

HOUSE BILL REPORT

HB 1760

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to rights regarding union security.

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

Sponsors: Representatives Mulliken, McMorris, D. Sommers, Benson, Koster, Smith, Zellinsky, Sherstad, Sump, Honeyford, Boldt, Backlund, Chandler, Clements, Lisk and Thompson.

Brief History:

Committee Activity:

Commerce & Labor: 2/27/97, 3/5/97 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements and Lisk.

Minority Report: Do not pass. Signed by 4 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Cole and Hatfield.

Staff: Selwyn Walters (786-7117); and Chris Cordes (786-7103).

Background: Washington has enacted collective bargaining laws that apply to public employees and employers. Under these laws, public employees have the right to affiliate with, be represented by, and participate in employee organizations. They also have the right to refrain from these activities. These laws establish procedures for collective bargaining over defined subject matters and give authority for administration and adjudication to specified agencies.

Union security agreements. Under the public employee collective bargaining laws, an exclusive bargaining representative and employer may negotiate a union security provision, except that in a bargaining unit of state employees, a majority of

employees in that unit must vote to have union security. Union security provisions may include an agency shop, but not a closed shop.

Union security provisions generally require employees in the bargaining unit covered by the union security agreement, as a condition of employment, to either join the employee organization or pay an agency fee equal to the dues and fees required for membership. The employer may be obligated to deduct these fees from the wages of the bargaining unit employees for transmittal to the exclusive bargaining representative.

The collective bargaining statutes establish unfair labor practices for both employers and employee organizations. In 1995, the Washington Supreme Court determined that the Public Employment Relations Commission did not have statutory authority to adjudicate an unfair labor practice charge that raised an issue regarding agency fees.

Campaign financing law. Initiative 134, approved in 1992, provides that labor organizations may not use agency shop fees paid by persons who are not members of the organization to make contributions or expenditures to influence an election or operate a political committee, unless affirmatively authorized by the person paying the fee.

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 representation fee to be paid to the union.

Summary of Substitute Bill: The public employment collective bargaining laws covering local government employees, state employees, school district employees, and other public employees are each amended to include provisions regarding procedures for employees to become representation fee payers and requiring notice to employees about union security provisions.

Procedures for employees to pay representation fees

Employee organizations must establish procedures by which employees may elect to not be members of the employee organization, but to pay representation fees. The representative fee may not exceed that part of the membership fee that represents a pro rata share of expenditures germane to the collective bargaining process, contract administration, and negotiable matters.

An employee's election to not be a member is continuous until revoked by the employee, but the employee organization has the right to establish time periods during which an employee may acquire membership in the employee organization.

Notice of union security provisions.

On hiring an employee for bargaining unit work, the public employer must give notice in writing to the employee of the following: Under state law, although employees represented by a union are not required to be union members, they may be required to pay their proportional share of the costs of operating the union if the employees are covered by a valid union security agreement. The law permits union security agreements under which employees are required to pay union dues. However, employees who are not union members can only be required to pay their share of the costs relating 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 public 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 acknowledgment of receipt of the notice and employers must keep a copy of the signed notices on file during the employee's employment.

If an employee is not given notice as required, the employee may petition the agency responsible for administering and adjudicating the collective bargaining law covering the employee. If the administering agency finds that notice has not been given, the agency is directed to order relief, including relief that could be ordered by a court. However, damages ordered against the employer may not exceed the amount of dues paid by that employee from the date that notice was required to the date of the agency's order.

An employer action required under these provisions is not an unfair labor practice.

Substitute Bill Compared to Original Bill: The substitute bill adds that an employee's election to be a representation fee payer is continuous until revoked by the employee. The employee organization's right to establish a time period during which employees may acquire membership in the organization is specified. The substitute bill also clarifies the language used in the notice that must be given to employees.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill ensures notification to employees of their rights as union employees, as well as union accountability. The free speech clause of the First Amendment to the U.S. Constitution protects unionized employees who wish their fees to be used only for matters relating to the administration of a collective bargaining agreement. The bill supports collective bargaining, not a right-to-work agenda. The notice requirement is important because many employee organizations do not provide notice to employees, as prescribed in several United States Supreme Court cases. In many instances, employees are not provided notice of their rights as union members at the time of employment or at the time the collective bargaining agreement is ratified. However, if notice is given, it is confusing or incorrect, or presented in an obscure way. Some unions refuse to give information about an employee's rights as a union member. As a result, many employees are fearful of challenging their union, even though they disagree with the use of their dues for ideological positions represented by the union that are incompatible with their own positions. Any administrative burden of giving notice is far outweighed by the First Amendment's guaranty of free speech. The notice requirement achieves in Washington what President Bush tried and failed to do on the national level. The notice requirements of the bill are a first step toward worker protection.

Testimony Against: Unions already have procedures to insure that bargaining unit employees have the means to apply for a rebate of their dues used for activities not relevant to the administration of the collective bargaining agreement. Public sector unions already follow the U. S. Supreme Court cases proscribing the use of union dues on ideological matters and matters not germane to the administration of the collective bargaining agreement. There is no need to expand on those decisions. Attempts to expand on the Supreme Court cases are punitive, anti-union, and anti-worker. Public employee unions are democratic, participatory organizations that have followed the court decisions by putting together documents outlining how all union dues are spent, including a breakdown on the percentage of the dues spent on noncontract administration or ideological activities. The bill places additional requirements on employers to keep records of union membership, to track down members, and to keep track of them. Many employees do not wish their employer to know whether they are members of a union; they are afraid of harassment. The role of unions in American society has not only been collective bargaining. Unions have been involved in advocating for working people and for working people's issues not only at the work site, but in all areas of public policy. The notice provisions of the bill go much farther than the notices required by the court. The bill requires the

involvement of an employer in an internal union matter, and is an attack on unions as organizations representing working people, and providing family wage jobs.

Testified: (In support) Representative Joyce Mulliken, prime sponsor; Harry Beck; Cindy Omlin; Jennie Stephenson; Bob Williams, Evergreen Freedom Foundation; Clay Ciolek; Grant Pelesky; and Steve O'Ban. (Opposed) Greg Devereaux, Washington Federation of State Employees; Susan Levy, Washington Federation of Teachers; Robby Stern, Washington State Labor Council; Bob Maier, Washington Education Association; Eugene St. John, Washington Public Employees Association; Pat McElligott, Washington State Council of Fire Fighters; Allan Darr, International Union of Operating Engineers; Arthur L. Busier; International Association of Machinists and Aerospace Workers; Ron Weigelt, Office and Professional Employees International Union; and Pat Thompson, Washington State Council of County and City Employees.