

SENATE BILL REPORT

SHB 2017

As Passed Senate, March 4, 2020

Title: An act relating to collective bargaining for administrative law judges.

Brief Description: Concerning collective bargaining for administrative law judges.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Frame, Dolan, Fitzgibbon, Stanford, Kilduff, Macri, Ryu, Valdez, Tarleton and Pollet).

Brief History: Passed House: 2/13/20, 57-40.

Committee Activity: Labor & Commerce: 2/20/20, 2/24/20 [DP-WM, w/oRec, DNP].

Ways & Means: 2/28/20 [DP, DNP, w/oRec].

Floor Activity:

Passed Senate: 3/04/20, 29-18.

Brief Summary of Bill

- Grants administrative law judges of the Office of Administrative Hearings collective bargaining rights under the Personnel System Reform Act.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Stanford, Walsh and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; Braun.

Minority Report: Do not pass.

Signed by Senator Schoesler.

Staff: Jarrett Sacks (786-7448)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: 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, Dhingra, Hasegawa, Hunt, Keiser, Pedersen and Van De Wege.

Minority Report: Do not pass.

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

Minority Report: That it be referred without recommendation.

Signed by Senator Rivers.

Staff: Amanda Cecil (786-7460)

Background: 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 higher education institutions. Employees covered by the PSRA include all state civil service employees except:

- employees covered by the Public Employees' Collective Bargaining Act;
- confidential employees;
- members of the Washington Management Service;
- internal auditors in any agency; and
- any employee of the Public Employment Relations Commission, the Office of Financial Management, or the Office of Risk Management.

The PSRA provides for multi-employer bargaining and coalition bargaining. Representatives of more than one bargaining unit must negotiate one master collective bargaining agreement covering all of the represented employees. Exclusive bargaining representatives representing fewer than 500 employees each must bargain in a coalition, with one master agreement covering all of the employees represented by the coalition.

Administrative Law Judges. The Office of Administrative Hearings (OAH) conducts administrative hearings on behalf of certain state agencies and some local governments. The OAH is under the direction of a chief administrative law judge, appointed by the Governor with consent of the Senate. The chief administrative law judge appoints administrative law judges (ALJs), who usually specialize in certain areas of practice, and may contract with individuals to serve as an ALJ for specified hearings. All employees of the OAH except the chief ALJ and ALJs are subject to state civil service laws and rules.

Summary of Bill: ALJs of OAH are granted collective bargaining rights under the PSRA. The only appropriate bargaining unit is a statewide unit of all ALJs of OAH.

The following ALJs are excluded from the provisions of the bill and do not have collective bargaining rights:

- ALJs in manager positions, including deputy chief ALJs, division chief ALJs, and assistant chief ALJs;
- ALJs serving on a contractual basis;
- confidential employees; and

- any ALJ who reports directly to the chief ALJ.

For the purposes of coalition bargaining, exclusive bargaining representatives of civil service employees and exclusive bargaining representatives of exempt employees, constitute separate coalitions and must negotiate separate master collective bargaining agreements.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony (Labor & Commerce): PRO: ALJs hear about 50,000 cases from 20 agencies. The cases they hear are important, so experience matters in order for them to have the proper expertise. The ALJs at OAH have issues regarding turnover and only about half of recently hired ALJs have been retained. The only way for them to get compensation is by specific appropriation, which is rare. ALJs at other agencies have bargaining rights. Salaries for OAH's ALJs lag behind their counterparts.

OTHER: Legislation to unionize employees should require a secret ballot election for certification and include standards set by the *Janus* decision regarding the deduction of union dues. The legislation should also make negotiations between the union and the employer open to public observation.

Persons Testifying (Labor & Commerce): PRO: Representative Noel Frame, Prime Sponsor; Dennis Eagle, Washington Federation of State Employees; Jeff Manson, Washington Federation of State Employees; Sherry Peterson, Washington Federation of State Employees.

OTHER: Maxford Nelsen, Freedom Foundation.

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

Staff Summary of Public Testimony (Ways & Means): No public hearing held.

Persons Testifying (Ways & Means): No one.

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