



Washington Research Council

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BRIEFLY

As a result of voter-approved Initiative 775, lawmakers are faced with a \$98 million cost to implement a collective bargaining agreement between home care workers and the state Health Care Quality Authority. Unanswered questions make it impossible to understand the full fiscal consequences of the contract. The legislature should not fund the contract until the uncertainties are resolved, and then only as part of the comprehensive 2003-2005 biennial budget bill.

No Rush to Fund Collective Bargaining Agreement for Home Care Workers

Introduction

In 2001, voters approved Initiative 775, allowing home care workers to form a union and bargain collectively with the state. At the time, the Washington Research Council said I-775 created an unfunded mandate, posing a substantial risk to a state budget already facing a \$1 billion shortfall. (See PB 01-26, October 25, 2001, Initiative 775: Wrong Road to Quality Care.)

Now, with the state facing a deficit of more than \$2 billion, lawmakers are wrestling with the budget consequences of I-775. On Wednesday, March 12, the House Appropriations Committee passed HB 1777, which would spend nearly \$98 million from the general fund-state to cover the financial terms of the first collective bargaining agreement. (An additional \$95 million would flow from the general fund-federal. The workers are paid from the joint state-federal Medicaid program.)

Background

The initiative set up a new agency, the Home Care Quality Authority, to oversee home care services and act as the "employer" for purposes of contract negotiations. The HCQA consists of nine members, required by I-775 to include representatives (one each) of the Developmental Disabilities Planning Council, the Governor's Committee on Disability Issues and Employment, the State Council on Aging, and the Washington Association of Area Agencies on Aging, plus five individuals who are currently using or have formerly used long-term in-home care services, including one with a developmental disability.

In August 2002, home care workers voted to join the Service Employees International Union (SEIU), the group most responsible for I-775. The Home Care Quality Authority and SEIU negotiated an agreement increasing the hourly wage of the 26,000 home care workers from \$7.68 to \$8.70 effective July 1, 2003,

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rising to \$9.75 July 1, 2004.

The state general fund money divides this way: \$61.4 million for the wage hike, \$15.8 million for health insurance coverage through the state Basic Health Plan or an equivalent, and \$20.3 million to provide workers' compensation benefits through the Department of Labor and Industries.

The home care workers ratified the agreement in late December, after the governor's budget had been released. While the governor provided no specific appropriation to fund the agreement, his representatives have said they believe funding can be found from money left in reserves. (The governor's 2003-2005 budget left a scant \$270 million in reserves.)

Under the terms prescribed by the initiative, the governor must submit to the legislature any request for funds or statutory changes necessary to implement the agreement. The legislators' only options are to accept or reject the funding request; they may not amend it. If the legislature rejects the deal, the contract would be "reopened for the purposes of renegotiating the funds necessary to implement the agreement."

Unanswered Questions

During the Appropriations Committee hearing, several questions surfaced that demonstrate why lawmakers should not be in a hurry to appropriate these funds outside of the general budget process.

□ *Who is the employer of the home care workers?*

The question does not answer itself, and no definitive answer was provided legislators at the hearing. There are three possible answers: the consumer, who hires and fires the home care worker; the HCQA, which negotiates the contract and sets standards; and the Department of Social and Health Services, which contracts with individual provider workers, establishes hours and pays the bills. The answer matters. Many lawmakers express justifiable concern that the state could be placed at risk of assuming unwanted liability for pension benefits, health care, and other rights associated with state employment, not to mention the complicated and potentially costly liability considerations tied to workers' compensation, including whether the state can be sued by an injured worker. The state, obviously, has little control of the working conditions experienced by in-home caregivers, many of whom are working for family members.



Lawmakers may choose to accept some or all of these risks, but the choice should be based on solid information.

- ❑ *Should the state give raises to one group of workers while providing no increase for most others?*

The governor's budget proposes no general salary increase for state employees. He further suspends the voter-approved cost-of-living increase for public school teachers. Yet, under HB 1777, home care workers would receive two cost-of-living increases, amounting to about 25% over the biennium, plus a significant health care benefit. The contract would provide higher compensation for home care workers than that currently received by other workers providing similar services in other state programs.

One reason offered for the accelerated action on funding the bargaining agreement is that the legislature was obliged to act on the wishes of the voters in passing I-775. Regardless of how one feels about the negotiated contract, that rationale simply doesn't hold up: The voters had no idea of the contract terms or the cost of achieving them. As with other recent popular initiatives, the measure went to the ballot unencumbered by any candid statement of long-term costs or consequences.

Ultimately, the decision posed by HB 1777 is simply another of the many budget decisions to be addressed by the legislature in crafting a spending plan for the 2003-2005 biennium. By acting outside of the normal appropriations process and singling this measure out for special consideration, lawmakers would be setting a precedent that will make the rest of the budget decisions more difficult.

- ❑ *What are the long-term consequences of this contract?*

The \$98 million cost for the 2003-2005 biennium doubles to about \$200 million in the 2005-2007 biennium. And that assumes no increase in caseloads, a risky assumption given that the more attractive compensation package may lure people currently providing care to family members to seek to be covered under the program.

Further, while the contract calls for adding home care workers to the Basic Health Plan, the BHP itself is in trouble, with the account that supports it running a deficit of more than \$500 million. Benefits may be changed this session, and HB 1777 says health care coverage for the employees covered by the agreement will be provided by either the BHP or "an equivalent health plan determined by the terms of the collective bargaining agreement..." It's unclear exactly what the effect of the additional en-



rollees might be on the strapped BHP, or what the longer-term effect on the state budget might be if the bargaining unit opts for undefined "equivalent" coverage.

The contract sets a precedent for future collective bargaining agreements, just as the state gets set to bargain wages and benefits with employees under the sweeping Personnel System Reform Act of 2002. Under the governor's budget, most state employees will go several years without a base salary increase; the 25 percent salary increase given home care workers sets an attractive and unaffordable standard. No one questions that the home care workers, after years of poor compensation, deserve a pay raise and appropriate benefits. They are playing catch-up. Lawmakers, however, have a responsibility to be prudent and foresighted in their acceptance of an agreement presented them for a simple up-or-down vote.

Conclusion

The legislature has a statutory obligation to deal with the contract negotiated as a result of I-775. But there is no reason to address the contract out of context. It is a budget issue, and should be considered as part of the comprehensive 2003-2005 budget deliberations. There is time to resolve unanswered questions, even time to reject the contract and send it back for renegotiation.

The initiative does not require legislators to be a rubber stamp.

