Update Collective Bargaining Laws

Why Washington's 2019 Legislature should approve **HB 1575 / SB 5623**

The U.S. Supreme Court's 2018 Janus v. AFSCME decision overturned 40-plus years of legal precedent, disrupting union contracts covering millions of Americans. Here in Washington state, processes and procedures carefully crafted over four decades to balance the rights and obligations of public employers and employees now require updating. The state's collective bargaining statutes must be aligned with the Janus decision to promote clarity and consistency across public sector bargaining relationships in our state.

WHAT IT DOES

The Washington State Labor Council, AFL-CIO strongly supports passage of HB 1575, sponsored by Rep. Monica Stonier (D-Vancouver), and SB 5623, sponsored by Sen. Kevin Van de Wege (D-Sequim). These companion bills would update Washington's public sector collective bargaining statutes to reflect common practices, promote consistency for certifying union elections, assign recording keeping responsibility, and bring our laws into compliance with the *Janus* decision.

HB 1575/SB 5623 will:

Align collective bargaining statues with *Janus*

It would strike fair-share representation fee (also known as "agency fee") and automatic dues-deduction provisions from state law according to the requirements of the *Janus* decision. It would also clarify legislative intent with respect to representation fees and membership, which it says "is necessary to provide certainty to

public employers and employee organizations that relied on state law, and to avoid disruption of public employee labor relations." Notably, this clarification includes that "public employers and employee organizations who relied on, and abided by, state law and supreme court precedent (*Abood*) in deducting and accepting those fees were not liable to refund them."

Clarify unions' responsibilities

It clarifies that public employee unions are assigned the responsibility of processing and retaining membership applications and membership resignation requests. It also clearly establishes public employers' responsibilities with respect to dues deduction.

Modernize membership organizing

It recognizes that electronic signatures and recorded voice authorizations are acceptable for union organizing and membership. Electronic signatures have been considered legal recognition under federal law since 2000. Likewise, recorded voice authorizations have been used for years—by credit card companies, for example—to ensure the validity of legal commitments. Workers should be able to authorize union membership and dues deduction using today's technologies.

Makes cross-check certification consistent

Under current law, there are multiple thresholds for the percentage of public employees that must authorize union representation for the union to be certified as exclusive bargaining representative. These "cross-check" certification processes should be uniform. If a majority of employees — more than 50 percent — want union representation, they should have it. That's already the case for most public employees. HB 1575/SB 5623 would ensure that cross-check union certification processes at the PERC are consistent with that of the General Government bargaining units.

WHY WE NEED IT

In June 2018, the U.S. Supreme Court announced its *Janus v. AFSCME* ruling, which imposed so-called "right to work" restrictions on all public employees nationwide. Under *Janus,* state and local governments and public employee unions are banned from including fair-share provisions in their contracts. These provisions allow employees to withdraw from unions but require them to pay a representation fee—as opposed to full dues—to help pay the costs of negotiating and enforcing the contract. Under *Janus*, public employee unions are now required to advocate for non-members, even if they don't pay a penny to support the effort.

The court's 5-4 ruling in *Janus* overturned its unanimous 1977 *Abood* decision, which found those fair-share representation fees to be legal. In the 40 years since *Abood*, up through and including the 2018 legislative session, the state has developed policies and procedures that complied with *Abood*.

Now, Washington state's collective bargaining statutes must be re-aligned to comply with the new *Janus* decision. The Legislature must act to ensure public employees in Washington retain the freedom to join together and bargain a fair return on their work, while recognizing the changes in labor law imposed by the U.S. Supreme Court and clarifying legislative intent for laws in effect prior to *Janus*.

SUMMARY

These changes will ensure that the state's collective bargaining statutes are in compliance with the *Janus* decision, while protecting the freedom of Washington's public employees to join together and bargain for fair compensation. HB 1575/SB 5623 updates, modernizes and clarifies state laws so public employers and employees have clear understandings of their rights and responsibilities.

In addition to Updating Collective Bargaining Laws, the Washington State Labor Council, AFL-CIO is supporting a range of issues that address economic opportunity and justice. Learn more at **www.wslc.org** or **www.TheStand.org**.

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