

To: House Committee on Early Childhood and Human Services
From: Ben Straka, Research & Government Affairs Associate
Date: February 12, 2024
Re: HB 4129

Chair Reynolds and Members of the Committee,

Thank you for the opportunity to speak today. My name is Ben Straka and I am testifying on behalf of the Freedom Foundation.

We have significant concerns about House Bill 4129. While nobody is opposed to the concept of modernizing and improving the efficiencies of the state’s home care services, the implementation of an “agency with choice” model under House Bill 4129 will be a complicated and expensive change that carries no guarantee of such improvements—but does promise to create a legal workaround to a U.S. Supreme Court ruling that would turn back the clock on caregivers’ rights.

Far from a theoretical concern, a similar bill was passed in Washington state in 2018¹ with the same effects.

First, far from saving money and making the delivery of Medicaid home care services more efficient, the bill is going to carry a significant cost for taxpayers. While we have yet to see a fiscal impact statement on House Bill 4129, last year’s version of this bill—Senate Bill 570—was projected to cost \$44.4 million in the first biennium and \$344.4 million in the second biennium after passage.²

Second, House Bill 4129 has the potential to disrupt the lives of caregivers and their families, despite the bill’s stated purpose to the contrary. I spoke with one family last night who provides personal care to their son under the state’s existing Medicaid-funded program, and they expressed frustration at an email they received asking them to support the bill, which pitched House Bill 4129 as a simple fix to home care workers’ payroll system.³ They recognized, correctly, that adding up to two additional entities into an already complex system only further complicates things and does not create an easier working experience—especially for those providing care to family members, which many do.

Lastly, House Bill 4129 would circumvent a U.S. Supreme Court ruling and pave the way for caregivers hired under the new model to once again be forced to pay mandatory union fees. Given the parallel experience in Washington state and its confirmed effects, it is hard to believe that this is not a major goal of the bill.

In 2014, the U.S. Supreme Court ruled in *Harris v. Quinn* that “partial public employees” like in-home care workers paid with Medicaid funds could not be required to financially support a union as a condition of employment. According to data obtained from the Oregon Home Care Commission,

¹ SB 6199 (2018). <https://app.leg.wa.gov/bills/summary?BillNumber=6199&Year=2017>.

² <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureAnalysisDocument/79441>.

³ https://www.freedomfoundation.com/wp-content/uploads/2024/02/SEIU-email-HB-4129_Redacted.pdf.

between 30-40 percent of home care workers and personal support workers choose not to have SEIU union fees deducted from their wages.⁴

However, by directing the state to contract with private vendors and by paving the way for these entities to be unionized, House Bill 4129 provides a roundabout way for caregivers hired under the new model to be reshuffled outside of the protections of the *Harris* decision. This would apply to the exact same type of caregiver currently protected by the *Harris* decision, once hired under the new model—despite the fact that House Bill 4129 defines them as “direct support workers” rather than home care or personal support workers.

For all of these reasons, we ask you to oppose this bill or amend it to protect caregivers’ existing rights as recognized by the U.S. Supreme Court.

While there are other problems with this bill and a number of proposed amendments, adopting the -7 amendment to extend the court’s ruling to the caregivers affected by the bill would go a long way towards showing that House Bill 4129 is a good-faith effort to improve administration of the state’s home care program, and not a bad-faith effort by unions to take advantage of the legislative process for their purposes.

Thank you,



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⁴ <https://www.freedomfoundation.com/wp-content/uploads/2024/02/HCW-and-PSW-dues-deductions-by-month.pdf>.