HB 2079 - H AMD **207**
By Representative Chandler

FAILED 3/9/2007

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that confusion exists regarding the rights and protections afforded to those paying agency shop fees and intends to clarify those rights by specifying limits on the uses of agency fees. The legislature further finds that the extraordinary power to compel payment for services is a power normally reserved only to public entities, and that its extension to private entities with nonpublic interests including campaign activities must be restricted to the purposes justifying its authorization by law. The legislature further finds that the United States constitutional protection against compelled speech preempts any statutory grant of power to compel payment for collective bargaining services, and interpretations of state law must always put protection from compelled speech before labor organization convenience. The legislature further finds that many labor organizations operate without relying on mandatory fees, and the inclusion of such mandatory fees in bargaining agreements and their protection under law is not necessary for the interests and rights of labor organizations. The legislature further finds that generally accepted accounting principles consider commingled funds to be from all sources, and that only a complete refund of agency fees would satisfy the requirements of the citizens' Initiative Measure No. 134.

Sec. 2. RCW 42.17.760 and 1993 c 2 s 16 are each amended to read as follows:

(1) A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to

operate a political committee, unless affirmatively authorized by the individual.

(2) Subject to other provisions of this chapter, labor organizations may use any fund or account from which payments or expenditures are made, and where agency shop fees are commingled, to make contributions or expenditures to influence an election or operate a political committee if all agency shop fees collected in the twelve months prior to the contribution or expenditure are returned to those who paid fees and did not affirmatively authorize these uses.

(3) For the purpose of this section:

(a) "Agency shop fees" means any funds received from someone who has not affirmatively joined a labor organization but supplied those funds pursuant to a collective bargaining agreement;

(b) "Affirmatively authorized" means that the agency fee payer signed a declaration within the twelve months prior to the expenditure indicating consent to use of the fees to influence an election;

(c) "Use agency shop fees" means to make any expenditure from agency shop fees or any funds commingled with agency shop fees including general treasury funds; and

(d) "Expenditures to influence an election" includes but is not limited to expenditures on staff who have duties including activities to affect elections or train other staff or volunteers to affect elections, expenditures on communication efforts internally or externally to advance or oppose one or more candidates or ballot measures, expenditures to identify voter preferences, expenditures to aid in voter turnout, expenditures on staff to aid in recruiting or training candidates, expenditures on staff or materials to prepare ballot measures or recall efforts, expenditures on staff or legal services to contest election results, and donations of funds to organizations or individuals who make expenditures to influence an election."

Correct the title.

EFFECT: Strikes the underlying bill. The amendment provides legislative findings that intend to specify limits on the use of agency shop fees; recognize constitutional limits on the ability of the legislature to authorize a compelled payment for collective bargaining services and that the legislature must protect speech over labor organization convenience; recognize that many labor organizations operate without use of mandatory dues and that mandatory dues are not necessary for the interests and rights of labor organizations; and that generally accepted accounting principles consider commingled funds to be from all sources and only a complete refund of agency fees would satisfy the requirements of the Citizen's Initiative Measure No. 134.

Allows labor organizations to use any fund or account from which payments or expenditures are made, and where agency shop fees are commingled, to make political campaign contributions if all agency shops fees collected in the twelve months prior to the contribution have been refunded in full to those who did not affirmatively authorize such use.

Provides definitions for: "agency shop fees"; "affirmatively authorized"; "use of agency shop fees"; and "expenditures to influence an election".