

Senate committee passes bills to advance workplace democracy and worker rights

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Introduction

This Legislative Memo provides an overview and analysis of nine bills passed recently by the Senate Commerce and Labor Committee that represent the most significant advance in worker rights in decades.

The bills would provide workers with more rights and would require more accountability and transparency of the unions that represent state public employees. The bills are SB 5854, SB 5671, SB 5226, SB 5329, SB 5552, SB 5602, SB 5045, SB 5237 and SB 5332, and are described in detail below. These bills to promote workplace fairness, strengthen worker rights and promote accountability were developed by the Freedom Foundation.

Based on WPC's research and analysis on labor issues, all of the proposals are good public policy and represent important steps in protecting workers and promoting fairness and balance in how unions operate in the public sector in our state.

Background

In 2002 the legislature enacted HB 1268, a bill that fundamentally altered the balance of power within state government by creating a secret collective bargaining system for state employee unions. Not long after, union executives succeeded in gaining rules that allowed them to unionize, often involuntarily, tens of thousands of workers who do not work

for the state and are generally not paid directly by the state. These individuals are home care providers who are paid through government entitlement benefits received by their clients.

The union began collecting mandatory dues or agency fees from these non-state workers, which include 40,000 home health care workers, 8,000 in-home child care providers, hundreds of adult family home providers and about 1,000 medical language access providers.¹ State rules say these workers are considered public employees "solely for the purposes of collective bargaining," and paying union fees, and not for any other purpose.

Often these workers care for a family member and the dues money taken by unions is automatically deducted from their loved-one's monthly Medicaid check.

As a result of HB 1268, the yearly cost of wages, health coverage, pensions, step increases, cost-of-living raises and other state employee benefits are no longer decided through public hearings in the normal legislative process. These operating costs are now decided in a series of secret collective bargaining meetings between union representatives and top executive branch officials. Often the closed-door talks take place with elected officials whom union executives helped win office.

¹ "U.S. Supreme Court ruling on home care workers still reverberating in Washington," *The News Tribune*, December 12, 2014, at http://www.thenewstribune.com/2014/12/12/3538734_impact-of-us-supreme-court-ruling.html?rh=1.

State agency managers take mandatory union dues from employee paychecks each month and transfer the money to union bank accounts. Union officials spend part of these funds as campaign contributions to influence political races and help determine who will negotiate union contracts on behalf of the state. The goal for the union is to have the person sitting across the negotiating table be someone who benefited from union political contributions.

In 2014, Governor Inslee agreed in secret negotiations with unions to increase the wages and benefits of state workers by \$500 million. Lawmakers have only two options—to accept the contract with no changes or to reject it entirely.

Washington has historically been a state with high union membership. However, since secret collective bargaining for state workers was enacted, the public sector unions have increased their membership and financial collections dramatically. Public sector union membership in the state increased from 42.9 percent in 2002 to 57 percent in 2013.² In comparison, union membership in the private sector fell from 13.6 percent to 11.7 percent over the same period, reflecting the national trend of union decline. Nationwide, 36 percent of government employees pay dues or fees to unions, compared to just 7 percent of workers in the private sector.³

The following section describes each of the worker rights bills passed by the Senate Commerce and Labor Committee.

Policy Analysis

SB 5854 would require public-sector employers to submit digital copies of their collective bargaining agreements to the Public Employment Relations Commission for online public viewing.

This bill would enhance openness in government by requiring government employers to make collective bargaining agreements they negotiate with unions, along with provisions on health benefits, pensions, early retirement, overtime pay, seniority rules and other privileges funded by public dollars, easily available to the public.

Currently, the collective bargaining agreements for government workers are available to the public, but they are not posted in a central location. Anyone interested in reviewing the agreements must track each individual contract down from dozens of government entities.

SB 5671 would prevent the state from automatically deducting mandatory union dues from “quasi public employees” without their approval.

This bill would codify in state law the U.S. Supreme Court’s recent ruling in *Harris v. Quinn* that “quasi public employees,” such as home health care workers, family child care providers, adult family home providers and language access providers, cannot be forced to join a union or pay union dues or fees as a condition of employment or payment. According to the state, these four groups of workers are considered state employees only for the purpose of collective bargaining and paying union fees.

Currently, the state has implemented the ruling from *Harris v. Quinn*. The state’s newest union contract (for 2015-17) includes a provision allowing the state’s partial public employees to opt out of

² Data available upon request.

³ “50 Years of Shrinking Union Membership, In One Map,” NPR, February 23, 2015, at www.npr.org/blogs/money/2015/02/23/385843576/50-years-of-shrinking-union-membership-in-one-map.

paying union dues.⁴ However, without legislation defining in law the state's compliance with *Harris v. Quinn*, that contract clause could be reversed if a court rules *Harris v. Quinn* does not apply to the partial public employees in Washington state.

SB 5226 would require public sector unions to file annual financial reports with the state.

This bill would enhance worker rights by ensuring unionized employees have access to how union executives are managing and spending union funds. The purpose is to increase transparency and accountability for the public and for union members, and to reduce corruption in labor financing.

Currently, private sector unions are required to submit financial reports to the U.S. Department of Labor, but Washington state public employees who are members of a union lack the same rights to disclosure from their union as their private sector counterparts.

SB 5329 would require public-employee secret collective bargaining negotiations to be opened to the public.

This bill would enhance openness and public accountability by requiring secret budget negotiations between labor union executives and the governor to be opened to the public.

Currently the governor negotiates behind closed doors with unions representing state workers to decide the pay and benefits of their members. Neither elected lawmakers or the press are allowed to attend these meetings, and lawmakers are not allowed to change the agreement once it is announced.

Ending the secrecy in union budget talks is particularly important because of the danger of corrupt political influence. Under the current system, union executives negotiate secretly with a top elected state official that they helped elect.

SB 5552 would respect the civil rights of workers who have religious objections to mandatory union dues or fees.

This bill would expand the ability of workers who, for religious reasons, want to opt out of paying mandatory union dues, would streamline the process for establishing a religious objection, and would make it easier for the worker to direct that dues money to a charity of their choice.

Currently, workers are limited by a narrow definition for a religious objector; and while religious objectors may currently opt to direct their dues money to a charity instead of to the union, often union executives direct a conscientious objector's dues money to non-profit groups selected by the union, even if that is not the charitable cause the worker would have chosen.

SB 5602 would prohibit public-sector employees from working for their union while earning public money as salary. Known as "release time," state workers often collect a taxpayer-funded salary and full state benefits so they can work for their union.

This bill would protect public money from being diverted away from school districts and state agency budgets to pay salaries and other benefits to state employees who actually work for their union.

Currently, taxpayers fund private business activities when state workers use paid time to work for the union, draining money from school and state agency

4 "SEIU 775 Homecare 2015-17 Tentative Agreement, at https://www.washingtonpolicy.org/sites/default/files/SEIU%20775_2.pdf.

budgets that is needed to provide essential public services.

SB 5045 would require the Public Employment Relations Commission to allow an election to de-authorize a union security provision if at least 30 percent of the employees in a bargaining unit sign a petition asking for an election.

This bill would promote workplace democracy by giving public workers more opportunity to vote on whether to allow union executives to take money from their paychecks each month.

Currently, public sector workers do not have the same rights to decertify their union that private sector union workers have had for decades under federal law.

SB 5237 would allow more time, 90 days rather than 30, for union members to file a petition asking to change or end union representation.

This bill would enhance workplace democracy by providing more time for workers to ask for a workplace election on union representation.

Currently, such elections are so rare that many unionized state employees have never voted in a union certification election to decide whether they want to be represented by a union, or whether they would like to change their union.

SB 5332 would prohibit counties and cities from exempting unionized businesses from laws regulating wages, hours of work, employee retention, or leave from employment.

This bill would enhance workplace fairness and reduce hypocrisy by requiring unionized and nonunionized workers to be treated the same.

Currently, union executives push local jurisdictions to impose workplace rules and mandates on non-union workers, while insisting on special exemptions for their own members.

Conclusion

Passage of HB 1268 in 2002 resulted in a dramatic increase in the number of involuntary public sector union members and a corresponding increase in money collected by union executives.

As the membership and financial strength of unions operating in the public sector have increased, so has the political influence of those unions in state government. As the president of the Washington Coalition for Open Government recently testified, “[government agencies] are controlled more by their labor contracts than by the laws they operate under or the rules they’re able to adopt themselves.”⁵

The nine worker rights bills passed by the Senate Commerce and Labor Committee in 2015 would instill much-needed accountability and transparency into this influence, while expanding workplace democracy and fairness for workers.

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5 Public hearing, SB 5329, Senate Commerce and Labor Committee, January 26, 2015, at http://tvw.org/index.php?option=com_tvwpplayer&eventID=2015010161.