

POLICY NOTE

Initiative 1501: Changing the State's Public Records Act to Protect the Special Interests of Organized Labor

By Erin Shannon
Director, Center for Small Business and Labor Reform

September 2016

Key Findings

1. In 2001, Washington voters approved union-sponsored Initiative 775, which reclassified individual home care providers from private workers to state employees; the measure specified that individual providers are not actually employees of the state, they are public employees "solely for the purpose of collective bargaining."
2. The Service Employees International Union (SEIU) contributed more than \$1 million to the campaign to pass the measure in Washington. After passage of Initiative 775, SEIU Local 775 was certified to act as the monopoly union representative for all individual providers in Washington.
3. In 2014, the U.S. Supreme Court ruled in *Harris v. Quinn* that classifying providers, including those that only take care of immediate family members, as public employees only for the purposes of unionization makes them "partial public employees" who cannot be forced to participate in a union or pay union dues or agency fees.
4. SEIU executives filed Initiative 1501 to block independent organizations from informing individual providers of their rights under *Harris v. Quinn*. Under the guise of protecting the elderly and disabled from consumer fraud and identity theft, the measure would prevent any group, except the union, from obtaining providers' contact information currently available under the Public Record Act.
5. Under Initiative 1501 the union would be exempt from its own exemption, meaning union executives, but not the public, would have full and exclusive access to the contact information they claim should be closely guarded.
6. An objective reading of the text and a review of its background show that Initiative 1501 would not serve the general interest of the people of our state. On the contrary, it would only serve the narrow interest of one union that is seeking to gain financial benefit from exclusive access to public information.

Introduction

Initiative 1501 is a statewide measure that supporters say would simply increase penalties for identity theft and fraud that targets seniors and people with disabilities. On the surface the proposal seems an innocuous ban against activities that are already illegal.

But a closer look reveals Initiative 1501 is about much more than fighting illegal theft and fraud. The measure is an attempt by organized labor to change the state's public records law to strengthen a union's monopoly access to the contact information of Washington's in-home caregivers. The effect of Initiative 1501 would be to prevent any non-union group from informing care-givers of their rights to not pay union dues or agency fees.

Under the guise of protecting society's most vulnerable, Initiative 1501 would benefit organized labor and make it harder for individual in-home care providers to learn about their right to not pay union dues or fees.

Background

In 2001, Washington voters approved union-sponsored Initiative 775, which reclassified individual home care providers from private workers to "state employees." But the measure specified those individual providers are not actually employees of the state, rather they are public employees "solely for the purpose of collective bargaining."

The Service Employees International Union (SEIU) contributed more than \$1 million to the campaign to pass the measure. After passage of Initiative 775, SEIU Local 775 was certified as the monopoly union representative for individual providers in Washington.

In 2014, the U.S. Supreme Court ruled in *Harris v. Quinn* that classifying individual home care providers as public employees only for the purposes of unionization makes them "partial public employees" who cannot be forced to participate in a union or pay union dues or agency fees. This means those workers now have the right to decide whether they want to pay a union to represent them. Many have decided to leave their union, taking their monthly dues dollars with them.

SEIU executives filed Initiative 1501 to block independent organizations from informing individual providers in our state of their rights under *Harris v. Quinn*. The measure would prevent any group, except the union, from obtaining providers' contact information currently available under the Public Record Act.



Erin Shannon is director of WPC's Center for Small Business and Labor Reform. Before joining Washington Policy Center in 2012, she was the Public Relations director of Washington state's largest pro-small business trade association, and was formerly a Legislative Correspondent for U.S. Congressman Randy Tate in Washington, D.C. Over the past 15 years Erin has appeared regularly in print, broadcast and radio media. She was a recurring guest on ABC's "Bill Maher's Politically Incorrect" until the show's cancellation in 2002, and participated in a live, on-stage version of Politically Incorrect in Seattle with Bill Maher. Erin has served as the spokesperson for several pro-small business initiative campaigns including Referendum 53, repealing increases in unemployment insurance taxes; Initiative 841, repealing the state's ergonomics rule; and Initiative 1082, to end the state's monopoly on workers' compensation. Erin holds a bachelor's degree in political science from the University of Washington.

Washington Policy Center is an independent research organization in Washington state. Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body.

Published by
Washington Policy Center
© 2016

washingtonpolicy.org
206-937-9691

Policy Analysis

Parts 1 and 2 of Initiative 1501 would increase penalties for identity theft and consumer fraud directed at seniors and people with disabilities. Current law already protects against identify theft and consumer fraud. New laws are unnecessary.

Part 3 of the measure would "prohibit the release of certain public records." The measure would amend the state Public Records Act to exempt the contact information of in-home caregivers that service the elderly and the disabled, as well as family child care providers, from public disclosure. The names, addresses, telephone numbers and email addresses of these workers would not be available to the public as they are currently.

The union would be exempt from its own exemption, meaning union executives, but not the public, would have full and exclusive access to the "sensitive personal information" they claim should be closely guarded.

Ironically, after passage of Initiative 775 in 2001, SEIU took advantage of our state's strong open records laws to gain access to the same "sensitive personal information" of individual providers so the union could contact them about unionizing. Now SEIU wants to restrict any other organization from accessing the same information.

Conclusion

Initiative 1501 is a transparent attempt by an organized interest, the SEIU union, to protect its own special advantages by misleading voters into weakening our state's strong Public Records Act. The motivation behind the measure is clearly not about protecting seniors and the disabled from identity theft or consumer fraud, activities that are already illegal, and everything to do with preventing individual care providers from learning of their court-ordered rights under *Harris v. Quinn*.

SEIU 775 lawyers have repeatedly lost in court in their efforts to prevent independent citizen organizations from contacting individual providers to educate them about their rights when it comes to paying mandatory union dues. Now SEIU executives hope to mislead voters, under cover of anti-fraud protections, into passing a ballot measure that would impose a limit on public information that the courts have rejected.

Washington's public records laws are routinely hailed as a model of government accountability and transparency, and are widely recognized as among the best in the nation. Initiative 1501 would weaken the public's right to access the public information that keep our government open and accountable.

An objective reading of the text and a review of its background show that Initiative 1501 would not serve the general interest of the people of our state. On the contrary, it would only serve the narrow interest of one union that is seeking to gain financial benefit from exclusive access to public information. Our state's Public Records Act should not be weakened for the benefit of a special interest group.

This publication is a summary of a 8 page study on I-1501. To access the full study, go to www.washingtonpolicy.org