

FINAL BILL REPORT

SSB 5055

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Synopsis as Enacted

Brief Description: Establishing a statewide roster for arbitrating law enforcement personnel disciplinary grievances and publishing their decisions.

Sponsors: Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored by Senators Nguyen, Saldaña, Billig, Darneille, Das, Hunt, Keiser, Kuderer, Lias, Lovelett, Nobles, Stanford and Wilson, C.).

Senate Committee on Labor, Commerce & Tribal Affairs
House Committee on Labor & Workplace Standards

Background: 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. Police have the authority to collectively bargain under PECBA, as do the officers of the Washington State Patrol and the Department of Fish and Wildlife. PECBA is administered by the Public Employment Relations Commission (PERC). Under PECBA, grievance procedures and discipline are mandatory subjects of bargaining and the parties may agree to binding arbitration to resolve grievances.

Many police agencies in Washington are represented for the purposes of collective bargaining and have collective bargaining agreements that call for binding arbitration to resolve grievances. Grievance procedures vary depending on the agreement, but may include an agreed-upon list of arbitrators. The parties may also request a list of arbitrators from PERC, the American Arbitration Association, or the Federal Mediation and Conciliation Service.

Summary: Arbitrator Selection Procedures. An arbitrator selection procedure for grievance arbitrations for law enforcement personnel is established and applies to all grievance arbitrations for disciplinary actions, discharges, and terminations heard on or after January 1, 2022.

PERC must appoint a roster of 9 to 18 arbitrators for law enforcement personnel grievance

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arbitrations. The executive director assigns an arbitrator, or a panel of arbitrators, to grievance arbitrations in alphabetical order on a rotating basis. The parties to the arbitration may not participate in, negotiate for, or agree to the selection of a particular arbitrator or arbitration panel. Appointments are for three years and arbitrators may be re-appointed. PERC may remove an arbitrator from the roster through a majority vote.

PERC may only consider appointing individuals to the roster who possess a minimum of six years' experience as:

- a full-time labor relations advocate who was the principal representative of either labor or management in at least ten arbitration proceedings;
- a full-time labor mediator with substantial mediation experience;
- an arbitrator who has decided at least ten cases involving collective bargaining disputes; or
- a practitioner or full-time instructor of labor law or industrial relations, including substantial content in the area of collective bargaining, labor agreements, and contract administration.

When making the appointments, PERC must consider a candidate's:

- familiarity, experience, and understanding of labor law, the grievance process, and the field of labor arbitration;
- ability and willingness to travel, conduct hearings in a fair and impartial manner, analyze testimony and exhibits, write clear and concise awards in a timely manner, and be available for hearings within a reasonable time after the request of the parties;
- experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and
- familiarity and experience with the law enforcement profession, including ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required by officers in the field.

A person appointed to the roster must complete training required by PERC within six months of their appointment. PERC may establish training requirements by rule and may set fees to cover the costs of developing the training. At a minimum, the initial training must include at least six hours on the following topics:

- cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and
- the daily experience of law enforcement personnel, which may include ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, shoot/don't shoot training provided by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required of officers in the field.

Arbitrator decisions are binding and PERC must post the decisions on its website within 30 days after the decision is made. If an arbitrator is unable to hear the case within three

months from the request for arbitration, the executive director must appoint the next arbitrator on the roster.

A grievance arbitration is a binding arbitration of a grievance under the grievance procedures of a collective bargaining agreement. A grievance is a dispute regarding any disciplinary action, discharge, or termination decision arising under a collective bargaining agreement covering law enforcement personnel.

Law Enforcement Personnel. Law enforcement personnel means any individual employed, hired, or otherwise commissioned to enforce criminal laws by any municipal, county, or state agency or department that has, as its primary function, the enforcement of criminal laws in general, rather than implementation or enforcement of laws related to specialized subject matter. Law enforcement personnel includes corrections officers employed by the Department of Corrections and officers employed by the Department of Fish and Wildlife. Law enforcement personnel does not include prosecutors or civilians hired to do administrative work.

Votes on Final Passage:

Senate	41	8
House	60	38

Effective: July 25, 2021