

CITY OF OAKLAND
COUNCIL AGENDA REPORT

TO: Oakland City Council Colleagues
FROM: Council President Ignacio De La Fuente 05 SEP 2005 12:04
DATE: October 13, 2005 (Rules & Legislation Committee)
RE: **RESOLUTION DECLARING OPPOSITION TO STATE PROPOSITION
75 TITLED "PUBLIC EMPLOYEE UNION DUES. RESTRICTIONS ON
POLITICAL CONTRIBUTIONS. EMPLOYEE CONSENT
REQUIREMENT. INITIATIVE STATUTE."**

SUMMARY OF RESOLUTION

This Resolution declares opposition to Proposition 75 which appears as "Public Employee Union Dues. Restrictions on Political Contributions. Employee Consent Requirement. Initiative Statute" on the November 8, 2005 ballot.

FISCAL IMPACT

There is no direct fiscal impact to the city government.

ENVIRONMENTAL IMPACT

There is no direct impact to the natural environment.

BACKGROUND

For detailed background on the proposed Proposition, I have attached the following documents:

- The proposed Resolution for the Oakland City Council
- Official Title and Summary of the State Proposition, prepared by the State Attorney General
- Analysis by the State's Legislative Analyst
- Arguments in favor and against the Proposition as they will appear in the voter booklets
- The Full Text of the Proposition

These documents can also be found on the Secretary of State's website:

http://www.ss.ca.gov/elections/bp_nov05/voter_info_pdf/entire75.pdf


In summary, there are several reasons for Oakland to oppose this Proposition:

- ✓ The Proposition appears to be an attempt by the Governor to weaken the voice of unions that represent public employees including fire fighters, police officers, public school teachers, and nurses working at public facilities.
- ✓ The Proposition unfairly targets public workers but fails to reign in excessive political lobbying by corporations.
- ✓ Special elections are expensive and the Governor has not provided compelling reasons for this special election.
- ✓ We should respect the deliberative legislative process and not circumvent our elected leaders with ballot propositions unless absolutely necessary.

ACTION REQUESTED OF THE CITY COUNCIL

I am asking the City Council to approve this Resolution to declare our opposition to the proposed Proposition which is on the special election ballot for Tuesday, November 8, 2005.

Draft report prepared by: Alex Pedersen, Legislative Aide, Office of City Council President Ignacio De La Fuente

Item # 
October 13, 2005
Rules & Legislation Committee



PUBLIC EMPLOYEE UNION DUES. RESTRICTIONS ON POLITICAL CONTRIBUTIONS. EMPLOYEE CONSENT REQUIREMENT. INITIATIVE STATUTE.

Official Title and Summary

Prepared by the Attorney General

PUBLIC EMPLOYEE UNION DUES. RESTRICTIONS ON POLITICAL CONTRIBUTIONS. EMPLOYEE CONSENT REQUIREMENT. INITIATIVE STATUTE.

- Prohibits the use by public employee labor organizations of public employee dues or fees for political contributions except with the prior consent of individual public employees each year on a specified written form.
- Restriction does not apply to dues or fees collected for charitable organizations, health care insurance, or other purposes directly benefitting the public employee.
- Requires public employee labor organizations to maintain and submit records to Fair Political Practices Commission concerning individual public employees' and organizations' political contributions.
- These records are not subject to public disclosure.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Probably minor state and local government implementation costs, potentially offset in part by revenues from fines and/or fees.


RULES & LEGISLATION
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ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Unions for Government Employees. Groups of government employees—like employees in the private sector—can choose to have a union represent them in negotiations with their employers over salaries, benefits, and other conditions of employment. Individual government employees may choose whether or not to join the union that represents their group of employees. A union's negotiations affect all employees in the group—both members and nonmembers of the union. As a result, members of the group—whether they join a union or not—typically pay a certain level of dues and/or fees to a union for these bargaining and representation services.

Use of Union Dues or Fees for Political Purposes. A union of government employees may engage in other types of activities unrelated to bargaining and representation. For instance, public employee unions may decide to charge additional dues for various political purposes, including supporting and opposing political candidates and issues. Any fees collected from a nonmember of a union cannot be used

for these types of political purposes if the nonmember objects. Each year, unions must publicly report what share of their expenditures was for political purposes.

PROPOSAL

This measure amends state statutes to require public employee unions to get annual, written consent from a government employee in order to charge and use that employee's dues or fees for political purposes. This requirement would apply to both members and nonmembers of a union. The measure would also require unions to keep certain records, including copies of any consent forms.

FISCAL EFFECTS

The state and local governments could experience some increased costs to implement and enforce the consent requirements of the measure. The amount of these costs is probably minor. Some of these costs could be partially offset by increased fines for not complying with the measure's provisions and/or fees charged by government agencies to cover the costs of processing payroll deductions for union dues and fees.

**PROPOSITION
75**

PROPOSITION 75 PROTECTS PUBLIC EMPLOYEES FROM HAVING POLITICAL CONTRIBUTIONS TAKEN AND USED WITHOUT THEIR PERMISSION.

There's a **FUNDAMENTAL UNFAIRNESS IN CALIFORNIA:**

- Hundreds of thousands of public employee union members are *forced to contribute* their hard earned money to political candidates or issues they may oppose.
- Powerful and politically connected union leaders—a small handful of people—can make unilateral decisions with these “forced contributions” to fund political campaigns *without their members' consent*. The workers have no choice—money is automatically deducted from their dues.

Firefighters, police officers, teachers, and other public employees work hard for the people of California and we owe them a huge debt for the work they do on our behalf. *That's why it's only fair that public employees give their permission before their hard earned dollars are taken and given to politicians and political campaigns.*

Many public employee union members don't support the political agenda of the union bosses and it's not right that they are forced to contribute to political candidates and campaigns they oppose:

- Campaign finance records document that several public employee unions have spent more than \$2 million to qualify a ballot measure that would raise property taxes by billions of dollars—rolling back Proposition 13 protections.
- Many members of these unions may oppose this, but the union leaders just take the money and spend it even though individual union members may disagree.

That's not right and it's not fair.

HERE'S WHAT ACTUAL UNION MEMBERS SAY:

“I've been a public school teacher for 20 years. I joined the union when I started teaching because of the benefits it provided and I've always been a proud member.

However, despite the many good things the union does, it . . . contribute[s] a portion of my dues to political . . . campaigns I often disagree with. *That's simply unfair.* I want to be a member of the teachers union, but I don't want to be forced to contribute my money to the union leaders' political agenda.”

Diane Lenning, Huntington Beach

“I'm a member of the largest state employee union. I believe in the union and what it does. It supports me in many ways, but I don't need it spending a portion of my dues for political purposes. If I want to make a political contribution to a candidate it should be voluntary, not mandatory.”

Jim Prunty, Glendora

PROPOSITION 75—IT'S COMMON SENSE.

Here's what it'll do:

- Give public employees the same choices we all have.
- Require public employee unions to obtain annual written consent from members before their dues are taken for political purposes.
- Allow government employees to decide when, how, and if their hard earned wages are spent to support political candidates or campaigns.

Proposition 75 will NOT prevent unions from collecting political contributions, but those contributions will be **CLEARLY VOLUNTARY.**

Vote YES on Proposition 75.

Give California workers the *freedom and choice* we all deserve and help restore union members' political rights. Learn more, visit www.caforpaycheckprotection.com.

MILTON FRIEDMAN, Nobel Prize Winner

LEWIS UHLER, President

National Taxpayer Limitation Committee

ALLAN MANSOOR, Member of Association of Orange County Deputy Sheriffs

Rebuttal to Argument in Favor of Proposition 75

PROPONENTS ARE ONLY PRETENDING TO PROTECT WORKERS.

Prop. 75's sponsor, Lewis Uhler, told the *San Francisco Chronicle* on June 8th that he designed 75 to target public employees because of their “greed” and “arrogance.” Uhler and the big corporations funding 75 aren't trying to protect workers—they're trying to silence them.

WORKERS ALREADY ARE PROTECTED

The U.S. Supreme Court says no public employer can be forced to join a union and contribute dues to politics. Union members already elect their own leaders and participate in internal decisions. Of course, not every member agrees with every decision of the group. That's democracy.

PROP. 75 IS NOT ABOUT FAIRNESS

“This year, our kids' schools have been under attack by initiatives paid for by big corporations. Some would permanently cut annual school funding by \$4 billion.

“Prop. 75 would limit teachers' ability to fight such harmful proposals in future elections through our

unions, but does nothing to limit the big developers and banks behind this attempt to cut school funding.

“Prop. 75 is designed to make us spend time and money on a government-imposed bureaucratic process instead of fighting for our schools and our kids.”

Heidi Chipman, Teacher, Kraemer Middle School

Others will lose. Nurses fighting for hospital staffing protection . . . Police and Firefighters fighting against elimination of survivor benefits for those who die in the line of duty. *Their labor unions are restricted under Prop. 75, but their opponents are not.*

Please stop this unfair attack on teachers, nurses, police, and firefighters. Vote NO on Prop. 75.

Visit www.prop75NO.com.

LIEUTENANT RON COTTINGHAM, President
Peace Officer's Research Association of California

MARY BERGAN, President
California Federation of Teachers

DEBORAH BURGER, President
California Nurses Association

**PROPOSITION
75**

Prop. 75 is unnecessary and unfair. Its hidden agenda is to weaken public employees and strengthen the political influence of big corporations.

Prop. 75 does *not* protect the rights of teachers, nurses, police, and firefighters. Instead it's designed to reduce their ability to respond when politicians would harm education, health care, and public safety.

In 1998, voters rejected a similar proposition and union members voted NO overwhelmingly.

TARGETS TEACHERS, NURSES, FIREFIGHTERS, AND POLICE

Why does 75 target people who take care of all of us?

Recently, teachers fought to restore funding the state borrowed from our public schools, but never repaid. Nurses battled against reductions in hospital staffing to protect patients. Police and firefighters fought against elimination of survivor's benefits for families of those who die in the line of duty.

Prop. 75 is an unfair attempt to diminish the voice of teachers, nurses, firefighters, and police at a time when we need to hear them most.

Prop. 75 *only* restricts public employees. It does *not* restrict corporations—even though corporations spend shareholders' money on politics. The nonpartisan Center for Responsive Politics says corporations already outspend unions in politics nationally by 24 to 1. Prop. 75 will make this imbalance even worse.

CURRENT LAW ALREADY PROTECTS WORKERS

No public employee in California can be forced to become a member of a union. Non-members pay fees to the union for collective bargaining services, but the U.S. Supreme Court has consistently ruled that unions cannot use these fees for political purposes. The union must send financial statements to the worker to ensure that no unauthorized fees are used for politics. Today, 25% of state employees contribute no money to their union's political activities.

Rebuttal to Argument Against Proposition 75

Despite what union leaders would like you to believe, public opinion surveys show that nearly 60% of union households SUPPORT PROPOSITION 75.

Proposition 75 is NOT about the political influence of unions or corporations—it's simply about INDIVIDUAL CHOICE.

A nonpartisan employee rights group measured the results of a *Paycheck Protection* measure in Washington State. Its findings showed that 85% of teachers chose *NOT* to participate in their union's political activities.

Consider the recent actions by the prison guard union and teacher union—is this fair?

Despite opposition from more than 4,000 prison guards, their union increased dues by \$18 million over two years to pay for political campaigns and to give to politicians.

WITHOUT A VOTE OF THE MEMBERSHIP, the teachers union recently increased dues by \$50 million over three years in order to fund political campaigns.

This is NOT a fair choice—it's not what our teachers, police officers, firefighters, and other public employees deserve.

Union members already have the right to democratically vote their leaders into and out of office and to establish their own internal rules concerning political contributions. Prop. 75 takes away union members' right to make their own decisions and substitutes a government-imposed bureaucratic process.

VIOLATES EMPLOYEES' PRIVACY

Prop. 75 requires members who want to participate to sign a government-imposed personal disclosure form that could be circulated in the workplace. This form, with information about individual employees and their political contributions, could be accessed by a state agency—an invasion of individual privacy which could raise the possibility of intimidation and retaliation against employees on the job.

WHO'S BEHIND PROP. 75?

Its lead sponsor is Lewis Uhler, a former John Birch Society activist, who campaigned for Bush's Social Security privatization plan.

It's funded by the deceptively named Small Business Action Committee, which is financed by large corporations.

Backers of 75 say they want to protect workers' rights, but *that's not true*. They're *against* the minimum wage, *against* protecting employee health care, *against* the 8-hour day. Backers of 75 aren't for working people, they want to silence working people who stand against them.

VOTE NO ON 75

Please help stop this unfair attempt to apply restrictions to unions of public employees, such as teachers, nurses, firefighters, police, and sheriffs that would apply to no one else.

LOU PAULSON, President
California Professional Firefighters

BARBARA KERR, President
California Teachers Association

SANDRA MARQUES, RN, Local President
United Nurses Associations of California

YES ON 75 will simply ask public employee union members for their approval before automatically using dues for political purposes.

Proposition 75 will NOT prevent unions from collecting political contributions, but those contributions will be CLEARLY VOLUNTARY. It will hold public employee union leaders more ACCOUNTABLE to their membership.

There are no hidden agendas. No power grabs. Just protecting workers' rights. Read the official Title and Summary for yourself—it's really that simple.

VOTE YES ON 75—let individuals, not union leaders, decide whether their dues should be spent on politics.

JAMES GALLEY, Past Vice President
AFSCME/AFL-CIO, Local 127

ARCHIE CAUGHELL, Member
Service Employees International Union

PAMELA SMITH, Member
California Teachers Association

TEXT OF PROPOSED LAWS (CONTINUED)

PROPOSITION 75

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This measure shall be known as "The Public Employees' Right to Approve Use of Union Dues for Political Campaign Purposes Act."

SEC. 2. Findings and Declarations.

The People of the State of California find and declare as follows.

(a) Public employees are generally required to join a labor organization or pay fees to the labor organization in lieu of membership.

(b) Public employee labor organizations operate through dues or fees deducted from their members' salaries which are paid from public funds.

(c) Routinely these dues or fees are used in part to support the political objectives of the labor leaders in support of state and local legislative candidates and ballot measures. Public employees often find their dues or fees used to support political candidates or ballot measures with which they do not agree.

(d) It is fundamentally unfair to force public employees to give money to political activities or candidates they do not support.

(e) Because public money is involved, the public has a right to ensure that public employees have a right to approve the use of their dues or fees to support the political objectives of their labor organization.

(f) To ensure that public employees have a say whether their dues or fees may be used for political campaign purposes, it is fair and just to require that their consent be obtained in advance.

SEC. 3. Purpose and Intent.

In enacting this measure, it is the intent of the people of the State of California to guarantee the right of public employees to have a say whether their dues and fees may be used for political campaign purposes.

SEC. 4. Chapter 5.9 (commencing with Section 85990) is added to Title 9 of the Government Code, to read:

CHAPTER 5.9.

85990. (a) No public employee labor organization may use or obtain any portion of dues, agency shop fees, or any other fees paid by members of the labor organization, or individuals who are not members, through payroll deductions or directly, for disbursement to a committee as defined in subdivision (a) of Section 82013, except upon the written consent of the member or individual who is not a member received within the previous 12 months on a form described by subdivision (c) signed by the member or nonmember and an officer of the union.

(b) Subdivision (a) does not apply to any dues or fees collected from members of the labor organization, or individuals who are not members, for the benefit of charitable organizations organized under Section 501(c)(3) of Title 26 of the United States Code, or for health care insurance, or similar purposes intended to directly benefit the specific member of the labor organization or individual who is not a member.

(c) The authorization referred to in subdivision (a) shall be made on the following form, the sole purpose of which is the documentation of such authorization. The form's title shall read, in at least 24-point bold type, "Consent for Political Use of Dues/ Fees or Request to Make Political Contributions" and shall state, in at least 14-point bold type, the following specific text

Signing this form authorizes your union to use the amount of \$____.00 from each of your dues or agency shop fee payments during the next 12 months as a political contribution or expenditure " ()

Signing this form requests your union to make a deduction of \$____.00 from each of your dues or agency shop fee payments during the next 12 months as a political contribution to the (name of the committee). ()

Check applicable box.

(Name of Employee)

(Union Officer)

(Name of Union)

(Date)

(Date)

(Signature)

(Signature)

(d) Any public employee labor organization that uses any portion of dues, agency shop fees, or other fees to make contributions or expenditures under subdivision (a) shall maintain records that include a copy of each authorization obtained under subdivision (c), the amounts and dates funds were actually withheld, the amounts and dates funds were transferred to a committee, and the committee to which the funds were transferred. Records maintained under this subdivision shall not include the employee's home address or telephone number.

(e) Copies of all records maintained under subdivision (d) shall be sent to the commission on request but shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(f) Individuals who do not authorize contributions or expenditures under subdivision (a) may not have their dues, agency shop fees, or other fees raised in lieu of the contribution or expenditure.

(g) If the dues, agency shop fees, or other fees referred to in subdivisions (a) and (d) include an amount for a contribution or expenditure, the dues, agency shop fees, or other fees shall be reduced by that amount for any individual who does not sign an authorization as described under subdivision (a).

(h) The requirements of this section may not be waived by the member or individual and waiver of these requirements may not be made a condition of employment or continued employment.

(i) For the purposes of this section, "agency shop" has the same meaning as defined in subdivision (a) of Section 3502.5 of the Government Code on April 1, 1997.

(j) For the purposes of this section, "public employee labor organization" means a labor organization organized for the purpose set forth in subdivision (g) of Section 12926 of the Government Code on April 1, 1997.

SEC. 5. This measure shall be liberally construed to accomplish its purposes.

SEC. 6. In the event that this measure and another measure or measures relating to the consent of public employees to the use of their payroll deductions or dues being used for political contributions or expenditures without their consent shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

SEC. 7. If any provision of this measure, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions are severable.

SEC. 8. If this measure is approved by the voters, but is superseded by another measure on the same ballot receiving a higher number of votes and deemed in conflict with this measure, and the conflicting measure is subsequently held invalid, it is the intent of the voters that this measure become effective.

SEC. 9. This measure may be amended to further its purposes by a bill passed by a two-thirds vote of the membership of both houses of the Legislature and signed by the Governor, provided that at least 14 days prior to passage in each house, copies of the bill in final form shall be made available by the clerk of each house to the public and the news media.

Barbara J. Parker
City Attorney

05 SEP 23 PM 12:04
OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCIL PRESIDENT IGNACIO DE LA FUENTE

**RESOLUTION DECLARING OPPOSITION TO STATE PROPOSITION 75
TITLED "PUBLIC EMPLOYEE UNION DUES,
RESTRICTIONS ON POLITICAL CONTRIBUTIONS,
EMPLOYEE CONSENT REQUIREMENT.
INITIATIVE STATUTE."**

WHEREAS, the November 8, 2005 statewide, special election ballot includes Proposition 75, which would prevent public employee labor organizations from using dues or fees to voice ideas, concerns, or positions as part of the democratic process unless the organization obtains written consent from each employee; and

WHEREAS, requiring an organization to obtain written permission from each employee for each public policy issue is a cumbersome, expensive, and time-consuming burden that effectively squelches an organization's ability to voice -- as part of the democratic process -- ideas, concerns, and positions regarding issues critical to that organization and to its members; and

WHEREAS, public employee organizations have used their resources to support initiatives that improve our schools, parks, and libraries, Proposition 75 will weaken or eliminate these positive efforts; and

WHEREAS, Proposition 75 appears to be an attempt by the current Governor to weaken the voice of unions that represent public employees including fire fighters, police officers, public school teachers, and nurses providing medical care at public facilities; and

WHEREAS, public employees are not required to join a labor organization; and

WHEREAS, public employee organizations are already required to distinguish between expenditures made to advocate for salaries and benefits and expenditures made to voice -- as part of the democratic process -- ideas, concerns, and positions regarding public policy issues critical to the organizations and to their members; and

WHEREAS, Proposition 75 unfairly targets public workers but fails to reign in excessive political lobbying by corporations; and

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WHEREAS, special elections are expensive and the current Governor has not provided compelling reasons for this special election; and

WHEREAS, we should respect the deliberative legislative process and not circumvent our elected leaders with ballot propositions unless absolutely necessary; now, therefore, be it

RESOLVED, that the Oakland City Council hereby declares its opposition to State Proposition 75 titled "Public Employee Union Dues. Restrictions on Political Contributions. Employee Consent Requirement. Initiative Statute" which is on the special election ballot for Tuesday, November 8, 2005.

IN COUNCIL, OAKLAND, CALIFORNIA, _____.

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, REID, QUAN, AND PRESIDENT DE LA FUENTE

NOES-
ABSENT-
ABSENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California



**RULES & LEGISLATION
CMTE**

OCT 13 2005