

# SENATE BILL REPORT

## SB 6522

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As Reported By Senate Committee On:  
Labor, Commerce, Research & Development, February 07, 2008  
Ways & Means, February 12, 2008

**Title:** An act relating to improving quality, access, and stability of child care through providing collective bargaining for child care center directors and workers.

**Brief Description:** Providing collective bargaining for child care center directors and workers.

**Sponsors:** Senators Kohl-Welles, Zarelli, Hargrove, Benton, Kauffman, Murray, Kline, Kilmer, Keiser, Tom, Shin, Delvin, Marr, Prentice, McAuliffe, Roach, Pridemore, Franklin, Rockefeller, Weinstein, Rasmussen and Eide.

**Brief History:**

**Committee Activity:** Labor, Commerce, Research & Development: 1/31/08, 2/7/08 [DPS-WM, DNP].

Ways & Means: 2/11/08, 2/12/08 [DP2S, w/oRec]

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** That Substitute Senate Bill No. 6522 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

**Minority Report:** Do not pass.

Signed by Senators Holmquist, Ranking Minority Member; King.

**Staff:** Kathleen Buchli (786-7488)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 6522 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hewitt, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Roach, Rockefeller and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Hatfield, Honeyford and Schoesler.

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*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.*

**Staff:** Paula Moore (786-7449)

**Background: Public Employee Collective Bargaining.** 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) administered by the Public Employment Relations Commission (PERC). Individual providers (home care workers), adult family home providers, and family child care providers also have collective bargaining rights under the PECBA.

The employer and exclusive bargaining representative have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining: grievance procedures and personnel matters, including wages, hours, and working conditions. To resolve impasses over contract negotiations, the PECBA requires binding arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation.

**Summary of Bill (Recommended Second Substitute):** The Public Employees' Collective Bargaining Act (PECBA) is amended to apply to the Governor with respect to child care center directors and workers, and to govern collective bargaining between the Governor and the directors' and workers' exclusive bargaining representatives.

**Public Employees and Employer.** Solely for purposes of collective bargaining, child care center directors and workers are "public employees" and the Governor is the "public employer." The directors and workers include all employees of child care centers who work on-site at the centers and the owners of child care centers. Child care centers are licensed centers that have at least one slot filled by a child for whom they receive child care subsidies.

Child care centers that are not covered are those centers that are:

- operated directly by another unit of government or a tribe;
- operated by an individual partnership, corporation, or other entity that owns ten or more child care centers statewide; or
- operated by a local nonprofit organization whose mission explicitly includes serving children and families and:
  - 1) pays membership dues or assessments to a national organization exempt from income tax under section 501(c)(3) of the internal revenue code, with more than \$5 million in membership dues and assessments; or
  - 2) pays membership dues or assessments to a regional council and is affiliated with a national organization, exempt from income tax under section 501(c)(3) of the internal revenue code, with more than 200 affiliates.

**Bargaining Units.** For purposes of collective bargaining, the only appropriate units are determined by PERC. The units must include directors and workers employed at centers within a Department of Social and Health Services (DSHS) region. PERC must group together regions to minimize the number of units.

Each year, child care centers must provide to the Department of Early Learning (Department) a list of the names and addresses of current directors and workers. Upon request, the Department must provide to a labor organization a list of all directors and workers in the unit that the organization seeks to organize.

Exclusive Representatives. The exclusive representatives are determined in the manner specified in the PECBA, except that:

- if none of the choices receives a majority of the votes cast in the initial election, there is a run-off election; and
- to show at least 30 percent representation within a unit to accompany a request for an initial election, the written proof of representation is valid only if collected not more than two years prior to filing the request.

Mandatory Subjects of Bargaining. The exclusive representatives of child care center directors and workers and the Governor have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining. Mandatory subjects are limited to the following matters within the purview of the state and the community of interest of directors and workers:

- professional development and training;
- mechanisms and funding to improve access of centers to health care insurance and other benefit programs;
- economic compensation to centers, such as child care subsidies and reimbursements, including tiered reimbursements;
- other economic support for child care centers; and
- related grievance procedures.

Requests for Funds and Legislative Changes. The Governor must submit a request to the Legislature for any funds and legislative changes necessary to implement collective bargaining agreements covering child care center directors and workers. The Legislature may approve or reject the submission of the request for funds only as a whole. If the Legislature rejects or fails to act on the submission, a collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

Mediation and Arbitration; No Right to Strike. Child care center directors and workers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. Child care center directors and workers are not granted the right to strike.

Representation Fees. The state must deduct representation fees from monthly amounts of child care subsidies due to child care centers and transmit the fees to the exclusive representatives. Child care centers operated by churches or other religious bodies for which payment of fees is contrary to bona fide religious tenets must pay equivalent amounts to nonreligious charities or other charitable organizations mutually agreed upon by the center and the exclusive representative.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute):** Exempts from the scope of the bill, child care centers that are operated by a local non-profit organization whose mission includes serving children and families, pays membership dues or assessments to a regional council, and is affiliated with a national organization with more than 200 affiliates. The bargaining units must include directors and workers employed at a center within a DSHS region. Removes subregion from the bargaining unit. Eliminates the provisions requiring a subsidy rate for all centers to reflect the subsidy rate in the collective bargaining agreement funded by the Legislature.

**EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended First Substitute):** Modifies the units of child care center directors and workers to units that are aligned with the Department of Social and Health Services regions or subregions. Removes the child care career and wage ladder from the bill. Clarifies that items including professional development and training may be subjects of collective bargaining, but the bargaining may not mandate a specific curriculum. Exempts from the scope of the bill child care centers that are: operated by an individual, partnership, profit or nonprofit corporation, or other entity that operates ten or more child care centers statewide; or operated by a local organization that pays membership dues or assessments to, or is otherwise affiliated with a national organization exempt from income tax with more than \$5 million in membership dues and assessments annually. Precludes an organization that represents child care center directors and workers in bargaining with the state from representing workers seeking to engage in traditional collective bargaining. Removes the emergency clause.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill (Labor, Commerce, Research & Development):** PRO: Child care center workers want collective bargaining to come together and bargain with the state over subsidy rates, professional development, and other issues that are within the state's purview. This is a nontraditional model of collective bargaining where directors and staff come together to raise standards. Low wages and high turnover are some of the challenges to these centers. The state has already taken steps towards nontraditional bargaining, but the strengths of this bill are that the workers are brought to the table. The larger chains are exempt from this bill because they can offer higher wages and benefits to their employers. There is room for compromise and agreement with the larger chains, but we cannot agree to maintain the status quo. This bill will help the centers by reducing employee turnover; the centers would not have to use existing funds to pay for unionization. Smaller centers are having difficulty making ends meet and are running deficits. Study after study shows that good child care depends on the quality of the teacher and the ability of teachers to stay in the profession and get professional development. We believe this bill will help to raise the child care subsidy. This bill draws on ground established by the Legislature with the adult family homes, long-term care providers, etc. which are nontraditional groups of bargaining. Nothing in this legislation interferes with the rights child care centers or workers enjoy under the National Labor Relations Act. This is limited to bargaining over those things that the state controls and does not cover traditional workplace issues. Directors and workers are not in the same bargaining unit in a traditional collective bargaining framework; here, the directors and workers have aligned interests in expanding the support that the state provides to the industry.

CON: Mandating unionization is not okay. Quality comes from the person in the field; wages and subsidy rate need to be increased; just do what needs to be done. We do not need the union to bring about changes in quality and subsidy rates. This bill will cause centers to not take subsidized children; centers are losing money today by taking subsidized children, and some

centers will now avoid subsidized kids to avoid being unionized. There are positive things to say about the state's quality rating and improvement system (QRIS), which will roll out in July and is based on accountability and rewarding people for following quality standards. QRIS assures quality and will tie that to reimbursement rates. This has worked in other states, and we should try to make it work for us before we go with this legislation. This bill is not about quality; it is about representation fees. The YMCA's are opposed because they advocate for children and families; the consequences of this bill will not be positive for all children. There is a high likelihood that a number of low-income families will not have service as a result of this bill. If improvements in quality come in a form of an unfunded mandate, the costs of that will be in reducing slots or increasing the price for families who aren't subsidized. These providers may organize without the bill, and the bill results in taxpayer dollars going to the unions instead of the children in the centers.

OTHER: The Washington Alliance Boys and Girls Clubs could be impacted by this legislation and are concerned with the exemptions, the career and wage ladder, and reimbursement parity, but will support the bill if their concerns are addressed. Day care centers are private employees, if they receive gross revenue of \$250,000, they will fall under the jurisdiction of the National Labor Relations Board and have full collective bargaining rights. This bill would force day care centers into a statewide bargaining unit, which runs counter to the NLRA. Directors and workers are in the same unit which runs counter to NLRA. Dues and representation fees are between unions and their members; here the state pays that fee. Centers could potentially organize under the NLRA, which would make the centers part of two units. There is no data that child care in family homes has improved as a result of collective bargaining. The concept behind the bill is strongly supported, which is that child care services should be better paid for. This type of bill has driven dollars out to where the need is greatest. There are concerns about the construction of the bargaining units; the number of units should be increased.

**Persons Testifying (Labor, Commerce, Research & Development):** PRO: Kim Cook, Service Employees International Union 925; Evette Ramos, Northgate Preschool and Childcare; Carmen Gilmore, Child's Time II, Tacoma; Lucinda Young, Washington Education Association/American Federation of Teachers; Robert Lavitt, Service Employees International Union 925; Agda Burchard, Washington Association for the Education of Young Children; Marcine Noel, Primary Beginnings Early Learning, Inc.

CON: Colleen Hill, Country Kids Play; Ginger Still, Kids World; Carrie Magel, Knowledge Learning Corporation; Bob Gilbertson, YMCA of Greater Seattle; Johnny Anderson, National Child Care Association; Bob Romero, Yakima YMCA.

OTHER: Fred Yancy, Washington Alliance of Boys and Girls Clubs; Cathy Callahan, Public Employment Relations Commission; Margo Logan, Washington Parents for Safe Child Care; Dennis Eagle, Washington Federation of State Employees.

Signed In, Unable to Testify & Submitted Written Testimony: PRO: Laura Chandler, Small Faces Child Development Center; Mike Sheehan, Hutch Kids Child Care Center; Turena Warren, Kaleidoscope Day Care Center; Hannah Lidman, Economic Opportunity Institute; Shelle Timmer, Just As I Am Early Learning Center; Carla Smith, Kidz Academy Pre-school.

**Staff Summary of Public Testimony on Recommended First Substitute (Ways & Means):** PRO: This bill is about raising the quality of childcare in centers. This is not traditional bargaining. We've worked hard to exclude all the large centers, worked with Kindercare, and answered every legal question. SEIU and AFT talked to thousands of center directors who want to improve quality. Childcare centers are private businesses, and we cannot make it alone. We need help to improve quality, staffing, and pay. We appreciate the team effort of this approach. After the parents, early childhood educators are the child's first teacher, and shape the life of that child. Early childhood educators are undervalued in this country and state.

CON: More resources are necessary, but this bill is not necessary. You can increase subsidy rates immediately. If you have a majority to pass this bill out of Committee, the Senate, and the Legislature, you have a majority capable of increasing the child care subsidy rate today. This bill is broadly written and anything can be bargained. This will have large and unknown fiscal impacts on the state. If the state does not pick up all the cost, the rest will fall to the centers. Thousands of private sector employees will become public employees, and that could increase the state's liability. Child care subsidy dollars are precious, and this bill would direct a portion of those to a third-party provider. These dollars should go directly to those taking care of kids.

OTHER: Support the bill in concept and believe its a noteworthy endeavor. We do have technical concerns about the definition of bargaining unit in Section 2. It is not as clearly defined as it ought to be.

**Persons Testifying (Ways & Means):** PRO: Kim Cook, SEIU 925; Diane Gaile, Mariah Collaborative Arts Center.

CON: David Foster, Washington Childcare United; Amy Bell, YMCA's of Washington.

OTHER: Dennis Eagle, Washington Federation of State Employees.