



LIVING LIBERTY

MAY 2006

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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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[REG-137243-02] RIN-1545-BA96
GUIDANCE NECESSARY TO FACILITATE
ELECTRONIC TAX ADMINISTRATION—UPDATING
OF SECTION 7216 REGULATIONS—AGENCY:
INTERNAL REVENUE SERVICE (IRS), TREASURY.
ACTION: NOTICE OF PROPOSED RULEMAKING.
SUMMARY: THIS DOCUMENT CONTAINS
PROPOSED REGULATIONS TO UPDATE THE
RULES REGARDING THE DISCLOSURE AND USE
OF TAX RETURN INFORMATION BY TAX RETURN
PREPARERS. THE PROPOSED REGULATIONS
ANNOUNCE NEW AND ADDITIONAL RULES FOR
TAXPAYERS TO CONSENT ELECTRONICALLY
TO THE DISCLOSURE OR USE OF THEIR TAX
RETURN INFORMATION BY TAX RETURN
PREPARERS. THE PROPOSED REGULATIONS
GUIDE THE DISCLOSURE OF TAX RETURN
INFORMATION TO TAXPAYERS.
USING OR DISCLOSING INFORMATION
OBTAINED IN THE PROCESS OF PREPARING
INCOME TAX RETURNS.

IRS

RULE CHANGE TO ALLOW FOR THE SALE OF PERSONAL INFORMATION

EFF teams up with Attorney General McKenna to fight proposed IRS rule

by Jason Mercier

Hopefully by now you've completed the dreaded annual duty of sending in your tax return. If not, you'll soon learn that good things do not come to those who wait. The lack of love you're feeling for the IRS right now may only be beginning. It seems someone at the IRS got the bright idea that a rule should be adopted "to protect taxpayers" by allowing tax preparers to sell information from the tax returns they prepare.

Call me crazy, but I fail to see how allowing a swap meet of taxpayer information actually protects the privacy of Americans. This is why EFF joined with Attorney General Rob McKenna, U.S. Rep. Jay Inslee (D), and liberal activist group, WashPIRG, at a recent press conference to demand the IRS abandon its proposed rule and encourage taxpayers to also voice their concerns.

Among the information that could be sold under the IRS' "taxpayer protection" rule: Social Security numbers, addresses, medical expenses, information about dependents, income, stock ownerships, bank account numbers, and other information found on tax forms.

This resulted in the following comment from McKenna at the March 23 event:

We understand the IRS intends to prevent unauthorized access to this sensitive information by requiring the taxpayer's prior written consent. However, it's difficult to imagine a consumer giving meaningful consent while being inundated with papers and forms in the midst of the complicated business of filing a tax return. Furthermore, I'm concerned about what happens to that information after the initial consent has been granted, when the information is sold and possibly re-sold to even more distant third parties. The IRS should either amend its proposed rule

to create more protections for sensitive, private information—rather than fewer ones—or simply leave the existing rule alone.

FOR SALE

Among the information that could be sold under the IRS' "taxpayer protection" rule: Social Security numbers, addresses, medical expenses, information about dependents, income, stock ownerships, bank account numbers, and other information found on tax forms.

You too can take action to help make April 15 a little less painful next year. Although the formal comment period for the proposed IRS rule is closed, comments can still be directed to: Dillon Taylor at the Office of the Associate Chief Counsel, 202-622-7752, 202-622-4940 or dillon.j.taylor@irscounsel.treas.gov.

He wasn't done. McKenna and California Attorney General Bill Lockyer (D) co-authored a six-page letter signed by attorney generals from 46 states and the District of Columbia to IRS Commissioner Mark Everson, opposing the new rules.

The letter made the following recommendations should the IRS go forward with its rule to allow tax return information to be sold or exchanged:

1. Prohibit or greatly restrict the use of disclosure of tax return information for marketing purposes.
2. Ensure taxpayers knowingly and voluntarily consent to each specific use of their return information. The regulations should prohibit or restrict obtaining consent to multiple uses or multiple disclosures in a single document.
3. Prohibit making any service conditional on taxpayers' agreeing to share their return information.
4. Prohibit tax preparers from using or disclosing return information not needed to obtain the specific services requested by customers.
5. Prohibit the use of raffles, lotteries and similar games as a means of inducing taxpayers to share their return information.

Evergreen Freedom Foundation
PO Box 552
Olympia, WA 98507

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Waste Watchers: Money Saving Ideas

by Drew Gaut



What's the easiest way to save money? It could be as easy as listening to a few good suggestions. Secretary of State Sam Reed recently commended 29 state employees for saving a total of \$511,005 in 2005. These state workers saw unnecessary expenses and came up with solutions. For example, Washington State Patrol trooper David Wilbur saved the state \$96,000 per year by suggesting the oil in patrol vehicles only needed to be changed every 5,000 miles, rather than 3,000.

These cost-saving suggestions are a part of the Innovation in State Government Awards, a program designed to encourage state employees to find ways to save money. Employees submit ideas to the Productivity Board, and the board works with agencies to implement the cost-saving measures.

Tax money is saved and those that save it are commended. I tip my hat to Sam Reed, the Productivity Board, and the 29 state employees whose good ideas saved taxpayers money.

“Quote” of the month

“The Democrats are the party that says government will make you smarter, taller, richer, and remove the crabgrass on your lawn. The Republicans are the party that says government doesn't work and then they get elected and prove it.”

— P. J. O'Rourke

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EFF's mission is to advance individual liberty, free enterprise and limited, accountable government.

Editors:
Lynn Harsh
Matthew Cole

Publisher:
Joel Sorrell

Evergreen Freedom Foundation
PO Box 552
Olympia, WA 98507
(360) 956-3482
Fax (360) 352-1874
info@effwa.org • www.effwa.org

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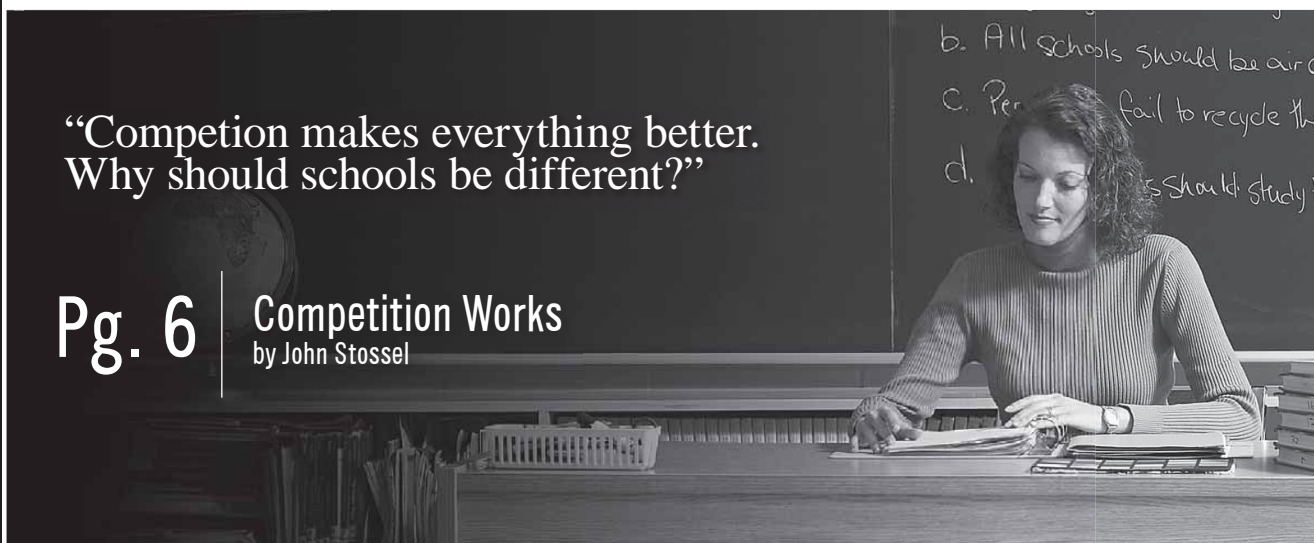


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by Lynn Harsh

LETTER FROM LYNN

Hasten the day...

Every baby born today has an automatic \$187,000 mortgage. This shocking reminder about the cost of government was delivered by Ed Feulner, President of the Heritage Foundation, in a speech he made recently. The \$187,000 is the fiscal obligation Congress has pledged for various programs for which they have no revenue today.

When I pinned down a member of Congress about this number, he corrected me by explaining that some of it doesn't need to be paid for now, because it is for future programs, such as social security. "You mean, you are promising social security will be around for that newborn babe who already owes \$187,000?" I asked. "I fear you and the majority of your colleagues are skirting the real issue, and a whole bunch of us out here in the hinterlands are hopping mad about it."

Dear friends, let's just get right to the point. We are supposed to be in charge in this country, but government now tells us

- how, where and when to educate our children and how much it will cost,
- who we can and can't hire and fire in our businesses,
- the number of hours employees can work,
- the type of benefits we must offer employees,
- what kind of house we can build and where we can or can't put it,
- the type of toilets, outlets and windows we can use,
- if we can keep our land (eminent domain)
- the health care benefits we must pay for (even if we don't want them),
- which health services our minor children can access without our permission or knowledge,
- which art, television and music our money will pay for, and
- what we can say and think about certain subjects.

The list goes on, and we Washingtonians will work into July to pay for all of it. We have a nanny, and its name is government.

But this nanny didn't just show up unannounced. We have hired a whole series of them over these past years by electing and re-electing people who feel 1) government is meant to make these decisions because we're too stupid or selfish to do it ourselves, or 2) they have no choice but to go along with bigger and more intrusive government, because if they don't, they can't get re-elected and government would grow worse faster.

We should be outraged about this! How can we keep electing people who put large millstones around the next

generation's necks? Under no circumstances can our country survive this type of behavior.

Hasten the day when public officials stop asking for our vote because they are the least worst. Hasten the day when we put pen to paper, fingers to keyboard and look eye-to-eye with our elected officials to tell them we expect better. By the way, that means we need to be better, too.

Some people say it's not possible to undo all the damage and restore the freedom so essential to our country. I don't believe that. We must face the fact that the work ahead of us is hard. It will take time, especially since we have to replace our generals with people who don't confuse necessary peace talks with spineless capitulation. In the coming months, you will notice the retooling we are doing here at EFF to fine tune even further the definition and achievement of public policy victory. We know we're in an ideological war, and it's one we had better be prepared to win.

Happy Mother's Day

I got an early Mother's Day present. Many of you ask regularly about my younger son who is a Marine. He came home on leave for two weeks in April after his second, and hopefully last, deployment to Iraq. He is headed off for a year's worth of new and intense training. He'll be hanging on dangling ropes and being dropped by helicopter into remote places; learning advanced outdoor and underwater survival, and practicing survival in case of capture and interrogation—all things mothers love to think about their children doing. His tumultuous teenage years in our household should give him a leg up in the capture and interrogation part.

There's no physical sign of a youngster left in my square-jawed, hard-as-steel son. Thirty-nine of the

three hundred men who were in combat in his unit died, and he is determined to make their lives count for something. It's not entirely clear to him what that means yet, but time will tell.

That's how I feel about the legacy I want to hand to both of my sons and the families they will likely have someday. My generation needs to redeem a great deal of time and lost opportunity. We are spoiled. The average 50-year-old American spends considerable money on comfort and convenience, has saved less than \$5,000 for retirement, and complains that he or she cannot afford to buy gas. It is time we grow up!

Some people get patriotic and visionary on the 4th of July. For me, it's always been Mother's Day. Sleepless nights aside, children are an amazing gift. For the sake of our posterity, we moms need to be bear-like in our resolve to restore our country back to its rightful place. Dads, too, but this month belongs to mothers.

I know I'm writing to some people who have experienced great loss regarding their children. Substance abuse and tough lifestyle choices have claimed some of your children. And I am reminded of our founding board member, Andy Nisbet and his wife Haroldine, who recently lost their son to a heart attack. Last year, EFF Trustee John Vasko and his wife Carrie lost their grown son in a boating accident. Still, the memories they carry can never be taken away, and it was a privilege to share life with them even for a short time.

So, to all of you who qualify, Happy Mother's Day!



Time to repeal gain-sharing

by Victor Joecks

In 1998, the Washington legislature passed an ill-advised additional pension benefit for state workers called gain-sharing. This meant, when state investments hit a compounded average, four-year annual rate of return above 10 percent, state employees would get extra retirement benefits worth half of the interest earned over that threshold.

Lawmakers believed the benefit would be revenue neutral, seeming to forget that high returns are needed to compensate for times of lower returns. Recently, the State Actuary has put the 25-year cost of gain-sharing at \$7.8 billion. The state is responsible for \$4.3 billion

of this and local governments are responsible for \$3.5 billion. The retirement system has already paid out \$1.1 billion in gain-sharing benefits, but no state funding has been allocated to pay for the rest of the future expense.

The state is normally not allowed to decrease pension benefits, but fearing unexpected costs, the 1998 legislature inserted a "reservation of rights" clause into the original gain-sharing law. It states: "The legislature reserves the right to amend or repeal this chapter in the future and no member or beneficiary has a contractual right to receive this post-retirement adjustment not granted prior to that amendment or repeal."

An opinion from the Attorney General (AGO 2005 No. 16) concludes that members cannot claim a "reasonable expectation...to receive a continuous and unending right to gain-sharing distributions in the future."

The original sales pitch, that gain-sharing wouldn't cost taxpayers anything extra was a fanciful stretch to begin with. Now legislators have recognized that it is untenable, but instead of repealing gain-sharing—they punted. Leaders of the majority party did nothing this year. The problem is not going to go away by itself.

State Court headed in the wrong direction on property rights

by *Building Industry Association of Washington*

The Washington Supreme Court is rewriting history and eviscerating property rights. We have an opportunity this year to change the course of our Court by electing justices who will respect and abide by the state and federal Constitutions. Three Justices are up for election this year—Susan Owens, Gerry Alexander and Tom Chambers—and there will be formidable challengers who will better uphold our constitutionally protected property rights and halt government abuses of power.

The backdrop for our Supreme Court's downward spiral is the U.S. Supreme Court's controversial decision in *Kelo v. City of New London*, Connecticut. In that case, the Court allowed a city to use its eminent domain power to take private property, and then sell that property to a private developer. This happened despite the fact that eminent domain may only be used for "public purposes." The *Kelo* decision expanded the definition of "public purpose" by deferring to the city's determination that "economic development" was a suitable reason to take a person's home.

The *Kelo* decision created an outcry from property rights advocates, and officials in Washington were quick to insist that a *Kelo*-type of situation could not happen here, because our Constitution better protected citizens against abusive government takings. The Washington Supreme Court, in a series of strained decisions, proved them wrong. Thanks to justices on our state's Supreme Court, we are just as susceptible to the type of rampant abuse that occurred to the *Kelo* family in New London, Connecticut.

The Seattle Monorail Case:

The first step toward turning Washington into a "Kelo" state came in the Seattle Monorail decision on October 20, 2005. That case involved the monorail authority's

use of eminent domain to take more property than was necessary for a new substation—the station would have only taken up a third of the condemned land. The monorail intended to use that extra property initially as a staging area, then to sell to a private developer. The Washington Supreme Court allowed the monorail to take more property than was needed—essentially permitting a public agency to become land speculators at the expense of property owners who do not wish to sell. Under the takings power, property owners are helpless to stop this government abuse.

Justices Alexander, Chambers and Owens all voted in favor of expanding government's eminent domain power—and in favor of constricting private property rights. Justices Jim Johnson and Richard Sanders dissented.

The Miller Case:

This month, the *Sound Transit v. Miller* case went even beyond the Seattle Monorail case in extending a strained reading to perfectly clear constitutional language. Miller involved condemnation of parcels where the property owners were only notified by a website that their land was the subject of an eminent domain hearing—a web posting that did not even specify the precise parcels of property that were the subject of the hearing. The Millers also challenged the veracity of Sound Transit's determination that taking the property was necessary for a public use, since there were many alternate sites.

According to the state constitution, the determination whether a taking is necessary for a public use is a judicial question "without regard to any legislative assertion." The Washington Supreme Court majority inexplicably chose to ignore this express constitutional mandate, stating that they were bound to the legislative

determination. In fact, Sound Transit never showed that condemning the Miller's property was a "public necessity"—instead, they simply asserted that their determination was conclusive—without analysis. The majority of the Supreme Court, in an opinion authored by Justice Mary Fairhurst, lets Sound Transit, or any other government authority, take property without showing there is a public need.

That constitution-defying level of deference brings us back to *Kelo*. Jurisdictions may simply deem any taking a public use—whether for land speculation or not—and (absent fraud) the courts will defer to that decision. This robs property owners of their right to a day in court to determine whether a taking is necessary for public use. Equally amazing, the state Supreme Court determined that a web posting was sufficient notice of an eminent domain hearing. This makes Washington the only state in the country where such notice is deemed sufficient. Justices Alexander and Chambers joined Justices Jim Johnson and Richard Sanders in dissent on this point (but Alexander agreed with the majority in expanding deference to local jurisdictions). Justice Owens joined the majority.

A Dangerous Precedent:

There is no question that we now live in a state governed by the *Kelo* decision. Our state constitution ostensibly provides greater property rights protection than the federal constitution, but our Supreme Court has turned its back on those protections. The only way to reclaim our constitutionally guaranteed property rights is to change the members of the Court. With three Justices seeking reelection in November, we'll get a chance this year.

For more information, visit: www.biaaw.com.

Conservatives correctly predict the outcome of 2002 civil service reform

by *Victor Joecks*

Sometimes it's just no fun being right. Consider the spot-on predictions made by the free market opponents of 2002's Substitute House Bill 1268. Titled "Civil Service Reform," it disguised legislation labor unions had coveted for 14 years—collective bargaining.

Collective bargaining fundamentally altered budget negotiations. Previously, the legislature set worker compensation packages during budget deliberations. Now unions negotiate their contracts with the governor behind closed doors. The legislature cannot alter these contracts, only approve or reject them. This allows unions to bargain for their contracts without any consideration of other budget priorities like education, emergency preparedness, or law enforcement.

To try to make this give-away of legislative authority more acceptable, the bill sponsors included competitive contracting. Competitive contracting or "contracting out" is a common sense idea; it allows private companies to compete with public agencies for the ability to provide a government service. It has a long history of lowering cost and increasing the efficiency of government services.

Unfortunately, the bill's version of competitive contracting was designed to fail, because the bill made the practice of contracting out a subject of collective bargaining. This means that a private business's ability to compete with union workers for a government contract can be bargained away in the union and governor's secret negotiations. Only in a union, working for the government, could you bargain away competition. Too bad taxpayers foot the bill for this "bargain."

At the time, free market advocates realized that no business is going to spend its time and money on an opportunity that their competition could take away. Clif Finch, the chief counsel for the Association of Washington Business, said, "Contracting that can be negotiated away is not contracting." Rep. Dave Mastin, R-Walla

Walla predicted that contracting out "will never happen."

Rep. Barry Sehlin, R-Oak Harbor, identified the bill's underlying motivation: "I'm not so naïve as to think this is about anything but money. It's about priorities and who's going to get the money first." Sen. Jim Honeyford, R-Sunnyside, and Rep. Glenn Anderson, R-Fall City, noted that "any collective bargaining agreement would be made the top budget priority, placing it ahead of non-discretionary spending areas that are still important."

“Now unions negotiate their contracts with the governor behind closed doors. The legislature cannot alter these contracts, only approve or reject them. This allows unions to bargain for their contracts without any consideration of other budget priorities like education, emergency preparedness, or law enforcement.”

Four years after its passage, everyone can see what has happened: Exactly what advocates of limited government joylessly predicted. Competitive contracting

under SHB 1268 has not occurred and unions have greatly benefited.

Competitive contracting did not begin until July 1, 2005, in order to give the Department of General Administration time to develop written rules and guidelines. Even with all the promises of competition, nine months later Steve McLain, the director of the Labor Relations Office, revealed that "no services have been competitively contracted using the provisions in the current collective bargaining agreement. Information on contracting for services is not tracked centrally by the state."

For her part, Governor Gregoire took no action in the 2006 session to save money using contracting out under the "Civil Service Reform" agreement. According to one advisor, the administration wanted to let the new rules "settle in."

Although competitive contracting has not occurred, unions have taken full advantage of collective bargaining. After contributing over \$798,000 to Christine Gregoire's election and recount campaigns, labor unions scored big in their secret negotiations with the gubernatorial candidate they financially supported. Unions received a wage increase and a promise that the state would fire workers who chose not to join a union.

Free market reformers batted 1.000 in their predictions of the outcomes of the "Civil Service Reform" bill—it provided a taxpayer-funded windfall for union members and no corresponding increase in competition or quality of state products. Although it is tempting to say, "I told you so," advocates of limited government should now fight for the repeal of collective bargaining or at least removing competitive bidding from collective bargaining negotiations and making those negotiations open to the public.



ACLU's lawsuit dishonors civil rights legacy

by Booker T. Stallworth

This piece originally ran in *Human Events Online* on April 7, 2006.

Like most Northern blacks, I come from an old Southern family. My mother's family came from the backwoods of Georgia, on the outskirts of a small town on the Georgia-Alabama border.

My whole life, I have heard stories about segregated water fountains and bathrooms. I have heard stories about my great-grandfather. He was a firm, authoritative, imposing figure, unless he was around the "white folks." Then, he was forced to humble himself, and was treated as less than a grown man. It's an image that is ingrained in my mother's memory like no other, and one that was passed down to me.

Even growing up primarily in the North, I have been called racial slurs more times than I care to remember.

For these reasons, and my basic love of liberty and justice, I am particularly concerned about the issue of equal treatment under the law. When I hear talk of disenfranchisement and poll taxes, it brings back those images of the Jim Crow South, which have been burned into my earliest memories.

So imagine my disgust and anger to find those terms used and abused for political one-upmanship and self-serving rhetoric.

Some, including the American Civil Liberties Union (ACLU), equate convicted felons who have failed to complete all the obligations of their sentences, with blacks of the Old South who committed no crime, yet were denied their basic 14th Amendment due process rights. That is not only overblown rhetoric that doesn't live up to the facts; it is blatantly offensive and does a complete injustice to the history of the civil rights movement.

For the record, during and after Reconstruction in the South, there was a deliberate, orchestrated attempt by Southern Democrats to deny civil rights to blacks. Several methods were used to circumvent the explicit voting protections of the 14th and 15th Amendments. The poll tax was one of the more popular tools for making sure recently freed slaves and their descendents could not qualify to vote. It was not until the adoption of the 24th Amendment on January 23, 1964, that poll taxes were made illegal.

The ACLU's recent lawsuit on behalf of three convicted felons, argued that Washington state law, which requires felons to complete their entire sentence, proba-

tion or parole (including fines and restitution) prior to the restoration of voting rights, constitutes a poll tax.

King County Superior Court Judge Michael Spearman agreed, arguing: "The Washington re-enfranchisement scheme which excludes one group of felons from exercising the right to vote, while permitting another, where the sole distinction between them is the ability to pay money bears no rational relation to any stated or apparent governmental purpose."

This type of rhetoric demonstrates ignorance of what a poll tax really is, and glosses over what is truly at issue: the rights of the public, and especially crime victims, to see justice carried out and those convicted of felonies meet all of their court-imposed obligations.

Too often, the civil rights of crime victims are forgotten. Restitution for the financial, psychological and legal problems that often result from crime is vital for victims to be made whole again.

Testifying before Congress on the February 16—the 10th anniversary of the Federal Mandatory Victims Restitution Act—Mary Lou Leary, executive director of the National Center for the Victims of Crime, spoke to the importance of felons meeting all of their obligations:



"The payment of restitution is of great importance to crime victims. Some of the most heartbreaking restitution cases involve elderly victims who have lost their life savings to fraud. The crime robs them not only of their money, but their sense of security and even their ability to remain independent and live in their own home. ... For these victims, restitution may preserve their future. ... [Restitution] is also important as a tangible demonstration that the state, and the offender, recognize that the harm was suffered by the victim and that amends will be made."

Ms. Leary also pointed out that courts have recognized that restitution is crucial to the rehabilitation

of offenders because it "forces the defendant to confront, in concrete terms, the harm his or her actions have caused." A study she cited demonstrated that those criminal who paid a higher percentage of their restitution were far less likely to re-offend.

Washington legislators wisely put additional deterrents in place. In 1999, the legislature passed the Offender Accountability Act (E2SSB 5421). Under the law, "every felony offender sentenced within the state of Washington must pay at least one court-ordered legal financial obligation (LFO) -- the crime victim's compensation fee. This restitution is intended specifically for victims. Other restitution may include payment of attorney fees and fines. In addition, offenders living in the community are required to pay supervision fees while under supervision."

A felon who has not met all of these legal obligations has not paid his or her debt to society in full. So why should a felon's voting rights be restored before that debt is paid?

The Offender Accountability Act applies to all felons equally, regardless of race or income. Its purpose—to reduce recidivism, reduce the financial cost of incarceration and monitoring, and restore victims' civil rights—is noble, and has no semblance to the black codes and Jim Crow laws of days past. More importantly, it protects victims of all races, ages, ethnicities and incomes as well.

Fortunately, the state is appealing the King County Superior Court ruling.

Hopefully, this atrocious ruling will be overturned, and our state election officials can focus their attention on cleaning the voter roll of felons who haven't paid their obligations.

Felon voters were at the heart of the election challenge to Washington Gov. Christine Gregoire's 2004 victory; Judge John Bridges identified 1,678 illegal votes, many of them by felons. A newspaper investigation concluded: "Scores of convicted felons voted illegally in the state's 2004 general election, and officials never noticed because of serious flaws in the system for tracking them. Either the counties failed to flag or purge felons on the voter rolls as required by state law, or they allowed them to register without checking their status. Some were even mailed absentee ballots and returned them unchallenged."

As we clean ineligible voters from the roll and restore integrity to our voting process, let's debate victim restitution and other key issues, but let's do so without resorting to rhetorical hyperbole. Some terms—Nazi, plantation, concentration camp, poll tax, etc.—are too powerful to be cheapened and used inappropriately.



Government should get out of the business of business

by Victor Joecks

Government agencies are created and empowered by lawmakers to perform certain functions. Sometimes agencies overstep their legally mandated authority and create problems for citizens. Other times, the very thing they were created to do is the private sector's business to begin with and is outside the proper scope of government.

Some state agencies have produced business plans, not to increase efficiency, but to maximize revenue and increase their market share. The business plan for the Department of Printing (DOP), for example, has determined it should function as an entrepreneurial enterprise. Why? The private sector can provide printing services for the public sector. Besides, entrepreneurial printers get customers based on whether or not they provide services and prices people

want. They do not have customers guaranteed to them by state government.

The Division of Capital Facilities (DCF) provides custodial services. Its business plan reveals that the janitorial services they provide cost 22 percent more than comparable commercial services. Taxpayers would save money if those comparable commercial institutions were used to deliver the same service the DCF currently provides.

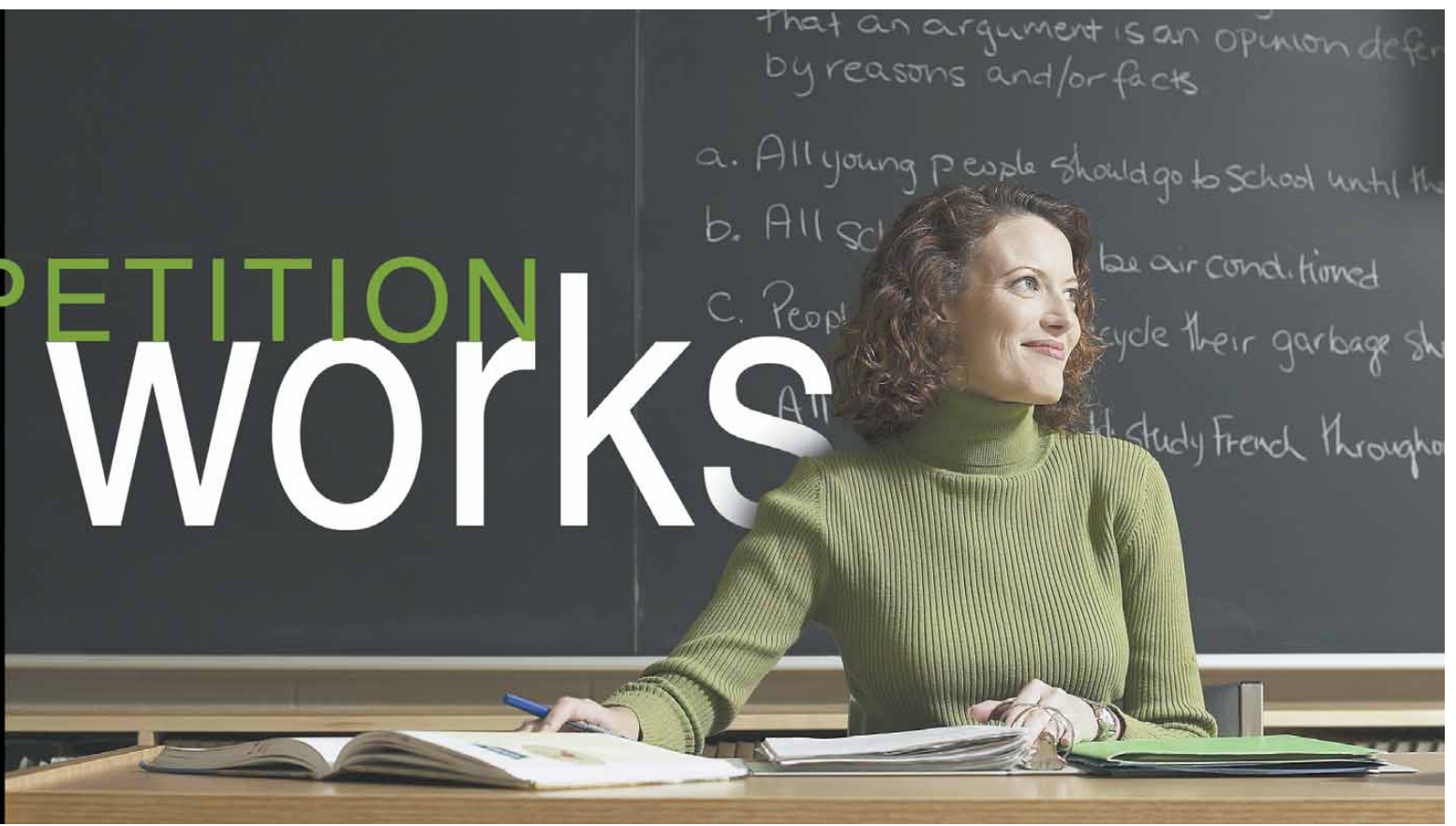
The Washington State Liquor Control Board (WSLCB) has a monopoly over the distribution of alcohol in Washington. Its business plan highlights some of the problems of functioning like a business while being a government agency. The legislative appropriation process impedes the agency's ability to make needed investments and respond to changing

market conditions. Also, the state prohibits advertising and merchandise discounts. Additionally, the WSLCB has conflicting goals—increasing revenues by selling more alcohol, and selling less alcohol by enforcing alcohol laws.

The business plans of these agencies show the problems created when government involves itself in domains that belong to the private sector. The solution is simple: When lawmakers mandate that a particular activity is within the scope of government's authority and should be done, they do not need to mandate that government also provide all the support services necessary to deliver it.

COMPETITION works

BY JOHN STOSSEL



One exciting thing about the free market is that you can't predict what the market will create. Big-government advocates tell you exactly what will happen when their plans work (as if they actually would work!), but we who trust the free market can only say that people will compete and good ideas will win. We don't set out to make all your choices for you, and, not being psychic,

And the better schools won't all be the same. I can't tell you about all the wonderful schools that would appear if students were able to bring their public funding to any school, public, private, or religious. No one individual can begin to imagine what competition would create.

But because a few experiments in school choice have been allowed, I can tell you about a few of the

said. "You know, competition is not for children. It's not for human beings, it's not for public education."

Why not? Would you keep going back to a restaurant that served you a bad meal? Or a barber that gave you a bad haircut?

Competition makes everything better. Why would schools be different? In the few places where vouchers have been allowed, like Milwaukee, the kids who used vouchers did better, and those who stayed in the public schools were not left behind.

How can that be? In 2001, Harvard economist Caroline Hoxby found that Milwaukee's private school vouchers made the nearby public schools (which were competing for the same students) change.

"[Public] school principals were allowed to have a lot more autonomy," she said, "They counseled teachers out of teaching altogether who really weren't performing or showing up on the job—they put in new back to basics curricula in some primary schools that really needed that so that reading skills and math skills would go up." Test results at those public schools went up by 7.1 percent in math, 8.4 percent in science, and 3 percent in language. Scores went up in voucher schools, too.

Competition worked—for human beings, and for public education.

Competition makes everything better. Why would schools be different?

we can't predict what decisions you'll make.

Take education. Bureaucrats like to say, you will go to this school, because we said so, and you will be taught according to this program, because we said so and we know best. Those of us with confidence in markets think you could do better deciding for yourself.

Neither the bureaucrats nor the freedom lovers can judge what's in your interest better than you can. One big difference is, we know what we don't know, while they think they know everything.

We do know that competition works. It works because it gives people the chance to be creative.

Educational experts, freed from the massive regulations that snarl the public schools, can come up with new and better ideas for teaching. Competition works because it gives people incentives to produce—it inspires them to work constantly at trying to find better ways to please their customers.

The bad producers lose their jobs—but the best ones gain new customers. Bad schools will close and better schools will open.

possibilities: Some schools now focus on technology, foreign languages, or music; there are charter schools that operate as boarding schools.

At the KIPP charter schools, teachers must give kids their cell phone numbers, and in the evening, every teacher is available to answer questions until 9 p.m. The students call "constantly," say teachers. KIPP kids are in school until 5 p.m., some Saturdays and for weeks in the summer.

So many students want to get into charter schools like those, many have to hold lotteries. The winners get a shot at a better future; the losers are generally stuck with whatever the bureaucrats design to give them.

Why should kids have to win their future possibilities in a lottery? If school money were attached to individual students in the form of vouchers, every parent could take their child to new schools.

This winter's Florida court ruling against school choice came after former teacher Ruth Holmes Cameron brought a suit. "To say that competition is going to improve education—it's just not going to work," she

Come hear John Stossel speak at our 15th anniversary gala on June 1st. See back page for details.

Students deserve best service, and that includes tutoring

by Marsha Richards

Suppose you're a parent struggling to make ends meet. Your children attend a local public school where eight of 10 students fail basic academic tests in reading, writing or math.

You want your children to have a promising future, for which education is key, but you're trapped. You can't afford private school tuition or tutors, and though your district has open enrollment, the best-performing schools are already full.

The parents of 1,706 children attending three Tacoma middle schools (Gault, Jason Lee and McIlvaigh) are in exactly this predicament. Eighty percent of the students in those schools failed at least one core subject on the Washington Assessment of Student Learning last year. And that's an improvement over years past.

In an attempt to help these children, federal law requires school districts to set aside a small portion (10 percent) of their federal funding to provide free private tutoring for low-income students in chronically failing public schools. Eligible students in Tacoma can claim up to \$1,372 each and can choose from a list of state-approved tutors, which includes private schools, community services and widely known programs like Kumon Math.



Continued on page 10

One-sided debate demands health care for all

by Nathan Johnson

In 2003, U.S. Senators Orrin Hatch (UT-R) and Ron Wyden (OR-D) sponsored the Citizens' Health Care Working Group—a little-known piece of the complex Medicare Modernization Act.

Since January 2006, members of this 15-person "working group" have been conducting open-invitation community forums throughout the country.

Members of the working group were selected to represent a national cross-section of health care consumers. Their task is to gather input from health care stakeholders across the country. In seeking a nationwide consensus on an important subject like health care, one might expect this to be open-minded effort where all sides would be granted the opportunity for substantial input. After participating in a recent working group as part of this effort, I am left to wonder if this is happening at all.

I was alerted to Seattle's February 25th forum just days before its occurrence, so I attended. It may be heralded by some as an astounding success... but only for those who attended as part of the universal, single-payer health care constituency.

Early in the Saturday morning get-together on the Seattle Center campus, Rep. Jim McDermott took the podium and used his entire five-minute allotment to disparage the health policies of the Bush Administration, especially Health Savings Accounts. He called these "just another tax cut for the super rich."

Rather than offering a single policy recommendation, Rep. McDermott pandered to a home town crowd, while jovially admitting he had been warned by event organizers that this was a non-partisan, diplomatic affair. A standing ovation followed his less-than-eloquent diatribe.

I braced myself for a lively community meeting. As it got underway, we were asked to discuss particular questions posed to each of our roundtables. After reaching some form of consensus, a table representative would present our recommendations to the crowd.

It took only the first few moments of animated discussion for me to understand that my free-market leanings were out of place in this crowd. The individuals at my table, while a more thoughtful group compared to the overall crowd, all favored a single-payer approach to achieve universal health care.

Many questions were offered throughout the morning: How do we pay for health care in America? What tradeoffs are we willing to make? What solutions exist to

rising health care costs? What is the role of the public and private sector in providing insurance? I was allowed my input throughout the event, but was incapable of single-handedly providing adequate balance to a table with eight other viewpoints in strong opposition to my own.

Sadly, there was virtually no real debate on the issues at hand. A vocal and shrewd majority had little interest in a factual discussion about the American health care system. Popular phrases repeated countless times throughout the morning included: "We demand universal, single-payer health insurance as an American birthright." And "We want all the mandated benefits we currently receive plus others," and oh, by the way, "We don't have the means or desire to pay for it," and truth be

on the consumer in the delivery of health care. He got a few sentences into his brief commentary before he was booed and hissed so loudly as to completely dismiss his honest attempt at participating in the debate. The moderator was simply unable to refocus the crowd from that point forward.

There was absolutely no real or merited debate on the issues of health care. I would have to estimate that no more than a couple dozen of us in the crowd preferred anything other than a Canadian-style single-payer system.

I sincerely hope that the forums held by the working group in other parts of the nation are able to gather a more balanced representation of U.S. citizens. When



"Sadly, there was virtually no real debate on the issues at hand. A vocal and shrewd majority had little interest in a factual discussion..."

told, "We want private for-profit insurance companies banned from the health care market." ...And just so everyone is aware, "The entire discussion of practical trade-offs is unnecessary, because only one solution is acceptable."

I wish this was an overstatement of the crowd's conclusions, but it doesn't even go halfway in describing the tone that was maintained through four hours of one-sided conversation.

One brave man spoke up to advance more balanced solutions to the health care crisis. His proposal involved wider use of health savings accounts and a new focus

the Citizens' Health Care Working Group concludes its mission, they will draft a proposal to present to the President and Congress, supposedly to capture the ideas and opinions of average American health care consumers. Unless average citizens and business owners get involved in this process, Seattle's meeting and others like it will reflect the interests of big labor and special interest groups.

If we are informed in time, we will let you know of other such meetings, because policymakers need to hear more than one side of the concerns.



To make your thoughts on American health care known to the Citizens' Working Group and its legislative sponsors, contact:

Senator Orrin G. Hatch (R-UT)
104 Hart Office Building
Washington, DC 20510
Tel: (202) 224-5251
Website: <http://hatch.senate.gov>

Senator Ron Wyden (D-OR)
230 Dirksen Senate Office Building
Washington, DC 20510-3703
Tel: (202) 224-5244
Website: <http://wyden.senate.gov>

Citizens' Health Care Working Group
7201 Wisconsin Avenue
Suite 575
Bethesda, MD 20814
Tel: (301) 443-1502
Email: CitizensHealth@ahrq.gov
Website: www.citizenshealthcare.gov



Once again, the Washington Education Association is aggressively touting the “success” of their hardball bargaining and political tactics. In an article titled “Marysville teachers win final victory over discredited school board,” the WEA openly brags about deposing opponents (and anyone who questions them or refuses their bargaining demands) and successfully campaigning for a new school levy. But behind the bravado, union bosses may be tipping their hand about a long-term strategy to intimidate local school boards and quash opposition in school districts around the state.

The WEA’s apparent “master plan,” is simple: a) attack anyone who stands up to the union, b) use forced

union dues to influence local school board and levy elections, and c) fire any school administrators or district employees that get in their way after they’ve stacked the school board with their hand-picked supporters. That way, there’s no one to question them after the dust settles.

Let’s remember the 2003 teachers strike in Marysville: 650 teachers; a forty-nine day walk-out; lives disrupted; working families forced to miss employment because of a lack of child care; and the college application process thrown into chaos. It was a mess.

A district court judge even had to direct an injunction against the Marysville Education Association to force its members back to work. All the while, union bosses knew they had no authority under state law to strike: Washington state law requires third-party arbitration through the Public Employee Relations Commission for public sector parties that cannot reach agreement.

The WEA and its affiliates, like the Marysville Education Association (MEA), regularly use the threat of illegal public sector strikes to leverage school boards to

cave into their negotiating demands. These demands almost never focus on actually improving the quality of education for students. The WEA even regularly opposes merit pay for the best and brightest teachers within its own ranks.

It is the ultimate in political hardball and cynicism. Threaten to break the law, throw school boards and communities into chaos, and then use teacher union dues to elect pro-union school board members to replace anyone that dared oppose your demands.

When school board members, concerned parents, and education reformers resist the WEA’s coercive bargaining tactics, they are singled out for retribution by

the union’s political machine. The public school teachers themselves are forced to fund this political retribution by giving a portion of their income (an average of \$763 a year) just to keep their jobs.

A sizeable portion of this dues money, that’s not sent to the National Education Association, is then channeled back into local communities to affect the outcome of elections and initiatives. EFF’s own investigation and research into past court cases regarding “chargeable expenses” indicate that very little of the collected dues money is actually spent on negotiating or maintaining the employment contract.

Sadly, much of this political spending is shielded from public campaign finance disclosure rules that apply to other political groups because unions park it in “member communication drives” that supposedly are considered “internal communication.” In reality, much of the member communication is actually meant to influence rank-and-file voters to win school board and levy elections.

Unfortunately, this forced-dues-funded political spending strategy often works. After a court ordered the Marysville teachers back to work, the enraged union bosses targeted the Marysville School Board and anyone else who had opposed their contract demands.

After a nasty school board election in the fall of 2003, the MEA installed pro-union board members, who promptly went about doing the MEA’s dirty work by firing the school superintendent and others from Marysville’s central administration who had opposed them during their illegal walk-out. They proudly tout these tactics in their publications and websites. That’s a public relations strategy that smacks of arrogance and hubris.

Union apologists were able to take advantage of low voter turnout (and a certain amount of voter fatigue) to pass a major school construction levy in Marysville. But explaining a school levy is a lot easier when there’s no one to question your “facts.”

Continued on next page

We’ve only just begun to fight

by Kristen Mercier

If you’ve been following EFF’s ongoing struggle for teacher paycheck protection, you know that this March Washington’s Supreme Court took a step back. Fortunately, the fight is not yet over.

Though the Washington Education Association admitted to breaking the law by using teachers’ union dues for politics without their permission—and was subsequently fined over \$590,000—the Supreme Court sided with the WEA and found the law unconstitutional.

Justice Richard Sanders wrote in his dissenting opinion that the decision by the majority “turns the First Amendment on its head” by allowing the statutory right of unions to collect dues to trump the Constitutional rights of teachers and other workers.

WEA President Charles Haase called the decision “yet another reaffirmation of educators’ political rights.” Of course, nothing could be farther from the truth. By using teachers’ dues money for political purposes without

their permission, and often in direct opposition to teachers’ political views, the WEA disenfranchises teachers.

Fortunately, Washington Attorney General Rob McKenna announced he will appeal the decision. “This decision overturns the will of the voters passing Initiative 134—the state’s campaign finance law,” McKenna said. “Initiative 134 was approved by nearly 73 percent of the voters and we will vigorously defend it.”

The Public Disclosure Commission, the state agency charged with keeping an eye on campaign finance, unanimously recommended that McKenna appeal. PDC Chairman Earl Tilley said that “court decisions usually bring clarity to laws. In this case, the decision brought confusion. We’re requesting the appeal to preserve the integrity of the election process.”

The Attorney General’s office plans to file a petition in mid-June to the U.S. Supreme Court asking them to hear the case. As mentioned in our last newsletter, we plan to file a “friend of the court” brief in support of the appeal in June as well. By October, we will know if the court intends to hear it.

Washington teachers involved in a related class action lawsuit against the WEA announced they would appeal their case to the U.S. Supreme Court as well. These teachers are suing to obtain a refund of their illegally-spent dues.

We are hopeful and confident the U.S. Supreme Court will uphold the constitutionality of this law protecting union workers’ rights. If the law is upheld, other state-based worker freedom organizations and activists will be empowered to seek similar laws in their states. The fight is not over, and EFF will do its best to see that teachers’ and other union workers’ political freedom is protected.



RELIEF, RECOVERY & REBUILDING

Teachers' unions: a recipe for disaster

by Ryan Bedford

As Katrina made landfall, the damage to the levees and infrastructure was immediately apparent. But it was not until after the skies had cleared and the city began to rebuild that the New Orleans teachers' union was also found to be a casualty of the storm.

Katrina decimated the New Orleans School District by displacing the majority of New Orleans' 65,000 school children and approximately 8,000 teachers, support staff and administrators. Most have been slow to return and as of March 7, 2006, only 10,000 children were back, enough to open just 20 schools.

The destruction has put the teachers' union in a bind. With fewer students to teach, over 4,000 teachers and school district employees are without jobs, and the few who are employed are in charter schools, which prohibit union membership. As a result, the union is not collecting the dues necessary to remain afloat.

Prior to Katrina, the Orleans Parish School District (OPSD) was known as one of the worst school districts in the nation. Fiscal deficits and allegations of corruption were commonplace. The powerful United Teachers of New Orleans (UTNO) thrived in the putrid environment and its contracts severely limited reform.

As prisoners of the mismanaged system, students were faced with a hopeless and desperate future. In the 2004-05 school year, only 44 percent of fourth graders were proficient in reading and 26 percent were proficient in math. Eighth graders fared even worse; only 26 percent of them were proficient in reading and 15 percent proficient in math. In the 2003-04 school year, three of every four schools were declared "academically unacceptable" by the state.

The situation was so bad, even officials who were tasked with turning around the system were pessimistic reform could be quickly and effectively implemented. One said, "Public education in New Orleans for a long time has been about everything but the well-being of children. It's about who controls contracts. It's about

the union agreement. It's been tremendously radically polarized. By and large, our public school system has been one of the big limitations on quality of life in the city for a long time."

But many now believe Katrina has given the city a second chance.

Realizing New Orleans was incapable of running its schools alone, the Louisiana legislature and Governor Kathleen Blanco passed legislation allowing the state to take over poorly performing schools. The legislation invalidated the contracts in these schools by converting them to charters. Accordingly, 17 of the 20 open schools are now charters.

The union opposed the change because it stripped the union of its power. School boards and officials were no longer beholden to union campaign cash and bullying, and union membership and seniority were no longer a guarantee for a job.

Although claiming to be no conspiracy theorist, Brenda Mitchell, president of the teachers' union, says she is not sure how else to think when she considers the new charter system. "It's all part of the privatization and social engineering of the city, limiting the return of poor people and African-Americans. If you're not providing housing for them, if you don't want to provide schools to educate them, how are they going to come back to rebuild the city?"

Nat LaCour, secretary-treasurer of the American Federation of Teachers and former president of the UTNO, also engaged in tinfoil-hat speculation when considering the new charter schools. "Plans were being made to not reopen schools before damage was known," he claimed.

The UTNO has settled on a two-prong approach to revive the environment in which it once thrived. LaCour said UTNO's first battle is to "gain recognition that [teachers are] still covered by the contract." The second is to file a lawsuit to force the district to open

all the schools as quickly as possible, regardless of whether students will fill the seats.

If the lawsuit succeeds, the union's troubles would be all but over. The immediate reopening of every school would cause mass confusion, resurrecting the corrupt system in which the union once thrived. The city would also have to rehire most of the now unemployed teachers, regardless of competence. Finally, the union would begin to rake in dues once more and be able to meet its own payroll.

The union cloaks its agenda for survival in civil rights rhetoric and as a means to speed the city's recovery. "We strongly believe that the pulse of the city will return to a sense of normalcy when schools reopen and neighborhoods are repopulated with families" Mitchell explained. However, considering the corruption, incompetence and dismal test scores that were the norm before Katrina, a return to "normalcy" should not be the goal.

Rising from Katrina's devastation and applied free-market principles is the first primarily charter school district in the country. School officials are committed to using this extraordinary opportunity to build a model district by opening schools only as demand increases and holding those that are open to high standards.

If Louisiana officials hold the course, their dream will come true and students face a hopeful future. But if the UTNO succeeds, the stifling bureaucracy and corruption will revive and again hold children hostage.

In the face of natural, fiscal, or even educational disaster, officials often enact reforms such as suspending restrictive and unfair contracts, firing bad teachers, and introducing competition into the government monopoly school system. But officials should not have to wait until disaster strikes to implement badly-needed reforms. Rather, they should be free to enact change as the market demands. The success of the next generation depends on it.



Seattle teachers betrayed by their own union

by Kristen Mercier

Imagine a group of angry employees working for the same organization. They're furious because the contract between them and their employer isn't being honored. In fact, the contract forced upon them isn't even the one they voted to approve.

What recourse do these employees have? Could they strike? No, these are public employees with a duty to the citizens of their state to remain working; they can't. Could they complain to the Public Employment Relations Commission? PERC says it can't intervene. Here's an idea: They could form a union!

Unfortunately, in the case of the Seattle Public Schools' teachers, their own union is the party responsible for altering their contract.

In September 2004, Seattle teachers ratified a new five-year contract with the Seattle School District. Seven months later, their union, the Seattle Education Association, finally posted the contract on its website, allowing teachers and the public to review it.

Teachers claim there were at least sixteen changes made to the contract after its ratification. Some of the more notable ones include "clauses that limit workers' compensation, require them to take significant pay cuts in the event of a double levy failure and allow a teacher to be involuntarily transferred to another school if the union and the school district agree on the transfer," according to the *Seattle Post-Intelligencer*.

The union minimized the impact of the contract modifications, calling them simple "housekeeping" changes. Still, teachers found those changes unacceptable and asked the Public Employment Relations Commission (PERC) to intervene.

On February 10, 2006, PERC dismissed the complaint, saying:

"While ratification of tentative agreement reached in collective bargaining negotiations by vote of union members is customary, and may even be required by union's constitution and bylaws, it is not requirement imposed by state law. Process to decide proposals to accept in collective bargaining negotiations, is part of union's internal affairs controlled by union constitution and/or bylaws. Disputes concerning such matters must be resolved through internal union procedures or courts."

In essence, PERC has given every public employee union in Washington the go-ahead to alter their members' contracts after members have approved it. Unions that are charged with being the voice of their members to the legislature and the public can now deny their members a voice in their own contracts. If that's not unfair—and a blatant affront to member trust—what is?

It's also an insult to taxpayers; as state workers' ultimate employer, citizens of our state have a right to know the contracts and work conditions teachers and other public employees have agreed to. When a union doesn't accurately represent its members, as appears to be the case with the Seattle Education Association, the teachers are cheated out of having a real voice in their community and the citizens are cheated out of understanding what teachers actually want and need.

If Washington state workers are going to be forced to pay union dues, the least they can be given is a say in their own contracts.

Blueprint continued from page 8 . . .

Lessons from the Marysville strike are clear:

- Local teacher unions are growing increasingly militant, relying on illegal strikes, or simply the threat of illegal strikes, to get their way at the bargaining table.
- Injunctions don't seem to scare most teacher union officials. New legislation imposing substantial financial penalties for striking teachers and union bosses who orchestrate such strikes is needed to stop this illegal and disruptive activity.
- Domination of local school boards by pro-union candidates ensures that the teacher unions control the curriculum and the collective bargaining process. These union-dominated school boards are actively hostile to both taxpayers and education reformers.
- Even long-serving public education professionals and administrators are not immune from union threats to fire them. "Oppose the unions demands, lose your job," is the unspoken mantra of union professionals. In the end, it's not just about who controls the school boards. It's about dismantling a fundamentally dysfunctional public sector monopoly to make way for competition and choice in K-12 education. This new system should reward excellent teachers, marginalize mediocrity, dismantle the accepted liberal orthodoxy of low standards and "hyper-sensitivity at any cost," and allow American students to thrive.

This sea change in educational expectations cannot be achieved as long as the teacher unions control the entire public education system. In the meantime, reformers must meet the teachers unions head-on and demand accountability when they threaten to break the law by striking.

best service continued from page 7...

You'd think parents would jump at this opportunity. Yet most are not. Around the nation, only 25 percent to 50 percent of the students eligible for tutoring are receiving services. In Tacoma, the percentages are even smaller. Fewer than 10 percent of eligible parents have requested information about tutoring, and fewer than 1 percent of the eligible students are receiving instruction.

Why the low turnout?

No doubt many factors contribute, including parent apathy. But two obvious factors are that many parents don't know the services are available to them, and those who do face a complicated and often obstructive process to reach them.

One of the reasons parents don't know about their alternatives is that school district officials responsible for informing them would rather not. After all, every student who takes advantage of the tutoring directs money away from the district to other service providers. There is a very human (though not always excusable) tendency to protect self-interests.

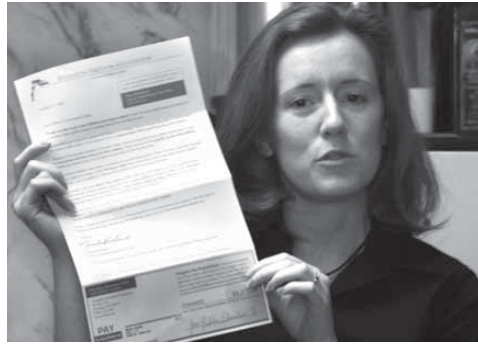
When the Evergreen Freedom Foundation discovered last year that the Tacoma School District's letter of notification to parents was prohibitively complicated and technical, we decided to send our own letter, along with a simulated "check" representing the amount available per student. The resulting media coverage prompted the district to simplify its communications and increase efforts to reach parents. This more than doubled the number of interested parents.

It also caused school officials and a legislator, state Sen. Debbie Regala (D-Tacoma) to worry that the district would "incur extra costs if the EFF letter was successful in generating more students interested in tutoring," according to e-mails obtained under a Freedom of Information request to the district.

In an e-mail to Regala and other interested parties, district staffer Lorraine Wilson seems to offer comfort in the knowledge that "families face obstacles to getting the tutoring services." Such obstacles include the need for transportation to off-site facilities, parent work schedules, after school activities, etc.

The idea that the district does not have enough money to allow students these options is flat wrong. Last year, Tacoma schools spent an average of \$12,189 per student. Average per-pupil spending over the last four years was \$10,895. The district received \$9,465,861 in federal funds for this school year, of which it must set aside at least 10 percent (\$946,586) for tutoring. Currently, only 11 students in Tacoma are receiving tutoring services out of 1,269 eligible. If each of those students uses the maximum amount available, the district will spend \$15,092. That leaves \$931,494.

Federal guidelines allow schools to use remaining funds to provide transportation for students, and the district could make empty classrooms available to tutors after school. Unfortunately, school officials



don't seem to be pursuing either possibility.

While only 11 students are receiving tutoring, 119 parents have sought more information or requested a tutor. When I asked a district official (Donald Lloyd) about the disparity, he replied, "Your guess is as good as mine." He said the district is not trying to find the answer.

Parents and students need the best educational opportunities available. Accessing those opportunities requires that Tacoma schools change their attitude and remember why they exist in the first place.

A Point Worth Pondering

Public Education v. Public School

"Public education" and "public school system" mean the same thing to most people, even though the former is a goal and the latter is a delivery system. [Some people] equate a demise of public schools with 'an end of American commitment to public education,' even though a public commitment to schooling doesn't require that the government operate schools.

... Jack Kemp, the 1996 Republican vice presidential nominee, and Erskine Bowles, a former Clinton Administration chief of staff, put it very nicely: 'the current model – a noncompetitive monopoly – is not the only way to deliver public education.' Not nearly enough people make the distinction between the goal and the delivery mechanism.

– John Merrifield, economics faculty, University of Texas, San Antonio (quoted from "The School Choice Wars")

Recommendations for Reform

Photo ID

EFF recommends that voters be required to show photo ID at the polls prior to being allowed to cast a ballot.



Question: Will a photo ID requirement help prevent election fraud?

Answer: Yes. Requiring photo ID prevents the fraud of voter impersonation at the polls. We all recognize that showing photo ID when we write a check at the grocery store helps prevent ID theft. Should we not want the same protection when casting our ballot?

Requiring photo ID provides a simple but effective barrier to vote fraud at the polls.

Question: Won't this requirement disenfranchise people who don't have an ID?

Answer: No, it won't, as long as IDs are made readily available. Disenfranchisement occurs when someone's right to vote is wrongly interfered with, like when an illegal vote is counted, canceling out a legal vote. A photo ID requirement is not wrongful interference with the right to vote. Nearly 100 democracies around the

" [P]roving you're eligible to vote by producing a utility bill is like proving you graduated from college by wearing a college ring."

world require voters to show photo ID, and their voters have not voiced fear over infringement of their rights.

States should, however, take necessary steps to make acceptable IDs available to all. This includes offering them for free to the poor, actively seeking out the infirm or elderly to provide IDs, and running a comprehensive voter education campaign. Free IDs can be used for more than voting, however, making them a benefit to the poor, according to civil rights leader and former Atlanta mayor Andrew Young.

Question: Doesn't Washington already require photo ID?

Answer: No, a voter can prove identity with a non-photo, easily forgeable ID. Utility bills, checks, and other non-photo IDs can be used to prove identity, according to a new law passed in 2005. In practice, poll workers often don't even try to match the address on these documents with the voter's address on file, meaning only the name has to match. A utility bill picked out of a neighbor's trash would be sufficient to vote in the neighbor's name. Soon after the law was passed, the *Columbian's* editors wrote that "proving you're eligible to vote by producing a utility bill is like proving you graduated from college by wearing a college ring."

Continued on next page

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Photo ID continued from page 10 . . .

Question: Do any other states require photo ID for voting?

Answer: Yes, many states have or are in the process of enacting such a requirement. Georgia and Indiana passed laws in 2005 requiring photo ID, while five other state legislatures are considering similar provisions.

Many states are in favor of the change not only because it makes sense, but because their constituents overwhelmingly support it. An *Atlanta Journal-Constitution* poll found that 80 percent of Georgians supported the requirement, and the *Washington Times* found similar numbers, with 83 percent of all voters in favor.

Question: Wasn't there a recent court case in Georgia that said requiring voters to show photo ID was unconstitutional?

Answer: No, the judge ruled that the methods Georgia was using were unconstitutional, not the photo ID requirement itself. According to the judge, Georgia didn't do enough to get IDs into the hands of voters or educate them about the photo ID requirement. Interestingly enough, the judge also cited the lack of similar security measures for absentee ballots, underscoring the need for comprehensive election security.

Georgia lawmakers responded quickly to the court's decision, revising their law to widen access to photo IDs. The case is being reconsidered in light of the changes.

In Indiana, a federal district court recently supported this point that the issue is not the requirement itself, but the methods of implementing it. The judge found no fault with Indiana's photo ID requirement, saying, "It is beyond dispute that Indiana has a compelling interest in ascertaining an individual's identity before allowing the person to vote." Because Indiana also had a well-planned implementation, the law was fully upheld as constitutional.

Question: Since most of Washington is now voting by mail, why should we even worry about poll voting?

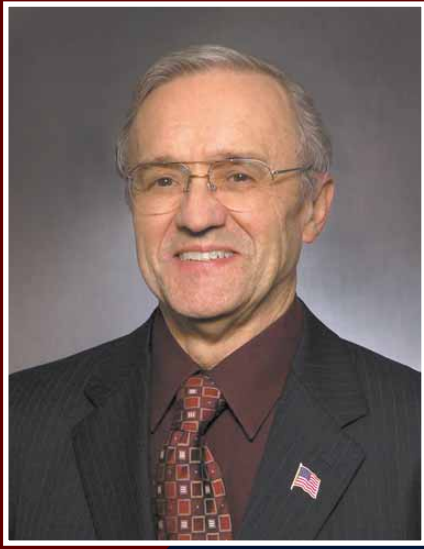
Answer: Because it is an essential part of comprehensive election security. It is true that polling sites are now the exception in much of Washington state, but that may not always be the case. Governments and citizens change their minds frequently, and currently a large portion of our state's population still resides in counties with poll voting.

Photo ID is certainly not a cure-all, but it is an important component of a secure election.



Electronic-giving ("e-Giving") allows you to automatically donate electronically to EFF from your bank account or credit card. No more remembering to send checks or buying envelopes and stamps. It saves time! It saves work! It's easy to use! For more information on scheduling an e-Giving donation, please contact Juliana McMahan at 360-956-3482 or visit us online at www.effwa.org/contribution.php.





Greetings!

Please join us for our 15th Anniversary Gala and Policy Conference on June 1. If you can come for the entire day, great! If not, consider which portion best suits your interests: the daytime policy workshops or the evening dinner.

We will spend the day earnestly debating six significant policy issues with some of the best minds in our country. After all, the entire reason EFF exists is to help reshape public policy toward embracing limited government. This type of shift will not start in the centers of political power; it will start with us, in

the marketplace and in academia. Only then will it move to the political arena.

We will end the evening with a celebration and a challenging message from John Stossel. If you are reading what Stossel writes, and if you watch 20/20 on ABC on Friday nights, you know he believes in EFF's mission.

I hope to see you there.

Bob William

Bob

EVERGREEN FREEDOM FOUNDATION'S
POLICY CONFERENCE
 & 15TH ANNIVERSARY *gala*
 JUNE 1, 2006

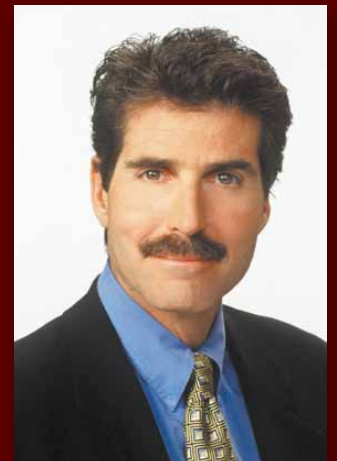
This special day will be divided in two parts: an all-day Policy Conference, and a Gala Dinner featuring John Stossel as our keynote speaker. The theme of the day will be "Freedom Matters". The location is the DoubleTree Suites Seattle-Southcenter (free parking).

The Policy Conference will begin at 8:15 a.m. and conclude at 5:00 p.m. In addition to a working lunch with a special guest speaker, concurrent sessions will include the topics below. Special speakers who are experts in their field will be featured in each session.

- What is "public" education?
- Balancing security & liberty
- The state of Labor—R.I.P. or resurgence
- Draining the swamp: budget & tax reform
- Freedom & the court
- Avoiding a health care train wreck

The Gala Dinner will begin with a private reception with John Stossel at 5:45 p.m., followed by dinner from 6:45-8:30 p.m. Evening attire. Dinner table sponsorships are available. Please call Juliana McMahan at 800-769-6617 if you are interested in sponsoring a table.

With Special Guest
John Stossel



Yes! Sign me up!

Early registration
 On or before May 12

Regular registration
 After May 12

- Policy Conference Only
- 15th Anniversary Gala Dinner with John Stossel Only
- Policy Conference & Gala Dinner
- Private Reception with John Stossel & Gala Dinner
- Policy Conference, Private Reception & Gala Dinner
- Student Sponsorship (Policy Conference & Gala Dinner)
- Please contact me about sponsoring a table.

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 \$85 x ____
 \$125 x ____
 \$200 x ____
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\$75 x ____
 \$110 x ____
 \$150 x ____
 \$250 x ____
 \$325 x ____
 \$100 x ____

Total amount enclosed:

\$ _____

\$ _____

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City, State Zip: _____

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Check (enclosed)

Credit Card (information below)

Credit card number: _____ Expiration date: _____

Signature: _____

Please send registration form and payment to:

Evergreen Freedom Foundation • PO Box 552 • Olympia, WA 98507

A portion of conference registration, dinner and reception fees are not deductible for tax purposes. Student Sponsorships are tax-deductible.

www.ewffwa.org

Register ONLINE

