

**GOVERNOR BRIEFING  
CONFIDENTIAL**

Date: December 20, 2013

Department: State Human Resource Division/Labor Relations Section      Name: Diane Lutz/Ro Marcus

Informational

Topic: Home Care Workers –Harris v. Quinn

**BACKGROUND/CONTEXT:**

In *Harris v. Quinn*, the Seventh Circuit US Court of Appeals upheld a collective bargaining agreement provision requiring Medicaid home care personal assistants to pay a fee to a union representative, finding that it does not violate the First Amendment. Because the personal assistants are employees of the State of Illinois, at least in those respects relevant to collective bargaining, the union's collection and use of fair share fees is permitted by the Supreme Court's mandatory union fee jurisprudence. The issue of requiring employees to at least pay a fair share amount representative of the costs of collective bargaining and contract administration has withstood previous challenges based on the First Amendment right to free speech and association. In *Abood v. Detroit Bd. Of Educ.*, the Supreme Court held it is permissible to compel employees to support legitimate, non-ideological, functions tied to collective-bargaining representation. In *Harris*, among other things, the home care workers contesting the fee requirement contend that *Abood* and similar cases do not apply to them since they are not employees in the traditional sense. The Seventh Circuit declined to follow this argument and held the home care workers are employees.

**ISSUES:**

In January of 2014, the U.S. Supreme Court will hear *Harris v. Quinn*, and review the requirement that home care workers pay union dues or fees as condition to participating as a home care worker. The Court's decision to accept an appeal on this issue has caused concern by labor organizations. Specifically, at least two SEIU locals have sought support from the State to modify existing requirements for written authorization for dues deductions. This would presumably reduce the impact for labor organizations if the Court issues an adverse ruling in *Harris v. Quinn*.

**STATUS:**

Unions could mitigate the impact of this possible adverse outcome by increasing the number of full dues paying members. Under current state law, an individual electing to have union dues deducted must do so in writing. This requirement is currently administered by the Washington Public Employment Relations Commission (PERC). It is understood that at least two of our labor partners intend to approach PERC to seek modification of this requirement. Specifically, the interested unions would like to have the rule modified so that instead of a written authorization an employee can verbally agree to become a member with an electronic record of the authorization.