

Editorial: WA Supreme Court shouldn't keep taxpayers in dark on union contracts

By The Tri-City Herald Editorial Board

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The Washington Supreme Court struck a blow against government transparency with its recent 8-1 ruling that allows the state to keep negotiations with public sector unions secret for weeks or months after their conclusion. The court prioritized bureaucratic convenience over the people's right to know promptly how their tax dollars are spent.

In 2022, state officials negotiated a \$1 billion contract with government employees. The deal gave raises, reduced health care costs and a \$1,000 bonus for receiving a COVID booster shot to state workers. The Washington Federation of State Employees called it "the largest compensation package in our union's history."

The state negotiated that deal behind closed doors. That was not unusual. Releasing specifics during negotiations risks revealing too much to the union representatives on the other side of the table. Privacy also allows for frank discussions. Both sides need space to explore options and find common ground without every proposal becoming a political football.

The secrecy comes at a price, though. Washingtonians cannot fairly assess which side is being unreasonable during protracted negotiations.

The 2022 negotiations concluded by September, and soon after, the watchdog group Citizen Action Defense Fund requested copies of the original offers under Washington's Public Records Act. Officials refused to provide them, citing an exemption in the law for documents related to a deliberative process that would apply until the Legislature funded the contracts.

"The Office of Financial Management could have released these records in a timely fashion but chose to withhold them using a technicality in the law," said Mike Fancher, board president of the Washington Coalition for Open Government. "This was a disservice to the people of Washington, and it is all too common in state government."

The Legislature did not pass its budget until May 2023, so the public remained in the dark for more than six months. Coincidentally, that delay also prevented any uncomfortable information from coming to light before the 2022 election in which all state House members and half of the Senate were on the ballot. As months pass, memories fade and accountability with them.

Citizen Action Defense Fund challenged the decision in court. The group won initially, but the Supreme Court recently sided with the state. In doing so, the Court gave future negotiators permission to reach expensive compensation agreements without timely public scrutiny.

Justice Salvador Mungia, the lone dissenter in the case, showed a much better understanding of the importance of public records than his colleagues. "The people have the right to know what their government is doing," he wrote. "The presumption is that the public is entitled to information their government holds. Withholding information is the exception, and this court's responsibility is to construe any exemption under the PRA as narrowly as reasonably possible so that information is disclosed and not withheld."

The Legislature could restore transparency by amending the Public Records Act to explicitly require disclosure of completed collective bargaining agreements and related documents. Such a change would preserve negotiation privacy while ensuring prompt disclosure negotiators reach a deal. The public would then see the offers and counter-offers so that people could judge whether officials are representing their interests or the unions'.

Washingtonians should not get their hopes too high that lawmakers will act. Public sector unions rank among the biggest donors to Democratic candidates, and Democrats control both legislative chambers. During the 2022 election cycle, as the contract negotiations were under way, the Washington Federation of State Employees contributed \$555,000 to political action committees aligned with Democrats plus thousands more to individual candidates.

If the unions oppose disclosing their negotiating tactics to the public, Democratic lawmakers will likely change nothing. Besides, Democratic lawmakers have proved themselves to be no big fans of transparency in recent years as they attempted repeatedly to keep their own records secret.