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Secretly negotiated state employee contracts major focus of budget debate

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In 2002, Gov. Gary Locke signed a bill that fundamentally altered the balance of power between the governor and Legislature concerning state employee compensation in the budget.

The bill's purpose was to reform Washington's civil service laws and for the first time in state history give state employee union executives the power to negotiate directly with the governor behind closed the doors for salary and benefit increases. Before 2002 collective bargaining for state employees was limited to non-economic issues such as work conditions, while salary and benefit levels were determined through the normal budget process in the legislature.

Since the secret collective bargaining law went into full effect in 2004, state union executives no longer have their priorities weighed equally with every other special interest during the legislative budget process. Instead they now negotiate directly with the governor in secret, while lawmakers only have the opportunity to say yes or no to the entire contract agreed to with the governor.

Not only are there serious transparency concerns with this arrangement, there are also potential constitutional flaws by unduly restricting the Legislature's constitutional authority to write the state budget. With the Senate's rejection this year of a state employee contract secretly negotiated with the governor, this issue is now a central part of the 2015-17 state budget debate.

Now that the House and Senate have approved their versions of the 2015-17 budget, legislative budget negotiators are hard at work trying to come to an agreement before the scheduled end of session on April 26.

Both budget versions are fairly close in overall education and social service spending levels. The major policy difference is whether to raise taxes, as proposed by the House, to fund in part the state employee contracts or to provide state employees raises in a different manner using existing revenues, as proposed by the Senate.

The House would approve the contracts and pay for them with tax increases. The Senate rejects the contracts and new taxes and instead would provide a capped amount of funding within available resources for the governor and unions to use in renegotiations. The governor, House and state employee unions are claiming the Senate's proposal is illegal under the 2002 law.

Whether or not the Senate proposal is allowed under the 2002 state collective bargaining law, the larger question is if that law's policy of restricting the Legislature's ability to make budget decisions is constitutional in the first place.

A compelling 2006 article in the University of Washington's Law Review makes the case that the 2002 law is an unconstitutional infringement on the Legislature's constitutional authority to determine appropriations. The author argues the 2002 law is a violation of separation of powers because it gives the governor too much power over the Legislature on this budget question.

Even if the 2002 law is constitutional, the secrecy of collective bargain negotiations should be reformed. State and local public union employment contracts should not be negotiated in secret. The public provides the money for these agreements. Taxpayers should be able to follow the process and hold government officials accountable for the spending decisions they make on the public's behalf. Greater accountability in this area of public spending would serve the public interest.

It is also a good time to revisit the decision made in 2002 that limited the authority of lawmakers to make prioritizations within the budget when it comes to state employee compensation. This is especially true with the constitutional questions raised by the University of Washington's Law Review.

Ultimately state employee union contracts negotiated solely with the governor should be limited to non-economic issues. Anything requiring an appropriation (especially new spending that relies on a tax increase) should be part of the normal open and public budget process in the legislature.

As for the current budget negotiations, whether or not the Senate ultimately agrees with the House to provide funding for the secretly negotiated state employee contracts, lawmakers should at least secure much needed transparency and accountability reforms for future union negotiations.

Read more here: http://www.thenewstribune.com/2015/04/17/3745308/secretly-negotiated-state-employee.html#storylink=cpy