

SENATE BILL REPORT

SB 6536

As Reported By Senate Committee On:
Health & Long-Term Care, February 5, 2004

Title: An act relating to further reaffirmation and clarification of individual providers' work roles as nonstate employees, excluding these workers from specific provisions under Title 41 RCW.

Brief Description: Clarifying that individual providers of home care are nonstate employees.

Sponsors: Senators Deccio, Winsley and Thibaudeau; by request of Home Care Quality Authority.

Brief History:

Committee Activity: Health & Long-Term Care: 2/5/04 [DP].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass.

Signed by Senators Deccio, Chair; Winsley, Vice Chair; Franklin, Keiser, Parlette and Thibaudeau.

Staff: Tanya Karwaki (786-7447)

Background: The state contracts with home care workers to provide long-term care services for elderly and disabled clients who are eligible for Medicaid through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. Home care workers provide DSHS clients with personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. These home care workers are hired and fired by the client, but are paid by DSHS. DSHS also pays unemployment insurance contributions to cover these workers.

In November 2001, voters enacted Initiative Measure No. 775. The initiative states that consumers of services retain the right to select, hire, supervise the work of, and terminate any individual home care worker providing them with services. I-775 provides individual home care workers with collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA). It also created the Home Care Quality Authority (HCQA) as an agency of state government to provide oversight of home care services and, for purposes of collective bargaining, to function as the "employer" of approximately 26,000 individual home care workers. I-775 states that the individual home care workers are not, because of these provisions, employees of the state for any purpose.

Individual home care workers do not have the right to strike and are covered by the binding interest arbitration provisions of the PECBA.

Under I-775, the Governor must submit a request to the Legislature for the funds and any legislative changes necessary to implement a collective bargaining agreement covering individual home care workers within ten days of the agreement's ratification. The Legislature may only approve or reject the submission of the request for funds as a whole. If the Legislature rejects or fails to act on the submission, the collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

In August 2002, the individual home care workers voted to unionize. An initial contract submitted to the Legislature in January 2003 was returned to the parties for renegotiation after the Legislature adjourned without approving the funds for the contract.

Summary of Bill: It is clarified that an individual provider is not to be considered, for any purpose, an employee of Washington State, an area agency on aging, or any other public agency.

It is expressly stated that the collective bargaining law governs the collective bargaining relationship, not the employment relationship, between the parties.

Individual home care workers are expressly excluded from the statutory provisions that apply to state employees, such as pension programs.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill clarifies that individual providers are not state employees. The relationship is one of collective bargaining and not employment. Individual home care workers are specifically excluded from the public employment, civil service statute.

Testimony Against: None.

Testified: Mindy Schaffner, HCQA (pro).