H-1113.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1774**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Shea, Scott, Taylor, G. Hunt, Young, and Condotta

AN ACT Relating to protecting the right to work; amending RCW 41.56.113, 41.56.122, 41.59.060, 41.59.140, 41.76.045, 41.80.050, 41.80.100, 47.64.130, 49.66.010, 49.66.050, and 53.18.050; adding new sections to chapter 49.36 RCW; prescribing penalties; and repealing RCW 28B.52.045 and 47.64.160.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature declares that it is the policy of the state that no person shall be required by any person, employer, or labor organization to, as a condition of employment or continuation of employment: (a) Refrain from voluntary membership in a labor organization; (b) refrain from financially supporting a labor organization; (c) become or remain a member of a labor organization; (d) pay any dues, fees, or other charges to a labor organization; or (e) pay any funds to a charity or other third-party organization in lieu of paying dues or fees to a labor organization.

NEW SECTION. **Sec.**  No person, employer, labor organization or contract may limit or restrict an employee's right to: (a) Join or resign membership in a labor organization at any time; or (b) begin or cease paying dues, fees, assessments, or other charges to a labor organization at any time.

NEW SECTION. **Sec.**  No person, employer, or labor organization may deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for or transferred to a labor organization, unless the employee has first presented and the employer has received, signed written authorization of such deductions. An employee may revoke such authorization at any time by giving written notice of such revocation to the employer.

NEW SECTION. **Sec.**  It is unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee's or prospective employee's parents, spouse, children, grandchildren, or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to an employee's or prospective employee's property, to compel or attempt to compel such employee to join, affiliate with, or financially support a labor organization or to refrain from doing so or otherwise forfeit any rights as guaranteed by the provisions of this chapter.

NEW SECTION. **Sec.**  (1) Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and employer that violates the rights of employees as defined by the provisions of this chapter is null and void, and of no legal effect.

(2) A person who violates this chapter is liable to a person who suffers from that violation for all resulting damages.

(3)(a) The attorney general or a prosecuting attorney may bring an action in superior court to enjoin a violation of this section.

(b) The superior courts shall grant injunctive relief when a violation of this section is made apparent.

(4) Not later than the second day after the receipt of notice of institution of a cause of action under this section, a party to the cause of action may apply to the presiding judge of the superior court in the county within which the action is brought. The presiding judge shall immediately assign a superior court judge from within the county who shall hear all proceedings in the cause of action.

NEW SECTION. **Sec.**  Nothing contained in this chapter may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired.

NEW SECTION. **Sec.**  Sections 1 through 6 of this act do not apply to:

(1) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town;

(2) Correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020 and who are charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates;

(3) General authority Washington peace officers as defined in RCW 10.93.020 employed by a port district;

(4) Security forces established under RCW 43.52.520;

(5) Firefighters as defined in RCW 41.26.030;

(6) Employees of a port district whose duties include crash fire rescue or other firefighting duties;

(7) Employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or

(8) Employees of the Washington state patrol.

NEW SECTION. **Sec.**  Sections 1 through 7 of this act are each added to chapter 49.36 RCW.

**Sec.**  RCW 41.56.113 and 2010 c 296 s 4 are each amended to read as follows:

(1) This subsection (1) applies only if the state makes the payments directly to a provider.

(a) Upon the written authorization of an individual provider, a family child care provider, an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to (c) of this subsection, deduct from the payments to an individual provider, a family child care provider, an adult family home provider, or a language access provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(b) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers, family child care providers, adult family home providers, or language access providers enter into a collective bargaining agreement that((~~:~~

~~(i) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to (c) of this subsection, enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or~~

~~(ii)~~))includes requirements for deductions of payments ((~~other than the deduction under (a)(i) of this subsection~~)), the state, as payor, but not as the employer, shall, subject to (c) of this subsection, make such deductions upon written authorization of the individual provider, family child care provider, adult family home provider, or language access provider. The requirements for deductions of payments may not include union security provisions.

(c)(i) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, and language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

(ii) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, 41.56.029, or 41.56.510, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

((~~(d) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.~~))

(2) This subsection (2) applies only if the state does not make the payments directly to a provider.

((~~(a)~~)) Upon the written authorization of a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state shall require through its contracts with third parties that:

((~~(i)~~))(a) The monthly amount of dues as certified by the secretary of the exclusive bargaining representative be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

((~~(ii)~~))(b) A record showing that dues have been deducted as specified in (a)((~~(i)~~)) of this subsection be provided to the state.

((~~(b) If the governor and the exclusive bargaining representative of the bargaining unit of language access providers enter into a collective bargaining agreement that includes a union security provision authorized in RCW 41.56.122, the state shall enforce the agreement by requiring through its contracts with third parties that:~~

~~(i) The monthly amount of dues required for membership in the exclusive bargaining representative as certified by the secretary of the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues, be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and~~

~~(ii) A record showing that dues or fees have been deducted as specified in (a)(i) of this subsection be provided to the state.~~))

**Sec.**  RCW 41.56.122 and 1975 1st ex.s. c 296 s 22 are each amended to read as follows:

(1) A collective bargaining agreement may((~~:~~

~~(1) Contain union security provisions: PROVIDED, That nothing in this section shall authorize a closed shop provision: PROVIDED FURTHER, That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.~~

~~(2)~~))provide for binding arbitration of a labor dispute arising from the application or the interpretation of the matters contained in a collective bargaining agreement.

(2) A collective bargaining agreement involving uniformed personnel or employees of the Washington state patrol may contain union security provisions provided that nothing in this section shall authorize a closed shop provision. Agreements involving union security provisions must safeguard the right of nonassociation of public employees based on sincerely held personal religious beliefs. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee. The public employee shall furnish written proof that such payment has been made. If the public employee and the bargaining representative do not reach agreement on such matter, the commission shall designate the charitable organization. When there is a conflict between any collective bargaining agreement reached by a public employer and a bargaining representative on a union security provision and any charter, ordinance, rule, or regulation adopted by the public employer or its agents, including but not limited to, a civil service commission, the terms of the collective bargaining agreement shall prevail.

**Sec.**  RCW 41.59.060 and 1975 1st ex.s. c 288 s 7 are each amended to read as follows:

(1) Employees shall have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and shall also have the right to refrain from any or all of such activities ((~~except to the extent that employees may be required to pay a fee to any employee organization under an agency shop agreement authorized in this chapter~~)).

(2) The exclusive bargaining representative shall have the right to have deducted from the salary of employees, upon receipt of an appropriate authorization form which shall not be irrevocable for a period of more than one year, an amount equal to the fees and dues required for membership. Such fees and dues shall be deducted monthly from the pay of all appropriate employees by the employer and transmitted as provided for by agreement between the employer and the exclusive bargaining representative, unless an automatic payroll deduction service is established pursuant to law, at which time such fees and dues shall be transmitted as therein provided. ((~~If an agency shop provision is agreed to and becomes effective pursuant to RCW 41.59.100, except as provided in that section, the agency fee equal to the fees and dues required of membership in the exclusive bargaining representative shall be deducted from the salary of employees in the bargaining unit.~~))

**Sec.**  RCW 41.59.140 and 2012 c 117 s 93 are each amended to read as follows:

(1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in RCW 41.59.060;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules and regulations made by the commission pursuant to RCW 41.59.110, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment or any term or condition of employment((~~, but nothing contained in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 41.59.100~~));

(d) To discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed in RCW 41.59.060: PROVIDED, That this ((~~paragraph~~))subsection (2)(a) shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (ii) an employer in the selection of his or her representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer, provided it is the representative of its employees subject to RCW 41.59.090.

(3) The expressing of any views, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

**Sec.**  RCW 41.76.045 and 2002 c 356 s 12 are each amended to read as follows:

((~~(1)~~)) Upon filing with the employer the voluntary written authorization of a bargaining unit faculty member under this chapter, the employee organization which is the exclusive bargaining representative of the bargaining unit shall have the right to have deducted from the salary of the bargaining unit faculty member the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable for a period of more than one year. Such dues and fees shall be deducted from the pay of all faculty members who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

((~~(2) A collective bargaining agreement may include union security provisions, but not a closed shop. If an agency shop or other union security provision is agreed to, the employer shall enforce any such provision by deductions from the salary of bargaining unit faculty members affected thereby and shall transmit such funds to the employee organization or to the depository designated by the employee organization.~~

~~(3) A faculty member who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such faculty member is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the faculty member and the employee organization to which such faculty member would otherwise pay the dues and fees. The faculty member shall furnish written proof that such payments have been made. If the faculty member and the employee organization do not reach agreement on such matter, the dispute shall be submitted to the commission for determination.~~))

**Sec.**  RCW 41.80.050 and 2002 c 354 s 306 are each amended to read as follows:

Except as may be specifically limited by this chapter, employees shall have the right to self-organization, to form, join, or assist employee organizations, and to bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint, or coercion. Employees shall also have the right to refrain from any or all such activities ((~~except to the extent that they may be required to pay a fee to an exclusive bargaining representative under a union security provision authorized by this chapter~~)).

**Sec.**  RCW 41.80.100 and 2002 c 354 s 311 are each amended to read as follows:

(1) ((~~A collective bargaining agreement may contain a union security provision requiring as a condition of employment the payment, no later than the thirtieth day following the beginning of employment or July 1, 2004, whichever is later, of an agency shop fee to the employee organization that is the exclusive bargaining representative for the bargaining unit in which the employee is employed. The amount of the fee shall be equal to the amount required to become a member in good standing of the employee organization. Each employee organization shall establish a procedure by which any employee so requesting may pay a representation fee no greater than the part of the membership fee that represents a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment.~~

~~(2) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets, or teachings of a church or religious body of which the employee is a member, shall, as a condition of employment, make payments to the employee organization, for purposes within the program of the employee organization as designated by the employee that would be in harmony with his or her individual conscience. The amount of the payments shall be equal to the periodic dues and fees uniformly required as a condition of acquiring or retaining membership in the employee organization minus any included monthly premiums for insurance programs sponsored by the employee organization. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.~~

~~(3)~~)) Upon filing with the employer the written authorization of a bargaining unit employee under this chapter, the employee organization that is the exclusive bargaining representative of the bargaining unit shall have the exclusive right to have deducted from the salary of the employee an amount equal to the fees and dues uniformly required as a condition of acquiring or retaining membership in the employee organization. The fees and dues shall be deducted each pay period from the pay of all employees who have given authorization for the deduction and shall be transmitted by the employer as provided for by agreement between the employer and the employee organization.

((~~(4)~~))(2) Employee organizations that before July 1, 2004, were entitled to the benefits of this section shall continue to be entitled to these benefits.

**Sec.**  RCW 47.64.130 and 2011 1st sp.s. c 16 s 19 are each amended to read as follows:

(1) It is an unfair labor practice for the employer or its representatives:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. However, subject to rules made by the public employment relations commission pursuant to RCW 41.58.050, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure of employment, or any term or condition of employment((~~, but nothing contained in this subsection prevents an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 47.64.160. However, nothing prohibits the employer from agreeing to obtain employees by referral from a lawful hiring hall operated by or participated in by a labor organization~~));

(d) To discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed by this chapter. However, this subsection does not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein, or (ii) an employer in the selection of his or her representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer.

(3) The expression of any view, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, if the expression contains no threat of reprisal or force or promise of benefit.

**Sec.**  RCW 49.66.010 and 1973 2nd ex.s. c 3 s 1 are each amended to read as follows:

It is the public policy of the state to expedite the settlement of labor disputes arising in connection with health care activities, in order that there may be no lessening, however temporary, in the quality of the care given to patients. It is the legislative purpose by this chapter to promote collective bargaining between health care activities and their employees, to protect the right of employees of health care activities to organize and select collective bargaining units of their own choosing.

((~~It is further determined that any agreements involving union security including an all-union agreement or agency agreement must safeguard the rights of nonassociation of employees, based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee must pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the representative of the labor organization to which such employee would otherwise pay dues. The employee shall furnish written proof that this has been done. If the employee and representative of the labor organization do not reach agreement on the matter, the department shall designate such organization.~~))

**Sec.**  RCW 49.66.050 and 2010 c 8 s 12063 are each amended to read as follows:

It shall be an unfair labor practice and unlawful, for any employee organization or its agent to:

(1) Restrain or coerce (a) employees in the exercise of their right to refrain from self-organization, or (b) an employer in the selection of its representatives for purposes of collective bargaining or the adjustment of grievances;

(2) Cause or attempt to cause an employer to discriminate against an employee in violation of RCW 49.66.040(3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his or her failure to tender the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership;

(3) Refuse to meet and bargain in good faith with an employer, provided it is the duly designated representative of the employer's employees for purposes of collective bargaining;

(4) ((~~Require of employees covered by a union security agreement the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the director finds excessive or discriminatory under all the circumstances. In making such a finding, the director shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected;~~

~~(5)~~)) Cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed;

((~~(6)~~))(5) Enter into any contract or agreement, express or implied, whereby an employer or other person ceases or refrains, or agrees to cease or refrain, from handling, using, selling, transporting, or otherwise dealing in any of the products or services of any other employer or person, or to cease doing business with any other employer or person, and any such contract or agreement shall be unenforceable and void; or

((~~(7)~~))(6) Engage in, or induce or encourage any individual employed by any employer or to engage in, an activity prohibited by RCW 49.66.060.

**Sec.**  RCW 53.18.050 and 1967 c 101 s 5 are each amended to read as follows:

A labor agreement signed by a port district may contain:

(1) Provisions that the employee organization chosen by a majority of the employees in a grouping or unit will be recognized as the representative of all employees in the classification included in such grouping or unit;

(2) ((~~Maintenance of membership provisions including dues check-off arrangements; and~~

~~(3)~~)) Provisions providing for binding arbitration, the expenses being equally borne by the parties, in matters of contract interpretation and the settlement of jurisdictional disputes.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 28B.52.045 (Collective bargaining agreement—Exclusive bargaining representative—Union security provisions—Dues and fees) and 1987 c 314 s 8; and

(2)RCW 47.64.160 (Union security provisions) and 1983 c 15 s 7.

**--- END ---**