

POLICY BRIEF

Transparency in public employee collective bargaining: How Washington compares to other states

A loophole in Washington's Open Meetings Act lets government unions negotiate in secret

Erin Shannon, Director, Center for Worker Rights
December 2018

Key Findings

1. Washington state has one of the strongest open government laws in the country. The state's Public Records Act and the Open Meetings Act (OPMA) require that both laws be "liberally construed" to promote open government and accountability to the public.
2. Despite this strong mandate for government transparency, government employee contracts in Washington are usually negotiated in secret. There is no option for the public to know what transpires in such negotiations until well after those negotiations have been concluded and agreements have been signed.
3. These secret negotiations between government unions and public officials often involve billions of dollars in public money. Taxpayers provide the money for these agreements, they should not be negotiated in secret. The public should be allowed to follow the process and hold government officials accountable for the spending decisions they make on taxpayers' behalf.
4. Secrecy is not the rule in every state. Of the 47 states that allow government workers to collectively bargain, 22 states allow some level of public access to various components of those negotiations, including Washington's neighbors to the south and east, Oregon and Idaho.
5. Four local governments in Washington have recently ended secrecy and embraced government employee contract transparency.
6. Opening public employee collective bargaining is clearly working in many states, and even in some Washington local governments, creating more open, honest, and accountable government. There is no reason it should not also work in all of Washington to create the same public benefit.



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Introduction

Washington state has one of the strongest open government laws in the country. The state's Public Records Act and the Open Meetings Act (OPMA) require that both laws be "liberally construed" to promote open government and accountability to the public.

The state's Open Public Meetings Act (OPMA) says:

"The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."¹

Despite this strong mandate for government transparency, government employee contracts in Washington are usually negotiated in secret. There is no option for the public to know what transpires in such negotiations until well after those negotiations have been concluded and agreements have been signed.

These secret negotiations between government unions and public officials often involve billions of dollars in public money.

Since taxpayers are ultimately responsible for funding these contract agreements, they should be allowed to monitor the negotiation process so they may hold the government officials who represent them accountable for their actions.

It is not just taxpayers who are deprived of their right to know how they are being represented. Rank and file public employees on whose behalf their union negotiates are also left in the dark as a result of our state's lack of transparency in the collective bargaining process.

Public employees are taxpayers as well, and they may be concerned about the financial obligations public officials are committing the public to paying, especially when such obligations are agreed to in secret.

Only the government officials and union executives who negotiated the deal have the privilege of knowing the details, such as what offers were made, and rejected, in collective bargaining negotiations. Taxpayers, union members, lawmakers, and the media only find out after the agreement has been reached.

1 Revised Code of Washington, Title 42, Chapter 42.30, Section 010, Open Public Meetings Act, at <http://app.leg.wa.gov/rcw/default.aspx?cite=42.30>

These stakeholders are left wondering whether, and how well, their interests were represented.

Secrecy is not the rule in every state. Washington's neighbors to the south and east, Oregon and Idaho, both require collective bargaining negotiations be open to the public. This Policy Brief provides a review of how transparent the collective bargaining process is in other states compared to Washington.

Background

In 1971, the Washington Legislature passed the Open Public Meetings Act (OPMA), a strongly worded law that requires all meetings of state and municipal governing bodies, even informal sessions, be open to the public, with the exception of the courts and the Legislature.

The OPMA was later amended to create a loophole that exempts public sector collective bargaining negotiations from any requirements of the Act, leaving it to each government employer to decide whether to open such negotiations to the public.² Not surprisingly, very few government officials have acted to allow public access and negotiations are instead conducted behind closed doors.³

Public shut out of talks

In practice, this means the public does not have access to the details of any contract negotiations between government officials and union executives who represent public employees until after an agreement has been struck. At that point, the finalized contract and its cost is posted on the website of the state Office of Financial Management.

Even then, what is not posted online are the details of the proposals and ensuing negotiations that led to the finalized collective bargaining agreement. In order to learn exactly what a government union asked for, what the government employer offered, and what transpired up to the point that both sides came to an agreement, one must wait until the budget funding the contract is signed into law and then file a public records request with the state. After the request is filed, it typically takes two to three months to get the records.

That is not an open, nor timely, means by which taxpayers, union members, lawmakers, and the media can learn the details of exactly what was negotiated before a contract agreement was reached.

There have been several efforts in recent years to close the collective bargaining loophole restricting the people's right to know, but they have not been successful

2 Revised Code of Washington, Title 42, Chapter 30, Section 140, Open Public Meetings Act, at <http://app.leg.wa.gov/RCW/default.aspx?cite=42.30.140>.

3 "Local governments can improve transparency and accountability by opening secret collective bargaining sessions to the public," by Jason Mercier, Washington Policy Center, Policy Note, August 2017, at www.washingtonpolicy.org/library/doclib/Mercier-Local-governments-can-improve-transparency-and-accountability-by-opening-secret-collective-bargaining-sessions-to-the-public-8.10.17-2.pdf.

so far at the state level.⁴ State lawmakers have considered multiple bills (SB 6183, SB 5545/HB 1951, HB 1287) that would have removed the collective bargaining exemption from the state's Open Public Meetings Act. Despite bipartisan support, none of those bills passed the Legislature.

In 2018 an initiative to the people, Initiative 1608, was filed with the Secretary of State and supporters began collecting voter signatures in an effort to qualify for the November ballot. I-1608 would have added new sections to the state's Open Public Meetings Act making collective bargaining sessions between public employers and employee organizations open for public observation and recording, made bargaining proposals public, and established an online library of public collective bargaining agreements.⁵ That measure failed to collect sufficient signatures necessary to qualify for the ballot.

Local governments that closed the loophole

Six local governments in Washington, however, have recently ended secrecy and embraced government employee contract transparency.

The first was Lincoln County on September 6, 2016.⁶ The Pullman School District adopted contract transparency on January 25, 2017.⁷ Ferry County passed a collective bargaining transparency resolution on March 6, 2017.⁸ Next the Tukwila School District adopted a contract transparency resolution on July 11, 2017 (which was then repealed by a new school board despite appeals of residents).⁹ Then Kittitas

4 "SB 5545 and HB 1287: Requiring government employee collective bargaining sessions to be open to the public," by Jason Mercier, Legislative Memo, Washington Policy Center, February 8, 2017, at <http://www.washingtonpolicy.org/publications/detail/sb-5545-hb-1287-requiringgovernment-employee-collective-bargaining-sessions-to-be-open-to-the-public>.

5 "Collective bargaining transparency initiative garners new support," by Emily Boerger, Washington State Wire, May 23, 2018 at <https://washingtonstatewire.com/collective-bargaining-transparency-initiative-garners-new-support/>

6 "Lincoln County embraces collective bargaining transparency," by Jason Mercier, press release, Washington Policy Center, September 8, 2016, at www.washingtonpolicy.org/publications/detail/lincoln-county-embraces-collective-bargaining-transparency.

7 "Pullman Teacher's Union Becomes First in Washington Required to Negotiate Contracts in Public," by Evan Ellis, Pullman Radio (1150 AM), January 25, 2017, at <http://pullmanradio.com/pullman-teachers-union-becomes-first-in-wa-now-requiredto-negotiate-contracts-inpublic/>.

8 Ferry County Resolution No. 2017-07, Collective Bargaining Transparency, March 6, 2017 at https://ferry-county.com/Commissioners_Calendars/Resolutions/2017%20Resolutions/Resolution%202017-07%20Collective%20Bargaining%20Transparency.pdf

9 "Tukwila school board repeals open collective bargaining resolution," by Heidi Jacobs, Tukwila Reporter, February 20, 2018, at www.tukwilareporter.com/news/tukwilaschool-board-repeals-open-collective-bargaining-resolution/.

County adopted contract transparency on November 7, 2017.¹⁰ Most recently, Spokane County passed a transparency resolution on December 11, 2017.¹¹

Collective bargaining transparency in other states

The following sections describe the transparency of the collective bargaining process in other states.

Three states have blanket statutes that prohibit all government workers from collective bargaining, while five other states narrowly allow collective bargaining only for specific public employee groups.

Virginia, North Carolina, and South Carolina fall into the first category; in these states there is no legal collective bargaining process for government workers. Obviously there is no need for collective bargaining transparency laws in those three states.

Texas allows only firefighters and police officers to bargain collectively, Georgia allows only firefighters, Tennessee allows just teachers, Indiana allows a limited scope of collective bargaining for teachers only, while Wisconsin allows a limited scope for all public employees, except for firefighters and police officers, who are exempt from those limitations.

As would be expected, Texas, Tennessee, and Georgia boast some of the strongest collective bargaining transparency laws in the nation.

Surprisingly, despite strong limitations on public employee collective bargaining and right-to-work laws, Wisconsin, and Indiana do not have a transparent process for contract negotiations. Wisconsin expressly allows for collective bargaining negotiations to be held behind closed doors.¹² Indiana also allows collective bargaining negotiations to be done in secret.¹³

The states that allow public workers to collectively bargain and allow such contract negotiations to take place behind closed doors are: California, Connecticut, Delaware, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Rhode Island, South Dakota, Utah, Vermont, Wisconsin, Wyoming, and Washington. Some of these “anti-Sunshine” states expressly exempt negotiations from their state’s open meetings law, while others leave the choice to the government employer and the union executives. A few that deny public access

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- 10 “Kittitas County adopts collective bargaining transparency reform,” by Jason Mercier, blog post, Washington Policy Center, November 8, 2017, at www.washingtonpolicy.org/publications/detail/kittitas-county-adopts-collective-bargaining-transparency-reform.
 - 11 “Spokane County passes transparency resolution for employee collective bargaining,” by Emily Boerger, Washington State Wire, December 7, 2018, at <https://washingtonstatewire.com/%EF%BB%BFspokane-county-passes-transparency-resolution-for-employee-collective-bargaining/>
 - 12 “Wisconsin legislator briefing book, 2017-18,” Chapter 6, Open Meetings Laws, at https://docs.legis.wisconsin.gov/misc/lc/briefing_book/ch06_open_meetings.pdf
 - 13 “Handbook on Indiana’s Public Access Laws,” Indiana Public Access Counselor, at www.in.gov/pac/files/pac_handbook.pdf

to contract negotiations do provide for some limited measure of public input after negotiations but before ratification.

In contrast, 22 states allow public employee collective bargaining and do not specify any exemption for those negotiations from their state's open meetings law. Some of those state's open meeting laws even go so far as to expressly require some level of public access to various components of those negotiations. Following is a list of those states:

Alabama

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees. However, government employers may meet in closed executive session to discuss collective bargaining negotiating strategy.¹⁴

Alaska

All school district collective bargaining proposals are open records and subject to public comment.

“Before beginning bargaining, the school board of a city or borough school district or a regional educational attendance area shall provide opportunities for public comment on the issues to be addressed in the collective bargaining process. Initial proposals, last-best-offer proposals, tentative agreements before ratification, and final agreements reached by the parties are public documents and are public records available for public review.”¹⁵

All other government employers may close collective bargaining negotiations to the public.¹⁶

Arizona

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees.¹⁷ However, government employers may meet in closed executive session to discuss collective bargaining negotiating strategy.¹⁸

Arkansas

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees.¹⁹

14 Alabama Code Title 36, Public Officers and Employees § 36-25A-7, at <https://codes.findlaw.com/al/title-36-public-officers-and-employees/al-code-sect-36-25a-7.html>

15 Alaska Senate Bill 204, Sec 203.40.235, at www.akleg.gov/basis/Bill/Text/19?Hsid=SB0204A.

16 Alaska Statute § 44.62.310, Article 6, Open Meetings of Governmental Bodies, at www.legis.state.ak.us/basis/statutes.asp#44.62.319

17 Arizona Revised Statute § 38-431.01, at www.azleg.gov/ars/38/00431-01.htm

18 Arizona Revised Statute § 38-431.03(A)(5), at www.azleg.gov/ars/38/00431-03.htm

19 Arkansas Freedom of Information Act, at <https://arkansasag.gov/resources/foia/>

Colorado

In 2014, 70 percent of Colorado voters approved Proposition 104 to require “... any meeting between any representative of a school district and any representative of employees, at which a collective bargaining agreement is discussed to be open to the public.” This includes strategy sessions and negotiations.²⁰

All other government employers may close collective bargaining negotiations to the public.²¹

Florida

Collective bargaining negotiations between all government employers and employee representatives are open to the public. Government employers may meet in closed executive session to discuss negotiating strategy but the actual negotiations between a public agency and an employee bargaining organization must be conducted in the open.²²

Georgia

All meetings must be open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees.²³

Idaho

Collective bargaining negotiations between government employers and employee representatives are open to the public. Government employers may meet in closed executive session to discuss negotiating strategy, consider labor contract offers and formulate counter offers, as well as to discuss sensitive information about a specific employee.²⁴

This expansive public access to labor negotiations for public employees was the result of bipartisan legislation passed unanimously in 2015.

Illinois

While collective bargaining negotiations are exempt from the state’s open meetings law, if contract negotiations reach an impasse such that either side initiates a fact-finding to settle the dispute, and either party subsequently rejects the fact-finding panel’s report and recommended terms of settlement, the fact-finding panel shall “*promptly release the fact-finding panel’s report and the notice of rejection for*

20 “Colorado School Board Open Meetings, Proposition 104 (2014),” Ballotpedia, accessed on August 9, 2017, at [https://ballotpedia.org/Colorado_School_Board_Open_Meetings, Proposition_104_\(2014\)](https://ballotpedia.org/Colorado_School_Board_Open_Meetings, Proposition_104_(2014))

21 Colorado Open Records Act, C.R.S. 24-6-401 et seq., at www.nfoic.org/coalitions/state-foi-resources/colorado-foia-laws

22 Florida Statute § 447.605, Public Meetings and Records Law, at www.flsenate.gov/Laws/Statutes/2014/447.605

23 Georgia Open Meetings Act, at http://law.georgia.gov/sites/law.georgia.gov/files/AG-%23872098-v1-OPENGOV_Open_Meetings_Act_-_March_2016.pdf

24 Idaho House Bill 167, at <https://legislature.idaho.gov/sessioninfo/2015/legislation/H0167/>

public information by delivering a copy to all newspapers of general circulation in the community.”²⁵

Iowa

The first and second collective bargaining negotiating sessions, whereby the government employer and employee representative each present their “initial bargaining positions,” are open to the public.

All subsequent negotiations, strategy meetings, mediation and deliberation are closed to the public.

The terms of a proposed collective bargaining agreement shall be made available to the public prior to a ratification election.²⁶

Louisiana

While collective bargaining negotiations are exempt from the state’s open meetings law and may be closed to the public, no collective bargaining agreement can be accepted or ratified until it has been made available to the public via the Internet website of the public employer for at least 5 business days.²⁷

Minnesota

Collective bargaining negotiations, mediation sessions, and hearings between government employers and employee representatives are open to the public, unless otherwise provided by the commissioner.²⁸ Government employers may meet in closed executive session to discuss negotiating strategy, but those meetings must be recorded, preserved for two years after the contract is signed, and made available to the public after labor agreements are signed.²⁹

Mississippi

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees.³⁰

25 ILCS Title 80, Chapter III, Part 1130, Section 1130.55, at www.ilga.gov/jcar/admincode/080/080011300000550R.html

26 Iowa Code § 20.17(3), Procedures, at www.legis.iowa.gov/docs/code/20.17.pdf

27 Louisiana R.S. § 42:17(A)9(2) and 44:67.1, Open Meetings Law, at [https://app.la.state.la.us/llala.nsf/BAADB2991272084786257AB8006EE827/\\$FILE/Open%20Meetings%20Law%20FAQ.pdf](https://app.la.state.la.us/llala.nsf/BAADB2991272084786257AB8006EE827/$FILE/Open%20Meetings%20Law%20FAQ.pdf)

28 Minnesota Statute § 179A.14, subdivision 3, Negotiation Procedures, at www.revisor.mn.gov/statutes/cite/179a.14

29 Minnesota Statute § 13D.03, subdivision 1-2, Closed Meetings for Labor Negotiations Strategy, at www.revisor.mn.gov/statutes/cite/13D.03

30 Mississippi Code § Title 25, Chapter 41, at <https://law.justia.com/codes/mississippi/2017/title-25/chapter-41/>

Missouri

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees. Government employers may meet in closed executive session to discuss negotiating strategy.³¹

On June 1, 2018, Missouri's governor signed HB 1413 into law, which implements comprehensive public sector labor law reforms, including significantly expanding what was already reasonably strong collective bargaining transparency in the state. Under the new law, government employers must hold a public hearing before approving any collective bargaining agreement and the tentative agreement must be published on the government employer's website at least five business days prior to that meeting. During the public meeting, the tentative agreement must be discussed in detail, and the public is permitted to provide comment.³²

Montana

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees.³³

Citizens in Montana enjoy one of the nation's broadest public records and meetings law. In 1972 the state's constitution was rewritten to include a guarantee of the public's right to access government business.³⁴

In 1977, Montana's open meeting law was amended to allow government employers to meet privately to discuss collective bargaining negotiating strategy. A 1992 ruling by the Montana supreme court declared the law unconstitutional, thus reaffirming the state's dedication to open government.³⁵

Nebraska

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees.³⁶ Government employers may meet in closed executive session if it is "clearly necessary for the protection of the public interest," which specifically includes "strategy sessions with respect to collective bargaining."³⁷ Beyond this one reference to collective bargaining, there

31 Missouri Sunshine Law: Open Meetings and Record Law, Missouri Attorney General, at 610.021(9), at <https://ago.mo.gov/docs/default-source/publications/missourisunshinelaw.pdf?sfvrsn=4>

32 House Bill No. 1413, Section 105.583(1), at <https://house.mo.gov/billtracking/bills181/hlrbillspdf/4637S.14T.pdf>

33 Montana Code, Title 2, Chapter 3, Part 2, Open Meetings, at https://leg.mt.gov/bills/mca/title_0020/chapter_0030/part_0020/section_0030/0020-0030-0020-0030.html

34 "Open Government Guide: Access to Public Records and Meetings in Montana," The Reporters Committee for Freedom of the Press, 2011, at www.rcfp.org/rcfp/orders/docs/ogg/MT.pdf

35 *Great Falls Tribune v. Great Falls Public Schools*, 255 Mont. 125, 841 P.2d 502 (1992).

36 Nebraska Revised Statute § 84-1408, at <https://nebraskalegislature.gov/laws/statutes.php?statute=84-1408>

37 Nebraska Revised Statutes § 84-1410(1)(a), at <https://nebraskalegislature.gov/laws/statutes.php?statute=84-1410>

are no other provisions in Nebraska's Open Meetings Act relating to negotiations with a union.

Nevada

Collective bargaining statutes do not apply to state employees and their compensation and conditions of employment are set forth by the Legislature.³⁸

Negotiations between a local government employer and an employee organization are not required to be open to the public.³⁹ However, before approving a collective bargaining agreement, local governments must hold a public hearing and provide public access to proposed collective bargaining agreement no less than three days before the hearing.⁴⁰

North Dakota

All meetings are open to the public, there are no exemptions specified for labor negotiations or collective bargaining of public employees.⁴¹ Government employers may meet in closed executive session to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator regarding a pending claim, litigation, adversarial administrative proceedings, or contracts, which are currently being negotiated or for which negotiation is reasonably likely to occur in the immediate future. An executive session may be held under this subsection only when an open meeting would have an adverse fiscal effect on the bargaining or litigating position of the public entity.⁴²

A 1977 ruling by the North Dakota supreme court held that all school board negotiations of teacher contracts are required to be open to the public. "All school board meetings at which teacher contract offers and school board offers and counteroffers are considered are required to be open to the public. In addition, all school board and teacher contract negotiating sessions, regardless of negotiating committee composition, are open to the public."⁴³

Oregon

Collective bargaining negotiations between government employers and government employee representatives are open to the public unless negotiators for both sides request that negotiations be conducted in closed executive session.⁴⁴

38 Nevada Revised Statute § 284, at www.leg.state.nv.us/NRS/NRS-284.html

39 Nevada Revised Statute § 288.220, at www.leg.state.nv.us/nrs/NRS-288.html#NRS288Sec270

40 Nevada Revised Statute § 288.153(1)(2), at www.leg.state.nv.us/nrs/NRS-288.html#NRS288Sec153

41 North Dakota Century Code § 44-04-19, Access to public meetings, at www.legis.nd.gov/cencode/t44c04.pdf

42 North Dakota Century Code § 44-04-19.1(9), Open Records and Open Meetings-Exemptions, at www.legis.nd.gov/cencode/t44c04.pdf

43 North Dakota Open Meetings Manual, Office of Attorney General, April 2017 Edition, at <https://attorneygeneral.nd.gov/sites/ag/files/documents/OpenMeetingsManual.pdf>

44 Oregon Statute § ORS 192.660(3), at www.oregonlaws.org/ors/192.660.

Pennsylvania

While collective bargaining negotiations are exempt from the state's open meetings law and may be closed to the public, in 2016 a new law was passed (SB 644: Act 15) requiring the state's Independent Fiscal Office to provide a cost analysis of every proposed collective bargaining agreement under the governor's jurisdiction, prior to the agreement taking effect.⁴⁵

The cost analysis must include the number of workers covered and detail the changes to employee wages and benefits, including pension contributions, and changes to working hours or working conditions and project the cost of those changes. The analysis must also compare the collective bargaining agreement currently in effect with projections for the proposed contract agreement for the current and five subsequent fiscal years.

Tennessee

Collective bargaining negotiations between government employers and employee representatives are open to the public.⁴⁶

Texas

Collective bargaining negotiations between government employers and employee representatives are open to the public.⁴⁷

Policy Analysis

Opening public employee collective bargaining is clearly working in many states in creating more open, honest, and accountable government. There is no reason it should not also work in Washington and create the same public benefit.

Since government employee contracts account for such a large portion of public spending, they should not be negotiated in secret. Taxpayers provide the money for these agreements. The public should be allowed to follow the process and hold government officials accountable for the spending decisions they make on taxpayers' behalf. Similarly, union members would benefit from knowing exactly what proposals their union representatives are requesting, and what proposals they are rejecting.

In addition to providing taxpayers and union members with current information on how they are being represented, open negotiations would instill more accountability into the process by quickly identifying whether one side is being unreasonable in negotiations to help the public determine who is acting in good or bad faith.

45 Pennsylvania General Assembly, Act 15 of 2016, at www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2016&sessInd=0&act=15

46 "Tennessee Open Meetings Act," at www.comptroller.tn.gov/openrecords/pdf/open%20meetings%20draft8-44-101.pdf

47 "Texas Local Government Code - Sec. 174.108. OPEN DELIBERATIONS," Texas Legislature, at www.statutes.legis.state.tx.us/SOTWDOcs/LG/htm/LG.174.htm

A good example can be found in the recent teacher strikes in the Tacoma and Battle Ground School Districts. The difference between what school district officials said they were offering, and what the union executives representing teachers claimed was being offered, was so great that both districts asked the Public Employment Relations Commission (PERC) to conduct a “fact finding” investigation to separate the rhetoric from the reality. As the Tacoma District spokesman put it, getting PERC involved would ensure both sides “operate from the same set of facts.”⁴⁸

There was so much misinformation and distrust that a third party was needed to intervene and provide a referee for the dispute. It was impossible for teachers, taxpayers, and even the media, to know who was being truthful and negotiating in good (or bad) faith, since the negotiations were not open to the public.

Opening collective bargaining negotiations to the public would ensure everyone operates from the same set of facts. Open negotiations would allow the public (including the teachers who rely solely on their bargaining team to keep them informed) to witness first hand what offers are being made (and rejected) and the impact those offers would have on the school district’s budget.

Such commonsense arguments explain why ending secrecy in government employee contract negotiations is popular with Washington taxpayers. A statewide poll of 500 Washington voters conducted in 2015 revealed 76 percent supported “requiring collective bargaining negotiations for government employers to be open to the public.”⁴⁹

Editorials from major newspapers across the state have also called for government officials to open the doors to the public concerning government employment contracts.⁵⁰

When Congress was debating the controversial Affordable Care Act in 2010, then-Speaker of the House Nancy Pelosi famously declared, “We have to pass the bill so that you can find out what’s in it.”⁵¹ Her comment was immediately and rightfully criticized as a glaring example of why many voters distrust lawmakers and a closed-door policy making process.

The secret collective bargaining negotiation process between government and public employee unions is no different. Today in Washington state, the public can’t know what is in a collective bargaining agreement until an agreement has been finalized.

48 “Teacher strikes are a perfect example of why open collective bargaining is needed,” Erin Shannon, blog post, Washington Policy Center, September 12, 2018, at www.washingtonpolicy.org/publications/detail/teacher-strikes-are-a-perfect-example-of-why-open-collective-bargaining-is-needed.

49 Wickers Group statewide poll of 500 Washington voters, June 2015, copy available on request.

50 “Will media support I-1608’s quest for more open government?,” by Erin Shannon, Washington Policy Center, March 7, 2018 at www.washingtonpolicy.org/publications/detail/will-media-support-i-1608s-quest-for-more-open-government

51 “Pelosi: People won’t appreciate reform until it passes,” Politico, Live Pulse, March 9, 2010, at www.politico.com/livepulse/0310/Pelosi_People_wont_appreciate_reform_until_it_passes.html.

Conclusion

Earlier this year, Governor Jay Inslee emphasized the importance of open and transparent government:

“The public’s right to government information is one we hold dearly in Washington. Transparency is a cornerstone of a democratic government.”⁵²

The public should always have the right to know what tradeoffs and promises led to final and binding collective bargaining agreements. Especially when those agreements lock into place billions of dollars of annual taxpayer spending.

It is important to remember, as declared by the state’s Open Public Meetings Act, that the people “do not give their public servants the right to decide what is good” for them to know, and “the people insist on remaining informed so that they may retain control over the instruments they have created.”

Following in the successful example of other states that have ended collective bargaining in secrecy and opened the process up to the public is the best way for officials in Washington state to promote responsible civic engagement and to show respect for the people’s right to be informed.

52 “Inslee vetoes ESB 6617-Legislature and media agree to discuss path forward,” Press Release, Governor Jay Inslee, Office of the Governor, March 1, 2018 at www.governor.wa.gov/news-media/inslee-vetoes-esb-6617-%E2%80%93-legislature-and-media-agree-discuss-path-forward

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