

HOUSE BILL REPORT

HB 1738

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to providing employees notice of rights regarding union security.

Brief Description: Providing employees notice of rights regarding union security agreements.

Sponsors: Representatives Pelesky, Cairnes, Stevens, L. Thomas, Beeksma, Silver, Thompson, Foreman, Radcliff, Fuhrman, Huff, Hargrove, Elliot, Mulliken and Goldsmith.

Brief History:

Committee Activity:

Commerce & Labor: 2/20/95, 2/28/95 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Fuhrman; Goldsmith and Horn.

Minority Report: Without Recommendation. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

Staff: Chris Cordes (786-7117).

Background:

Teacher collective bargaining law: Washington's collective bargaining law for teachers establishes procedures for collective bargaining over defined subject matters and gives authority for administration and adjudication to the Public Employment Relations Commission.

Union security agreements may be bargained and may include an agency shop, but not a closed shop. A union security agreement requires the employees in the bargaining unit covered by the union security agreement to pay, as a condition of employment, the dues and fees required for membership in the exclusive bargaining

representative. A Washington Supreme Court case interpreting requirements for state employees has found that the fee to be paid by employees who are not members of the employee organization is a "service fee" to cover their share of the expense of collective bargaining benefits.

The collective bargaining law establishes unfair labor practices for both employers and employee organizations. It is an unfair labor practice for an employer to interfere with or restrain employees in the exercise of their collective bargaining rights, to dominate or interfere with the formation or administration of any employee organization, or to encourage or discourage membership in an employee organization with regard to any term or condition of employment, except for necessary actions under union security provisions.

United States Supreme Court decisions: Several United States Supreme Court cases address First Amendment rights under statutes permitting union security provisions in public employee collective bargaining laws. The Court has found that the United States Constitution requires union expenditures on issues not germane to collective bargaining representation to be financed from funds paid by those employees who do not object or who are not coerced into paying by fear of losing their jobs. In addition, members of the bargaining unit covered by a security agreement must be given sufficient information to gauge the propriety of the representative fee to be paid to the union.

Summary of Substitute Bill: The collective bargaining law applying to teachers is amended to include a provision requiring notice to employees regarding union security provisions.

On hiring an employee for bargaining unit work, the employer must give a notice in writing to the employee stating that bargaining unit employees cannot be required to be members of a union, that the law permits collective bargaining agreements to include union security agreements under which the employees must pay dues, and that employees who are not union members can object to the use of their payments for purposes that are not related to collective bargaining, contract administration, or grievance adjustment. The notice also states that objecting employees may be entitled to a refund and to an appropriate reduction in future payments.

The employer must also give the notice to each bargaining unit employee upon ratification of a collective bargaining agreement covering the employees that includes union security provisions. The employer must post a notice in places reasonably accessible to all employees.

The notice given to the employee must be signed by the employee in acknowledgement of receipt of the notice and employers must keep a copy of the signed notices on file during the each employee's employment.

If an employee is not given notice as required, the employee may petition the Public Employment Relations Commission. If the commission finds that notice has not been given, the commission may order appropriate relief. Damages ordered against the employer may not exceed the amount of dues and fees paid by that employee from the date that notice was required to the date of the commission's order.

An employer action required under this section is not an unfair labor practice.

Substitute Bill Compared to Original Bill: The substitute bill limits application of the union security notice requirements only to teachers. Application to other public employment is deleted from the bill. An intent statement is added stating that the purpose of the bill is to protect first amendment rights. The requirement is deleted for the employee organization to reimburse the employee for dues and fees the employee paid after union security notice was not given as required, and a provision is added that the Public Employment Relations Commission will order appropriate relief, except that the employer may not be ordered to pay damages that exceed the amount of dues and fees paid.

Appropriation: None.

Fiscal Note: Requested on February 6, 1995.

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

Testimony For: Because Washington is not a right to work state, union security may legally be bargained. However, teacher dues are used for supporting issues that some teachers disagree with. These teachers often object, but do not know that they can become "fee payers" rather than members of the union. Notice of the right to become a fee payer is either not given, given incorrectly, or is given in an obscure way. Some unions refuse to give information about fee payers to members; it is necessary to resign from membership to get appropriate information. Sometimes fear of harassment leads teachers to remain members even though they disagree with the use of their fees. There is no objection to paying for collective bargaining-related matters.

Testimony Against: The bill is unnecessary. Procedures exist in each local union for those employees who chose not to be members of the union. Records are kept of chargeable activities and charges for political activities are collected separately from the collective bargaining fees. The bill creates more administrative burden on the employer. Teachers are an educated workforce and they can understand the information given to them in their contracts. Why does the bill require notice from the employer, but penalize the union if the employer fails to give the notice? The bill

appears to be a step along the way to discouraging union membership and undercutting union power to act collectively for members.

Testified: (In favor) Representative Grant Pelesky, prime sponsor; Cindy Omlin; Darrell Olson; Barbara Amidon; Carolyn Kuehn Jacobs; Roger Bush; and Steven O'Ban. (Opposed) Bob Maier, Washington Education Association; Lynn McKinnon, Public School Employees; Robert Dilger, Washington State Building and Construction Trades Council; Dick King, International Brotherhood of Electrical Workers; Allan Darr, International Union of Electrical Workers; and Robby Stern and Jeff Johnson, Washington State Labor Council.