of the collective bargaining law or agreement prevail.

Grievances. Agreements must provide for final and binding arbitration of grievances arising under the agreement. An employee who has the right to contest a disciplinary action or termination under either the civil service system or the collective bargaining agreement must elect one of these dispute resolution procedures.

Representation. Certification of exclusive bargaining representatives and representation elections are conducted by the State Employees' Relations Commission (SERC). The commission must certify an employee organization as the exclusive bargaining representative when the organization shows proof that it represents a majority of the employees and the proof is not contested by the agency, the director, or any other interested party. The commission may require an election if proof of representation is not satisfactory to the commission. Elections are also required if an employee organization shows proof of at least 30 percent representation in the bargaining unit.

Decertification elections are required if no less than 30 percent of the employees in a bargaining unit petition to the commission. However, decertification elections may not be held if less than 12 months have elapsed since the last certification or election, or a valid collective bargaining agreement exists for the unit (except during the period between 60 and 90 days prior to the expiration of the agreement).

Bargaining units. Bargaining unit determinations will be made by SERC, taking into consideration the duties, skills and working conditions of the employees and the history of organization and collective bargaining among the employees. No bargaining unit may contain: (1) supervisors and non-supervisory employees; or (2) more than one institution of higher education. Employees from an old bargaining unit may not be included as part of a new bargaining unit unless the employees vote to be included. Procedures for the transition from old bargaining units to new bargaining units are prescribed. Units may be consolidated when the units are both represented by the same employee organization.

Union security. Union shop fees are required as a condition of employment upon designation of an exclusive bargaining representative. However, bargaining representatives must establish a procedure for rebating that part of the fee that represents expenditures for purposes not germane to collective bargaining. Persons asserting a right of nonassociation may designate their fee for a program within the employee organization that is in harmony with their conscience.

Negotiations. The first round of negotiations under the new collective bargaining provisions commences on July 1, 1992, for an agreement to take effect July 1, 1993. Thereafter, negotiations will begin on July 1 of each even-numbered year for two year contracts, effective on July 1 of the odd-numbered year. Collective bargaining agreements, except for supplemental agreements, are negotiated with the Governor's office. Supplementary agreements on matters that uniquely affect employees in part of a bargaining unit may be negotiated with the agencies. The act does not prohibit cooperation and coordination of bargaining between two or more bargaining units. Compensation and fringe benefits may be negotiated for one year at a time.

Compensation and fringe benefit provisions must be submitted to the Legislature for approval. The submission to the Legislature is deemed approved if the Legislature fails to act by March 31. If the Legislature rejects the submission, either party may reopen all or part of the agreement. The agreement may be reopened for renegotiation if a significant revenue shortfall occurs.

Unfair labor practices. Unfair labor practices for employers and employee organizations are enumerated. Employers may not interfere with or coerce employees in the exercise of their collective bargaining rights; control or interfere with the exclusive bargaining representative; discriminate against an

employee who has filed an unfair labor practice charge; or refuse to engage in collective bargaining. Exclusive bargaining representatives may not interfere with or coerce employees in the exercise of their collective bargaining rights; induce the employer to commit an unfair labor practice; discriminate against an employee who has filed an unfair labor practice; or refuse to engage in collective bargaining.

SERC is authorized to determine unfair labor practice complaints. Complaints must be filed within six months of the unfair labor practice.

Right to strike. The right to strike is granted, except for essential employees, if (1) the employees are represented by a certified exclusive bargaining representative; (2) the employer and the bargaining representative have not mutually agreed to submit the dispute to final and binding arbitration; (3) the parties have participated, in good faith mediation; and (4) the employees have given 10 days' notice of the strike. A strike may not restrict access to the workplace for essential employees.

Binding interest arbitration. Final and binding interest arbitration is authorized for essential employees. An essential employee is one performing functions so essential that the interruption of the function would constitute a clear and present danger to the health and safety of the state. Essential employees are not permitted to strike.

If essential employees have not reached agreement within 60 days of the commencement of negotiations, then either party may declare an impasse and submit the dispute to the commission for mediation. If the dispute has not been resolved after a reasonable period of negotiations, either party may request interest arbitration. The parties may agree to limit the arbitrator to selecting: (1) between the entire final offer of either party at the close of mediation; or (2) on each impasse item, between the final offers of the parties at the close of mediation.

Administration and enforcement. A new State Employees' Relations Commission is created to provide administration and adjudication of the collective bargaining provisions. The three member commission is appointed by the Governor. Commission members are compensated on a per diem basis.

The commission must appoint a director who will perform administrative functions and to whom the commission may delegate authority with respect to various commission duties, including representation elections, unfair labor practices, mediation and arbitration.

Unless otherwise provided, the act does not prohibit the parties from seeking to enforce collective bargaining rights in court.

CIVIL SERVICE

The Higher Education Personnel Board and the State Personnel Appeals Board are abolished. All personnel functions for both state agency classified employment and higher education classified employment is consolidated under the Department of Personnel and the State Personnel Board.

The State Personnel Board is authorized to hear and determine personnel appeals.

The civil service rules of the Higher Education Personnel Board remain in effect until superseded by action of the State Personnel Board.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Effective Date: The new collective bargaining chapter takes effect January 1, 1992.