

LEGISLATIVE MEMO

SB 5533 would eliminate the conflict-of-interest of the governor negotiating in secret with his own campaign donors

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Key Findings

- 1. SB 5533 would promote honest and open government by ending the practice of governors negotiating public spending in secret with the union executives who helped elect them.
- 2. Currently, the governor's collective bargaining negotiations are exempt from the Open Public Meetings Act, meaning they take place behind closed doors.
- 3. While holding secret meetings on public spending, union executives give political money to support the governor's campaign.
- 4. In 2016, state employee unions gave hundreds of thousands of dollars to support the governor's re-election.
- 5. To uphold public trust, insurance companies that do business in the state are not allowed to give political money to candidates for state Insurance Commissioner.
- 6. Enacting a similar limit on political giving to the governor, as proposed by SB 5533, would end the perception that unions could be rewarded for their political support of the governor.
- 7. SB 5533 would restore public confidence in the honesty of state government, and in the moral integrity of the governor's office.

Introduction

This Legislative Memo provides an overview and analysis of SB 5533. The bill would prohibit contributions to gubernatorial candidates from labor unions that collectively bargain with the state. The purpose of the bill is to promote honest and open government by ending the practice of governors negotiating state employee contracts with the state employee unions who helped elect them.

The companion bill to SB 5533 in the House is HB 1891.

These bills reflect a long-standing Washington Policy Center recommendation that more transparency and accountability be injected into the collective bargaining process.

Background

In 2002, the legislature passed the Personnel System Reform Act, creating a mandatory collective bargaining system in which state employee unions negotiate contracts directly with the governor, instead of going through the normal legislative process. The contract negotiations, conducted in secret, set the wages, hours, benefits and other conditions of employment for union-represented state workers.

Under the Act, a negotiator from the Office of Financial Management/Labor Relations Division (OFM/LRO) represents the governor in direct negotiations with the 38 labor unions that represent 95,000 state workers and contractors.¹

Included in the governor's negotiations are the roughly 50,000 workers who are not

^{1 &}quot;Inslee's plan for state-worker raises sets up a fight," by David Gutman, *The Seattle Times*, December 7, 2016, at www.seattletimes.com/seattle-news/politics/insleesplan-for-state-worker-raises-sets-up-a-fight/.

actually state employees, but are "considered state employees for the purposes of collective bargaining." These are individual providers, often family members, of in-home services such as caring for the elderly and disabled, adult family home care, child care and language access. They are hired by the individual receiving the care but paid in whole or in part by a government subsidy.

The "master" agreement secretly negotiated by the governor's labor negotiators applies to all agencies with employees covered by a collective bargaining agreement. The agreements cover employees in general government service, Washington State Patrol, higher education, Washington State Ferries and the individual providers who are not technically state employees.

The governor negotiates new collective bargaining agreements every two years, corresponding with each biennium. These contract negotiations are currently exempt from the state's Open Public Meetings Act, which means they take place behind closed doors. Lawmakers are not part of, nor privy to, the secret negotiations between the governor's office and the union officials representing state workers.

Once the governor and union executives have reached an agreement for a new master contract, the governor requests that the legislature fund the contract as part of the budget process during the next legislative session. Only at this point does the legislative body learn the details of the contract, with the option to approve or reject funding for the contract in its entirety. Lawmakers may not amend or change the contract. So if lawmakers disagree with one portion of the contract, their only means of expressing disapproval with that specific section is to reject funding for the contract as a whole. It is all or nothing.

These limited options severely limit the legislature's ability to participate in the collective bargaining process in the public interest. It is unique in that the legislature, in nearly every other matter, is the near-exclusive determinant of how public funds will be spent, with the governor holding veto power over those decisions. Faced with an all-or-nothing proposition, lawmakers have never voted down a collective bargaining agreement.

Conflict of interest

While union executives are negotiating behind closed doors with the governor for the wages and benefits of the state workers they represent, they are free to make contributions to the political campaign of the same governor. And they often do.

In 2012, the state's largest state employee union (representing 42,000 workers), the Washington Federation of State Employees (WFSE) and its national affiliate, the American Federation of State, County and Municipal Employees (AFSCME), contributed more than \$800,000 to Governor Jay Inslee's political campaign.³ The money was not contributed directly to Inslee, rather it was made to political committee called Our Washington, described by left-leaning Seattle Post-Intelligencer blogger Joel Connelly as a "pro-Inslee front group."⁴

After Governor Inslee's election, the first public union contracts he negotiated were in 2014 for the 2015-2017 biennium. Governor Inslee agreed to give state workers represented by WFSE a 4.8 percent raise, with some workers receiving an additional 2.5 percent.⁵ The pay raises offered by Governor Inslee, which carried a \$250 million price tag, came during a projected \$1 billion to \$3 billion shortfall in the 2015-2017 budget.⁶

^{2 &}quot;Learn about the collective bargaining process," Washington State Office of Financial Management, accessed February 1, 2017, at www.ofm.wa.gov/labor/ agreements/about.asp.

³ Public Disclosure Commission, Washington State, accessed February 1, 2017, at web.pdc.wa.gov/ MvcQuerySystem/AdvancedSearch/ContributionsData? contributee=T1VSIFdBIDEwOQ%3D%3D%3D%3D%3D&ele ctionYear=2012&committeeType=IGNORE&election=A LL&page=1.

^{4 &}quot;A \$30 million (and counting) Inslee-McKenna race," by Joel Connelly, *Seattle P-I*, September 25, 2012, at http://blog.seattlepi.com/seattlepolitics/2012/09/25/a-30-million-and-counting-inslee-mckenna-race/.

^{5 &}quot;State worker pay drought over? State employee union deal offers raises of 3%, 1.8%," by Brad Shannon, *The Olympian*, September 18, 2014, at www.theolympian. com/news/politics-government/article26079268.html.

⁵ Ibid.

WFSE was not the only union that supported Governor Inslee's 2012 campaign that later reaped the benefits of his favorable negotiations.

After the Service Employees International Union 775 Northwest (SEIU 775 NW) and its state and national affiliates contributed \$800,000 to Inslee's effort, the 33,000 home care workers represented by that union received salary increases ranging from six to 8.5 percent, a new retirement benefit and additional time off.⁷ The compensation package cost taxpayers an estimated \$90 million.

2012	Money to support Inslee	Contract Deals
WFSE	\$800,000 to support Gov. Inslee election	\$250 million state employee contract
SEIU 775	\$800,000 to support Gov. Inslee Election	\$90 million state employee contract

In 2016, WFSE contributed \$250,000 to Our Washington to support Governor Inslee's re-election campaign. The first contribution of \$50,000 came one month before the union began the secret contract negotiations on June 22, 2016 with the governor for the compensation package of state workers in the 2017-2019 biennium.

One week after reaching a contract agreement with Governor Inslee on September 13, 2016, WFSE made another \$100,000 contribution to support Inslee, followed by a third \$100,000 contribution three weeks later.⁸

WFSE delivered more campaign contributions in the midst of the union's negotiations with the governor. On July 5, 2016, WSFE directly contributed \$1,750 to the re-election campaign of Governor Jay Inslee.⁹ The very next day, July 6, 2016, union executives presented Governor Inslee with their compensation demands during the secret contract negotiations.¹⁰ Less than one month later, on August 1, 2016, the WFSE made another contribution to Governor Inslee's campaign of \$2,000.¹¹

When the negotiations were concluded on September 13, 2016, Governor Inslee agreed to award state workers a six percent pay raise over the 2017-2019 biennium, the largest across-the-board increases state employees have negotiated since they gained full collective bargaining rights.¹² Union negotiators also bragged about their contract's zero increase in health insurance costs and more vacation time for state workers.¹³ The state Office of Financial Management estimates the deal, if approved by the legislature,

- 8 Public Disclosure Commission, Washington State, accessed February 1, 2017, at http://web.pdc.wa.gov/MvcQuerySystem/AdvancedSearch/ContributionsData?contributee=T1VSIFdBIDEwOQ%3D%3D%3D%3D%3D&electionYear=2012&committeeType=IGNORE&election=ALL&page=3.
- 9 Public Disclosure Commission, Washington State, accessed February 5, 2017, at http://web.pdc.wa.gov/ MvcQuerySystem/AdvancedSearch/ContributionsData? contributee=SU5TTEogIDExMA%3D%3D%3D%3D%8el ectionYear=2016&committeeType=U&election=ALL&p age=9.
- 10 "Special Report: General Government Bargaining Team presents compensation package that seeks to end 'alarming trend'," AFSCME Council 28/WFSE News, July 7, 2016, at http://archive.wfse.org/ggbt-70716/.
- 11 Public Disclosure Commission, Washington State, accessed February 5, 2017, at http://web.pdc.wa.gov/MvcQuerySystem/AdvancedSearch/ContributionsData?contributee=SU5TTEogIDExMA%3D%3D%3D%3D%3D&electionYear=2016&committeeType=U&election=ALL&page=9.
- 12 "Tentative deal for 30,000 state workers includes raises, \$12 minimum wage," by Melissa Santos, The News Tribune, September 14, 2016, at www.thenewstribune. com/news/politics-government/article101697842. html#storylink=cpyhttp.
- 13 "Bulletin: 6% pay raises, hold-the-line health care costs, more vacation leave in General Government tentative agreement," AFSCME 28 (WFSE), September 13, 2016, at http://archive.wfse.org/ggbt-ta-update-91316/.

[&]quot;Union says new home-care worker contract raises hourly pay over \$14 by 2017," by Brad Shannon, *The Olympian*, September 5, 2014, at www.thenewstribune. com/news/politics-government/article25879924.html.

will cost state taxpayers more than \$350 million.¹⁴

Also last year, SEIU 775 NW and its statewide affiliate together contributed just over \$415,000 to Our Washington to help re-elect Governor Inslee.¹⁵ After a \$25,000 contribution to the "pro-Inslee front group" on March 28, 2016, union executives delivered their demands in secret talks a few weeks later.¹⁶ By early August, SEIU 775 NW executives declared they had reached an agreement on a contract with Governor Inslee.

Calling it "our best contract yet," union executives boasted of the new contract's unprecedented wages and "fantastic increases in benefits." Later that month, Our Washington received another contribution for \$250,000, followed by \$100,000 in September and another \$42,000 in October. If approved by the legislature in 2017, the contract will cost taxpayers nearly \$217 million.

2016	Money to Support Inslee	Contract deals
WFSE	\$253,750 to support Gov. Inslee Election	\$350 million state employee contract
SEIU 775	\$415,000 to support Gov. Inslee election	\$217 million state employee contract

WFSE and SEIU 775 NW are just two of the state employee unions that contributed to Our Washington to support Governor Inslee's 2012 and 2016 elections. Other public sector unions negotiating contracts with the Governor contributed to the committee also.

Further, the contributions from WFSE, SEIU 775 NW, and the various state employee unions to Our Washington do not take into consideration the contributions those unions may have made to other committees that contributed to Governor Inslee's election efforts, such as the Washington State Democratic Party and other political action committees.

Policy Analysis

SB 5533 would prohibit political contributions to candidates for governor from labor unions that collectively bargain with the state. The bill proposes a simple solution to a real problem.

The problem is that whether the governor is actually negotiating in the best interests of the public after receiving campaign contributions from state worker unions is unknowable and irrelevant. The perception of a quid pro quo is sufficient to cast doubt and suspicion on the whole process and to tarnish the reputation of the Office of the Governor.

Precisely because of such concerns over the possibility and perception of an inappropriate quid pro quo, under current Washington state law, insurance companies that do business in the state are prohibited from making political contributions to candidates running for the Office of Insurance Commissioner.

The purpose of this restriction is to ensure insurance companies do not exert undue financial influence on, or extract favors from, the state Insurance Commissioner as a result of political contributions. The absence of any perception of a conflict of interest benefits the public, the insurance industry and the reputation of the Office of Insurance Commissioner.

Similar protections against a conflict of interest in the governor's negotiations with state employee unions would restore

^{14 &}quot;Inslee's plan for state-worker raises sets up a fight," by David Gutman, *The Seattle Times*, December 7, 2016, at www.seattletimes.com/seattle-news/politics/inslees-plan-for-state-worker-raises-sets-up-a-fight/,

¹⁵ Public Disclosure Commission, Washington State, accessed February 2, 2017, at http://web.pdc.wa.gov/ MvcQuerySystem/AdvancedSearch/ContributionsData? contributee=T1VSIFdBIDEwOQ%3D%3D%3D%3D%3D&ele ctionYear=2016&committeeType=IGNORE&election=A LL&page=1.

¹⁶ IP Bargaining, 2017-2019, Tentative Agreement, accessed February 5, 2017, at http://seiu775.org/files/2016/09/IP-Bargaining-2017-2019-Full-TA.pdf.

¹⁷ SEIU 775 NW Facebook post, August 31, 2016, accessed February 2, 2017, at https://www.facebook.com/seiu775/photos/ms.c.eJwzNDUyNze3MLc0MDU3MjM20zOECFgYQARMEQLGQDWWZhZwAVOICgMA1KINxA~-~-bps.a.1527778777239304.1073741857.111937722156757/1527778850572630/?type=3.

the public's faith in the process, and end the possibility that state employee unions could be rewarded for their political support for a governor.

Conclusion

As the elected representative of the state and its taxpayers, the governor's main priority should be to negotiate in the best interests of the public. When the governor is accepting political campaign contributions before, during and after the secret contract negotiations with union executives who are making those contributions, it is hard to argue the governor is truly representing the best interests of taxpayers, not the interests of union leaders.

SB 5533 is a common sense way to ensure the unions representing state workers in closed-door contract negotiations with the governor are not using campaign contributions to buy favor from the governor when sitting across the negotiating table.

The current perception that union leaders could manipulate the budget process by spending political money to elect a governor who could pay them back during secret contract negotiations erodes the public's trust. SB 5533 would eliminate the financial incentive for unions to spend hundreds of thousands of dollars to elect the governor, and in doing so would restore public confidence in the honesty of the election system, the good faith of the negotiating process, and the moral integrity of the governor's office.

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