

HOUSE BILL REPORT

HB 2662

As Reported by House Committee On:
Commerce & Labor
Appropriations

Title: An act relating to making payroll deductions for individual providers as defined in RCW 74.39A.240(4).

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

Sponsors: Representatives McDermott, Wood, Miloscia, O'Brien, Cody, Conway, Edwards, Lysen, Chase and Santos.

Brief History:

Committee Activity:

Commerce & Labor: 1/31/02, 2/6/02 [DPS];
Appropriations: 2/9/02, 2/11/02 [DPS(CL)].

Brief Summary of Substitute Bill

- Requires the state, under certain conditions, to deduct dues and other payments from the pay of in-home care services workers who are in a collective bargaining unit.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Conway, Chair; Wood, Vice Chair; Kenney and Lysen.

Minority Report: Do not pass. Signed by 2 members: Representatives Clements, Ranking Minority Member; and Chandler.

Staff: Chris Cordes (786-7103).

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 are persons who contract with the Department of Social and Health Services to provide personal or respite care to functionally disabled persons under various programs. For collective bargaining purposes, the authority is considered the public employer of individual providers.

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.

The collective bargaining law includes provisions addressing bargaining unit employees who object to paying union dues based on a bona fide religious belief. These employees may make their payment to a charitable organization agreed upon by the employee and the exclusive bargaining representative.

Summary of Substitute Bill:

The provisions relating to collective bargaining for "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.

The state must deduct monthly union dues from an individual provider's pay on written authorization of the individual provider and after certification or recognition of an exclusive bargaining representative of these individual providers.

If a union security agreement is included in a collective bargaining agreement covering individual providers, the state must enforce the agreement by deducting union dues or a fee equivalent to dues from the pay of bargaining unit members. In addition, on written authorization of the individual provider, the state must deduct other payments from the

individual provider's pay when the deductions are authorized in a collective bargaining agreement between the authority and the exclusive bargaining representative.

The exclusive bargaining representative must reimburse the state for additional costs incurred for making these various deductions from individual providers' pay.

Substitute Bill Compared to Original Bill:

The substitute bill makes technical and clarifying changes to the original bill, including clarifying when the workers' written authorization is needed for dues deduction and revising provisions for union security by using language that is similar to other collective bargaining laws.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill is needed to bring the collective bargaining law into conformity with Initiative 775. It clarifies that the state has authority to deduct union dues from payments to individual providers. The union will cover the cost by reimbursing the state.

(With Concerns) There are some practical and technical issues that need to be resolved. The social services payroll system is very old and has limited capacity. It does not function like a payroll system. There are also concerns that these providers will be considered state employees if they are subject to "payroll" deductions.

Testimony Against: None.

Testified: (In support) Representative McDermott, prime sponsor; and David Rolfe, Service Employees International Union.

(In support, with concerns) Ken Harden, Department of Social and Health Services.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Cody, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, McIntire, Ruderman, Schual-Berke, Talcott and Tokuda.

Minority Report: Do not pass. Signed by 10 members: Representatives Sehlin, Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cox, Lisk, Mastin, Pearson and Pflug.

Staff: Bernard Dean (786-7130).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Commerce & Labor:

No new changes were recommended.

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 union believes that the state is responsible for collecting union dues from individual providers. The state already deducts FICA and FUTA and does payroll for these workers. This bill clarifies that the state is authorized to make union dues deductions. The union and the department have been in negotiations to get the fiscal note down to zero. The department and the union will need to negotiate what a reasonable cost would be and then the union would reimburse the department for administrative costs associated with implementing the bill.

Testimony Against: None.

Testified: Ellie Menzies, Service Employees International Union; Ken Harden, Management Services, Department of Social and Health Services.