

Special Report

"Paycheck Protections" and the Washington Experience: What impact did it really have on union politics?

by David Denholm

In 1992, voters in the state of Washington approved a comprehensive campaign finance reform initiative. A few paragraphs of this initiative required that annual, written authorization be obtained for any payroll deduction for a political purpose.

In the following years there has been a great deal of controversy about the impact this provision had on the political action efforts of the Washington Education Association (WEA), the state affiliate of the National Education Association (NEA).

Initial reports, which focused almost entirely on the WEA's experience, indicated a sharp drop in support for union political action. In the case of the WEA, the number of teachers "voluntarily" contributing to WEA's political action committee reportedly fell from 45,000 to 8,000, severely limiting WEA's PAC resources.

As word about the Washington initiative and its impact on the WEA's political fortunes spread there were a great many imitators, and the "paycheck protection" movement was born. This movement may have been motivated by the apparent need to protect workers from being forced to support union political activity through payroll deductions or by a desire to reduce union political power. If the latter, it may have been misguided.

Mistaken Focus on Teacher Union Politics:

The narrow focus on teacher union politics -- and I was as guilty of it as anyone -- may have led to a completely wrong interpretation of the impact of the Washington initiative on union political fortunes.

There is no doubt that teacher union political action is of particular interest to a great many people. The National Education Association with its 2.2 million members is the largest labor union in America, and it seems to be on the verge of a merger with its smaller rival, the 800,000 member American Federation of Teachers, AFL-CIO. The NEA also has a well deserved reputation for militantly ultra liberal politics.

The NEA's political action committee, at less than \$2.5 million in income per year, is not the largest union PAC. In fact, in terms of dollars raised per member it doesn't do very well. The American Federation of State, County and Municipal Employees, AFL-CIO, with less than 1.3 million members raises more than \$3.5 million a year for its PAC and the mighty (and mighty famous) International Brotherhood of Teamsters, with 1.4 million members raises almost \$5 million a year for its PAC.

Perhaps the NEA's fund raising problem is an indication of the fact that many teachers don't agree with the NEA's politics, which almost exclusively supports Democratic candidates and ultra liberal political causes.

But, at the state level, especially in states where "negative check-off" of support for union political action committees is legal, teacher union lobbyists are undoubtedly the cock of the walk in many state capitals. Negative check-off is the practice of telling a member that a contribution to the union PAC will be deducted from their pay, unless they object in writing. This practice is so coercive it is illegal under federal election law, but in several states NEA union officials are past masters

Page two

of the negative check-off art and as a result have some of the largest PACs at the state government level.

Contributions Limit Clouds Analysis:

Putting a concern about the WEA/NEA's politics aside, a closer examination of what really happened in Washington after the initiative reveals a different picture. In order to understand how all this worked, it's important to know that prior to the initiative political action committees could give unlimited amounts to favored candidates. The initiative put a \$500 per election cap on most contributions. (The limit was adjusted for inflation so that by 1996 the limit was \$550 per election or \$1,100 for both the primary and general elections.)

So for example, in 1990 WEA's PAC gave \$20,000 or more in a few state legislative races and contributions in the \$5,000 to \$10,000 range weren't uncommon. After the initiative these contributions were limited to \$500 per election or a total of \$1,000 for the primary and the general.

WEA's Different Approach and Legal Problems:

WEA's response to the restrictions placed upon it was apparently different from that of other union PACs. WEA officials devised an elaborate and apparently illegal scheme to increase union dues and transfer these levies to a new operation called the "Community Outreach Program" which would take over most of the heavy duty political work while the political action committee would continue to exist for the purpose of making the very limited direct campaign contributions.

As a result, WEA officials didn't really put much emphasis on getting teachers to authorize payroll deductions for the PAC. It's small wonder the number of teachers contributing declined so sharply. But, this didn't for a moment decrease the amount of money WEA was spending, albeit illegally, to accomplish its political goals. In fact, by all reasonable estimates, the amount increased dramatically.

Because of the WEA's different response to the new restrictions and subsequent legal problems, focusing on the WEA's political fortunes after passage of the initiative obscures what was going on with other unions at the same time. This picture gets a bit murky because the Washington's Public Disclosure Commission's reports changed a bit from year to year, but it's not impossible to get some idea of the impact.

A Different Look at the Impact:

In the 1992 elections -- the year the initiative was approved -- in a report based on "total contributions," the Public Disclosure Commission ranked the Washington Federation of State Employees PAC as the second largest contributor with a total of \$301,299, two steps ahead of WEA's PAC at \$217,775.

Many political action committees apparently had problems adjusting to the new rules. Across the board, contributions from political action committees in Washington were sharply lower in 1994.

In the 1994 elections, based on "contributions to legislative candidates" the Washington Federation of State Employees ranked 13th with a total of \$64,200 and WEA didn't even make the cutoff for the top 50 PACs.

Page three

In the 1996 elections, however, based on the total of "contributions received" the Washington Federation of State Employees ranked number one with a total of \$1,083,580. During the same election cycle -- with two school choice proposals on the ballot -- WEA reported total contributions received of \$735,053, most of which it was later determined to be of questionable legality.

Contribution Limit and Proliferation of Union PACs:

There is another interesting aspect to the enforcement of the initiative by the Public Disclosure Commission and union reaction to it. The clear language of the initiative regarding the limit on contributions applies it to:

Two or more contributing entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation or a local unit, branch, or affiliate of a trade association, labor union or collective bargaining association.

When writing the regulations to implement this provision the Public Disclosure Commission created a loophole big enough for a Teamster to drive an eighteen wheeler through. The regulations state that:

a local unit shall maintain its own contribution limit if the parent or umbrella organization does not participate in an election campaign with respect to a candidate.

In other words, if the state or district body of a labor union doesn't contribute to a candidate, the contribution limit applies to each union local individually. Put in political terms, the union is limited to a \$500 contribution, but if the state body of the union doesn't contribute, the \$500 limit applies to each of the locals in the state individually.

This isn't a hypothetical problem. The Public Disclosure Commission's 1990 Fact Book reports contributions from the Washington and Northern Idaho District Council of Laborers and none from any locals of the Laborers Union. The 1996 Fact Book reports contributions to candidates from at least ten different locals of the Laborers Union and none from the District Council. As a result, several candidates received an aggregate total of contributions from locals of the Laborers Union in excess of the limit which would have applied to the District Council.

And this isn't an isolated example. There is a widespread proliferation of local union political action committees in Washington. The Public Disclosure Commission's 1990 Fact Book reports contributions from 65 different PACs affiliated with labor unions. The 1996 Fact Book reports contributions from 89 union PACs. Considering that the unions are still in the process of adjusting to the new law and new regulations implementing it, it would not be surprising to see quite a few more union PACs in the years to come.

There are apparently also some communication and enforcement problems associated with the new regulations interpreting the law.

Several examples are readily available from the Public Disclosure Commission's 1996 Fact Book in which local unions have made contributions to the same candidates supported by their state affiliate. These contributions have brought the combined total received by the candidate from a union above the legal limit.

Page four

For example, George Orr, an unsuccessful Democratic candidate for the State Senate received \$550 from the Washington State Council of Firefighters, \$550 from Spokane Firefighters Local 29, \$250 from Kirkland Firefighters, \$500 from Lakewood Firefighters Local 1488, \$250 from Renton Firefighters Local 864, \$550 from Seattle Firefighters Voluntary PAC and \$550 from Active In Democracy (Tacoma Firefighters). This brings the total he received from the state and affiliated local units of the International Association of Fire Fighters, AFL-CIO, to \$3,200, \$2,100 in excess of the \$1,100 limit which applied.

Impact on Union Political Fund Raising?

As to the other unions, the requirement that payroll deductions for PAC contributions be authorized annually in writing and the limit on campaign contributions does not seem to have, in any way, reduced their political income. It may have caused them to seek more creative ways to raise the money and to spend it for political purposes without running afoul of the new law. Perhaps it just forced unions to do what they should have been doing all along, asking their members permission before taking their money for political purposes.

Did the initiative's requirement that political payroll deductions be authorized annually in writing reduce union political activity or influence? Apparently not.

The Public Disclosure Commission's report on the "Top 50 Contributors to Washington State Legislative Campaigns, 1992" (based on contributions to legislative campaigns) includes ten union PACs -- two of which are in the top ten. Their report of the "50 Most Active Political Action Committees in 1996" (based on total reported expenditures, which as noted above were higher than 1992 levels) also includes ten union PACs -- four of which are in the top ten.

The Union Reaction:

Why, then, are the unions spending millions upon millions of dues dollars fighting "paycheck protection" proposals all around the country?

Perhaps it's an ego thing -- if the proposals are seen by the public as being anti-union, the unions are bound and determined to oppose them.

Perhaps it's just ignorance. Maybe the unions really believe that these "paycheck protection" proposals will diminish their political power.

Of course, it's also possible that the unions have closely studied what happened in Washington and that all their wailing and hand wringing is akin to Brer Rabbit's classic line, "Please don't throw me in the briar patch."

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