
SUBSTITUTE SENATE BILL 5914

State of Washington 65th Legislature 2017 Regular Session

By Senate Ways & Means (originally sponsored by Senator Braun)

READ FIRST TIME 04/04/17.

1 AN ACT Relating to imposing a fee on labor organizations for the
2 collection and remittance of dues, fees, and other amounts on behalf
3 of a labor organization for the purpose of offsetting costs;
4 amending RCW 41.80.100, 47.64.160, 41.56.113, 28B.52.045, and
5 41.76.045; adding a new section to chapter 41.56 RCW; adding a new
6 section to chapter 41.59 RCW; creating new sections; and declaring an
7 emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the state,
10 local government, and other public employers cover the administrative
11 cost of dues and other voluntary withholding deductions as well as
12 other costs related to administering collective bargaining. The
13 legislature intends to cover a portion of the state's cost by
14 imposing a fee based on the amount of dues and other amounts
15 collected on behalf of and remitted to public employee unions and
16 using the proceeds toward costs associated with the public employment
17 relations commission. The state also intends to provide local
18 governments and other public employers the same ability to recover
19 collective bargaining costs through the imposition of fees based on
20 the amount of dues and other amounts collected on behalf of and
21 remitted to public employee unions.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.56
2 RCW to read as follows:

3 (1)(a) Except as provided in subsection (2) of this section, a
4 public employer that collects and remits dues and other amounts on
5 behalf of a labor organization may impose a fee of up to five percent
6 of the amount collected to offset the cost of administration. The
7 rate of the fee is established by the employer and is not subject to
8 collective bargaining.

9 (b)(i) If a labor organization fails to pay the fee established
10 by this subsection within sixty calendar days of the end of the
11 period for which the fee was assessed, the employer may retain a
12 portion of the amount collected as payment of the fee.

13 (ii) If a labor organization fails to pay the fee established by
14 this subsection within sixty calendar days of the end of the period
15 for which the fee was assessed three times in a twelve-month period,
16 the employer may cease collecting amounts on behalf of the exclusive
17 bargaining representative for one year.

18 (2)(a) There shall be a fee, as established by the office of
19 financial management, charged to any labor organization for the
20 collection and remittance of any dues, fees, payments, or any other
21 amounts on behalf of a labor organization. The office of financial
22 management must establish the rate as the higher of:

23 (i) Two percent; or

24 (ii) A level that ensures that the total amount collected from
25 the fee funds no less than one-half of the total amount appropriated
26 to the public employment relations commission during the previous
27 fiscal biennium, up to a maximum of five percent.

28 (b)(i) Each state agency must assess the fee on the total amount
29 collected and remitted on behalf of a labor organization at the time
30 of remittance to the labor organization. At the option of the labor
31 organization, the state agency may retain a portion of the amount to
32 be remitted as payment of the fee.

33 (ii)(A) If a labor organization fails to pay the fee established
34 by this subsection within sixty calendar days of the end of the
35 period for which the fee was assessed, the agency must retain a
36 portion of the amount to be remitted as payment of the fee.

37 (B) If a labor organization fails to pay the fee established by
38 this subsection within sixty calendar days of the end of the period
39 for which the fee was assessed three times in a twelve-month period,

1 the agency must cease collecting amounts on behalf of the exclusive
2 bargaining representative for one year.

3 (c) The fees collected by the employer under this subsection must
4 be deposited to the personnel service fund under RCW 41.06.280 and
5 used for costs of the public employment relations commission.

6 (d) For purposes of this subsection, "state agency" means every
7 state office, department, division, bureau, board, commission, or
8 other state agency, including offices headed by a statewide elected
9 official, and institutions of higher education.

10 **Sec. 3.** RCW 41.80.100 and 2002 c 354 s 311 are each amended to
11 read as follows:

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

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

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

12 (4) The employer and all state agencies must assess the fee
13 provided in section 2 of this act. The rate of the fee is not subject
14 to collective bargaining.

15 (5) Employee organizations that before July 1, 2004, were
16 entitled to the benefits of this section shall continue to be
17 entitled to these benefits.

18 **Sec. 4.** RCW 47.64.160 and 1983 c 15 s 7 are each amended to read
19 as follows:

20 (1) A collective bargaining agreement may include union security
21 provisions including an agency shop, but not a union or closed shop.
22 If an agency shop provision is agreed to, the employer shall enforce
23 it by deducting from the salary payments to members of the bargaining
24 unit the dues required of membership in the bargaining
25 representative, or, for nonmembers thereof, a fee equivalent to such
26 dues. All union security provisions shall safeguard the right of
27 nonassociation of employees based on bona fide religious tenets or
28 teachings of a church or religious body of which such employee is a
29 member. Such employee shall pay an amount of money equivalent to
30 regular dues and fees to a nonreligious charity or to another
31 charitable organization mutually agreed upon by the employee affected
32 and the bargaining representative to which such employee would
33 otherwise pay the dues and fees. The employee shall furnish written
34 proof that such payment has been made. If the employee and the
35 bargaining representative do not reach agreement on such matter, the
36 commission shall designate the charitable organization.

37 (2) The employer and all state agencies must assess the fee
38 provided in section 2 of this act. The rate of the fee is not subject
39 to collective bargaining.

1 **Sec. 5.** RCW 41.56.113 and 2010 c 296 s 4 are each amended to
2 read as follows:

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

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

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

20 (i) Includes a union security provision authorized in RCW
21 41.56.122, the state as payor, but not as the employer, shall,
22 subject to (c) of this subsection, enforce the agreement by deducting
23 from the payments to bargaining unit members the dues required for
24 membership in the exclusive bargaining representative, or, for
25 nonmembers thereof, a fee equivalent to the dues; or

26 (ii) Includes requirements for deductions of payments other than
27 the deduction under ~~((a)(i))~~ (b)(i) of this subsection, the state,
28 as payor, but not as the employer, shall, subject to (c) of this
29 subsection, make such deductions upon written authorization of the
30 individual provider, family child care provider, adult family home
31 provider, or language access provider.

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

38 ~~((ii) The allocation of ongoing additional costs to the state in
39 making deductions from the payments to individual providers, family
40 child care providers, adult family home providers, or language access~~

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

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

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

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

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

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

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

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

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

9 (3) The employer and all state agencies must assess the fee
10 provided in section 2 of this act. The rate of the fee is not subject
11 to collective bargaining.

12 **Sec. 6.** RCW 28B.52.045 and 1987 c 314 s 8 are each amended to
13 read as follows:

14 (1) Upon filing with the employer the voluntary written
15 authorization of a bargaining unit employee under this chapter, the
16 employee organization which is the exclusive bargaining
17 representative of the bargaining unit shall have the right to have
18 deducted from the salary of the bargaining unit employee the periodic
19 dues and initiation fees uniformly required as a condition of
20 acquiring or retaining membership in the exclusive bargaining
21 representative. Such employee authorization shall not be irrevocable
22 for a period of more than one year. Such dues and fees shall be
23 deducted from the pay of all employees who have given authorization
24 for such deduction, and shall be transmitted by the employer to the
25 employee organization or to the depository designated by the employee
26 organization.

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

34 (3) An employee who is covered by a union security provision and
35 who asserts a right of nonassociation based on bona fide religious
36 tenets or teachings of a church or religious body of which such
37 employee is a member shall pay to a nonreligious charity or other
38 charitable organization an amount of money equivalent to the periodic
39 dues and initiation fees uniformly required as a condition of

1 acquiring or retaining membership in the exclusive bargaining
2 representative. The charity shall be agreed upon by the employee and
3 the employee organization to which such employee would otherwise pay
4 the dues and fees. The employee shall furnish written proof that such
5 payments have been made. If the employee and the employee
6 organization do not reach agreement on such matter, the commission
7 shall designate the charitable organization.

8 (4) The employer and all state agencies must assess the fee
9 provided in section 2 of this act. The rate of the fee is not subject
10 to collective bargaining.

11 **Sec. 7.** RCW 41.76.045 and 2002 c 356 s 12 are each amended to
12 read as follows:

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

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

33 (3) A faculty member who is covered by a union security provision
34 and who asserts a right of nonassociation based on bona fide
35 religious tenets or teachings of a church or religious body of which
36 such faculty member is a member shall pay to a nonreligious charity
37 or other charitable organization an amount of money equivalent to the
38 periodic dues and initiation fees uniformly required as a condition
39 of acquiring or retaining membership in the exclusive bargaining

1 representative. The charity shall be agreed upon by the faculty
2 member and the employee organization to which such faculty member
3 would otherwise pay the dues and fees. The faculty member shall
4 furnish written proof that such payments have been made. If the
5 faculty member and the employee organization do not reach agreement
6 on such matter, the dispute shall be submitted to the commission for
7 determination.

8 (4) The employer and all state agencies must assess the fee
9 provided in section 2 of this act. The rate of the fee is not subject
10 to collective bargaining.

11 NEW SECTION. Sec. 8. A new section is added to chapter 41.59
12 RCW to read as follows:

13 An employer may impose the fee provided in section 2(1) of this
14 act.

15 NEW SECTION. Sec. 9. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. Sec. 10. If any part of this act is found to be in
20 conflict with federal requirements that are a prescribed condition to
21 the allocation of federal funds to the state, the conflicting part of
22 this act is inoperative solely to the extent of the conflict and with
23 respect to the agencies directly affected, and this finding does not
24 affect the operation of the remainder of this act in its application
25 to the agencies concerned. Rules adopted under this act must meet
26 federal requirements that are a necessary condition to the receipt of
27 federal funds by the state.

28 NEW SECTION. Sec. 11. This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of
30 the state government and its existing public institutions, and takes
31 effect immediately.

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