

# FINAL BILL REPORT

## HB 2079

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C 438 L 07

Synopsis as Enacted

**Brief Description:** Concerning use of agency shop fees.

**Sponsors:** By Representatives McDermott, Ormsby, Williams, Simpson and Hunt.

**House Committee on State Government & Tribal Affairs**

**Senate Committee on Labor, Commerce, Research & Development**

### **Background:**

Agency shop fees are fees paid by public employees who are not union members for the costs related to collective bargaining done by labor organizations or unions on behalf of all employees in the bargaining unit. Under Washington law, agency shop fees are equivalent to member dues and, like dues, may be deducted by employers from salary payments. A portion of member dues goes to the support of political and ideological causes as chosen by the labor organization or union; such expenditures are referred to as non-chargeable activities. The United States Supreme Court, in *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986), ruled that unions must adopt procedures to protect the rights of agency fee payers who do not wish to support non-chargeable activities.

The United States Supreme Court (Court), in a series of cases, has established standards for the use of member dues and agency shop fees. These cases address the First Amendment and the right of free speech and the right of freedom of association. With regard to these rights, the First Amendment is underpinned by a fundamental tension: the right of freedom of association to enable people to band together for greater effect in the political arena, and the free speech rights entitled to that organization; and the countervailing right of an individual not to be compelled to associate with politics and ideologies he or she does not support.

Washington law specifically prohibits labor organizations or unions from using agency shop fees for political campaign contributions from such fees that have been paid by nonmembers unless the individual nonmembers have given affirmative authorization. This law was enacted in 1992 as the result of Initiative 134, the Fair Campaign Practices Act, which in part restricted the ability of labor organizations or unions to use agency shops fees for political purposes.

In Washington, the issue of agency shop fees has been the subject of protracted litigation. Most recently, in 2006, the Washington Supreme Court in *State ex rel. PDC v. WEA*, Wn.2d 543 (2006) upheld two state Court of Appeals decisions, holding that the statutory requirement prohibiting unions from using nonmember fees for political purposes unless the union has the affirmative assent of the nonmember is an unconstitutional infringement on the First Amendment rights of unions. The Washington Supreme Court stated that the statute's requirement of affirmative authorization is an unconstitutional burden on the First

Amendment rights of labor organizations. The United States Supreme Court granted certiorari in 2006, and heard oral arguments in January 2007; a decision is pending.

**Summary:**

The statute prohibiting labor organizations from using agency shop fees paid by nonmembers for political campaign contributions unless authorized to do so by the individual nonmembers is modified so that when labor organizations are making such political campaign contributions, the contribution is not considered to be use of agency shop fees when there are sufficient funds in the organization's general treasury from other revenue sources.

**Votes on Final Passage:**

House	55	42
Senate	29	20

**Effective:** May 11, 2007