

# FINAL BILL REPORT

## ESHB 2662

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Synopsis as Enacted

**Brief Description:** Making payroll deductions for individual providers as defined in RCW 74.39A.240(4).

**Sponsors:** By House Committee on Commerce & Labor (originally sponsored by Representatives McDermott, Wood, Miloscia, O'Brien, Cody, Conway, Edwards, Lysen, Chase and Santos).

**House Committee on Commerce & Labor**

**House Committee on Appropriations**

**Senate Committee on Labor, Commerce & Financial Institutions**

**Senate Committee on Ways & Means**

### **Background:**

Initiative 775, adopted by the voters in 2001, created the Home Care Quality Authority to regulate and improve the quality of long-term in-home care services. The authority's duties include recruiting, training, and stabilizing the work force of individual providers. These providers contract with the Department of Social and Health Services to provide personal or respite care to consumers who are functionally disabled persons under various programs. Under the initiative, the authority is considered the public employer of individual providers for collective bargaining purposes. Individual providers are not employees of the state for any purpose. The right to hire, supervise, and terminate individual providers is retained by the consumer.

These individual providers have collective bargaining rights under the public employees' collective bargaining law administered by the Public Employment Relations Commission (PERC). Under this law, if an exclusive bargaining representative is certified by the PERC or recognized by the employer, the employer must deduct union dues from the pay of a bargaining unit employee who has given written authorization for the deduction.

The collective bargaining law also allows the parties to include union security provisions in their collective bargaining agreements. These agreements generally require bargaining unit employees to pay a representation fee equivalent to monthly union dues to the exclusive bargaining representative. Court decisions interpreting similar laws impose limits on representation fees and require exclusive bargaining representatives to have a procedure for determining how much of the fee is related to collective bargaining activities. Under these procedures, representative fee payers may choose to pay a monthly payment equivalent to the amount determined to be germane to collective

bargaining activities and administration of the contract.

**Summary:**

Collective bargaining provisions applicable to "individual providers" are revised. Individual providers are defined as in-home health care workers who are considered employees of the Home Care Quality Authority for collective bargaining purposes under Initiative 775.

After certification or recognition of an exclusive bargaining representative of individual providers, the state must deduct monthly union dues from payments made to an individual provider who has given written authorization for the deduction.

If a union security agreement is included in a collective bargaining agreement between the Health Care Quality Authority and the exclusive bargaining representative that covers a bargaining unit of individual providers, the state must enforce the agreement by deducting union dues or a fee equivalent to dues from payments made to bargaining unit members. In addition, on written authorization of the individual provider, the state must make other deductions from the payments made to an individual provider when the deductions are authorized in the collective bargaining agreement.

The state makes these required deductions as the payor and not as the employer of individual providers. The additional costs incurred by the state in making these deductions are subject to reimbursement as follows:

- The initial additional costs must be negotiated, agreed upon in advance, and reimbursed by the exclusive bargaining representative.
- The allocation of ongoing additional costs is an appropriate subject of collective bargaining between the Home Care Quality Authority and the exclusive bargaining representative. If the collective bargaining agreement does not contain a provision allocating the cost, or if the Legislature does not fund the agreement, the ongoing additional costs must be negotiated, agreed upon in advance, and reimbursed by the exclusive bargaining representative.

**Votes on Final Passage:**

House 53 44  
Senate 30 19

**Effective:** June 13, 2002