

HOUSE BILL REPORT

HB 1764

As Reported by House Committee On:
Labor & Workplace Standards
Appropriations

Title: An act relating to collective bargaining for resident and fellow physicians employed by certain institutions of higher education.

Brief Description: Concerning collective bargaining for resident and fellow physicians employed by certain institutions of higher education.

Sponsors: Representatives Sells, Berry, Bateman, Bronoske, Macri, Simmons, Slatter, Pollet, Ormsby, Frame and Harris-Talley.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/14/22, 1/26/22 [DPS];
Appropriations: 2/3/22, 2/4/22 [DP2S(w/o sub LAWS)].

Brief Summary of Second Substitute Bill

- Provides interest arbitration for resident and fellow physicians of institutions of higher education who have collective bargaining rights under the Public Employees' Collective Bargaining Act.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Sells, Chair; Berry, Vice Chair; Bronoske and Ortiz-Self.

Minority Report: Do not pass. Signed by 2 members: Representatives Hoff, Ranking Minority Member; Harris.

Minority Report: Without recommendation. Signed by 1 member: Representative

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

Mosbrucker, Assistant Ranking Minority Member.

Staff: Trudes Tango (786-7384).

Background:

The Public Employees' Collective Bargaining Act.

The Public Employees' Collective Bargaining Act (PECBA) provides for collective bargaining of wages, hours, and working conditions with employees of cities, counties, and other political subdivisions, as well as to certain employees of institutions of higher education. The PECBA is administered by the Public Employment Relations Commission (PERC), which, among other things, has the authority to determine and certify appropriate bargaining units.

For certain uniformed personnel, the PECBA recognizes the public policy against strikes as a means of settling labor disputes. To resolve impasses over contract negotiations with these 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. There are statutory factors the arbitration panel must consider when making its decision, such as the public employer's ability to pay for the compensation and benefit provisions of an agreement and a comparison of the wages and working conditions of workers in similar jobs.

In a 2014 PERC decision, the University of Washington (UW) School of Medicine resident and fellow physicians were recognized as having the right to collective bargaining under the PECBA.

Summary of Substitute Bill:

The Legislature recognizes, among other things, that there exists a public policy against strikes by resident and fellow physicians as a means of settling labor disputes. The Legislature also recognizes that there's an intention to recruit and retain residents and fellows from racially and socioeconomically diverse backgrounds for the long-term goal of equitable representation of providers in the community.

The binding interest arbitration provisions in the PECBA apply to resident and fellow physicians employed by institutions of higher education. Procedures are created regarding when and how the parties select an arbitration panel. In making its determination, the arbitration panel must be mindful of the legislative purposes of granting interest arbitration, and must consider:

- the constitutional and statutory authority of the employer;
- stipulations of the parties;

- the financial ability of the institution to pay for the compensation and benefit provisions of an agreement;
- comparison of the wages, hours, and employment conditions of the resident and fellow physicians with other similar personnel of public hospital residency programs on the West Coast;
- the intention of recruiting and retaining resident and fellow physicians from racially and socioeconomically diverse backgrounds;
- changes in any of the above-mentioned circumstances; and
- other factors that are normally or traditionally taken into consideration in matters of bargaining.

The arbitration panel's decision is not binding on the Legislature and funds necessary to implement provisions on wages, wage-related matters, salaries, stipends, and fringe benefits of an arbitrated collective bargaining agreement must come from the institution of higher education's existing resources. The institution of higher education may not increase State General Fund appropriations to fund increases in compensation or fringe benefits based on an arbitration award. If compensation and fringe benefit increases are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources, including from the State General Fund, is not provided.

If the institution of higher education receives state appropriations to support the operation of the medical school and associated facilities, a request for funds must be submitted to the Legislature under the existing statutory procedures.

In addition, negotiations between the parties must occur on dates and at times, such as weekends and evenings, that least conflict with the working hours of the bargaining representatives who are resident and fellow physicians.

Substitute Bill Compared to Original Bill:

The original bill applied only to the UW School of Medicine and did not amend the statute to explicitly name residents and fellows under the PECBA.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) These employees fit within the personnel who should not strike. The UW

underpays its residents compared to other teaching hospitals, especially considering Seattle's cost of living. The UW has trouble recruiting and retaining students from underrepresented groups. These employees work around 80 hours a week and deserve to get paid more. These workers do not want to go on strike for the sake of patient care. There is a gross imbalance of power when it comes to negotiating.

(Opposed) The laws already provide solutions to achieve the goals expressed by the residents and fellows. Mediation and other tools are available, and the UW and the unions have successfully reached agreements. The union's constitution has been amended and there have been changes to the bargaining team to ensure a professional negotiator. Many residents rotate around the region and are not just working at the UW.

(Other) There are procedural changes that could be made in the bill to help the PERC better implement the bill.

Persons Testifying: (In support) Representative Mike Sells, prime sponsor; Yuemei Zhang and Alexander Adami, Resident and Fellow Physician Union-Northwest; Kevin Steehler; and Sara Drescherst.

(Opposed) Banks Evans, University of Washington.

(Other) Mike Sellars, Public Employment Relations Commission.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Labor & Workplace Standards. Signed by 21 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 8 members: Representatives Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Chandler, Dye, Hoff, Jacobsen, Schmick and Steele.

Minority Report: Without recommendation. Signed by 3 members: Representatives MacEwen, Assistant Ranking Minority Member; Boehnke and Caldier.

Staff: David Pringle (786-7310).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workplace Standards:

The recommendation of the Appropriations Committee clarifies that the higher education institutions do not have the authority to appropriate from the State General Fund, and that compensation increases provided in negotiated or arbitrated awards must come from non-appropriated funds dedicated to the medical programs. Institutions may not request general fund, tuition, or other fund sources for the agreements in the budget process.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 1, 2022.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Medical Residency at the University of Washington (UW) is very expensive, especially for individuals that must relocate to Seattle without financial support. The housing allowance provided to residents is only \$2,000 per month, and the compensation in the contracts is very low. When the 1,400 medical residents go on strike, there will be problems for health care providers. The UW is no longer competitive in attracting residents. Low salaries mean that those that come to the UW have other resources to support themselves, eliminating potential residents from less advantaged backgrounds. Residents are working 80 hours per week and making less than minimum wage. Training hospitals receive about \$100,000 per year for each resident. Compensation is not dependent on the state budget. More than 50 percent of residents go on to practice in the state where they train. Arbitrators would not force the UW to provide compensation with funds they do not have.

(Opposed) None.

(Other) The UW Medicine program recognizes that the past two years have been extraordinarily challenging. We want bargaining to be completed fairly and in a timely fashion. Some changes could make negotiations more efficient, including professional bargaining teams. Arbitration could create rulings we are unable to comply with, as residents often work outside of the UW.

Persons Testifying: (In support) Kevin Steehler; Kenneth Tharp; and Amy Zhang.

(Other) Madeline Grant, University of Washington Medicine.

Persons Signed In To Testify But Not Testifying: None.