

HOUSE BILL NO. 462

INTRODUCED BY A. WITTICH

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FREE ASSOCIATION BY PUBLIC EMPLOYEES WITH A LABOR ORGANIZATION AND REMOVING CERTAIN PUBLIC EMPLOYERS' OBLIGATIONS TO WITHHOLD UNION DUES OR OTHER ASSESSMENTS; PROVIDING AN OPTION FOR LOCAL GOVERNMENTS; AMENDING SECTIONS 39-31-101, 39-31-401, AND 39-31-402, MCA; AND REPEALING SECTIONS 39-31-203 AND 39-31-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Public employee choice -- public employer limits regarding unions --

local government option -- definition. (1) A public employee, as defined in 39-31-103, may not be required to become or remain a member of a labor organization to obtain or retain public employment.

(2) A public employer is not responsible:

(a) for withholding dues, fees, assessments, or other charges, whether through payroll deduction or another method, for a public employee who chooses to belong to a labor organization; or

(b) for making a payment, through payroll deduction or other method, on behalf of a public employee who is not or does not become a member of a labor organization in an amount equal to the labor organization's initiation fee or any form of monthly charge paid instead of dues that would be paid as a member of the labor organization.

(3) A local government that is a county or an incorporated city or town is not a public employer for the purposes of this section unless the local government enacts an ordinance to be a public employer covered by this section.

(4) For the purposes of this section, "public employer" means a state agency as defined in 2-18-101, except that the board of regents and the Montana university system are not included.

NEW SECTION. Section 2. Public employee choice -- public employer limits regarding unions.

(1) A public employee, as defined in 39-31-103, may not be required to become or remain a member of a labor organization to obtain or retain public employment.



- 1 (2) The governing body of a city or town may, by ordinance, refuse to:
- 2 (a) withhold dues, fees, assessments, or other charges, whether through payroll deduction or another
- 3 method, for a public employee who chooses to belong to a labor organization; or
- 4 (b) make a payment, through payroll deduction or other method, on behalf of a public employee who is
- 5 not or does not become a member of a labor organization in an amount equal to the labor organization's initiation
- 6 fee or any form of monthly charge paid instead of dues that would be paid as a member of the labor organization.

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8 **NEW SECTION. Section 3. Public employee choice -- public employer limits regarding unions.**

9 (1) A public employee, as defined in 39-31-103, may not be required to become or remain a member of a labor

10 organization to obtain or retain public employment.

- 11 (2) The board of county commissioners may, by ordinance, refuse to:
- 12 (a) withhold dues, fees, assessments, or other charges, whether through payroll deduction or another
- 13 method, for a public employee who chooses to belong to a labor organization; or
- 14 (b) make a payment, through payroll deduction or other method, on behalf of a public employee who is
- 15 not or does not become a member of a labor organization in an amount equal to the labor organization's initiation
- 16 fee or any form of monthly charge paid instead of dues that would be paid as a member of the labor organization.

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18 **Section 4.** Section 39-31-101, MCA, is amended to read:

19 **"39-31-101. Policy.** (1) In order to promote public business by removing certain recognized sources of

20 strife and unrest, ~~it is~~ the policy of the state of Montana is to encourage the practice and procedure of collective

21 bargaining to arrive at friendly adjustment of all disputes between public employers and their employees.

22 (2) The policy of the state of Montana further recognizes that the relationship of a collective bargaining

23 unit and an employee is a voluntary choice."

24

25 **Section 5.** Section 39-31-401, MCA, is amended to read:

26 **"39-31-401. Unfair labor practices of public employer.** It is an unfair labor practice for a public

27 employer to:

- 28 (1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-201;
- 29 (2) dominate, interfere, or assist in the formation or administration of any labor organization. However,
- 30 subject to rules adopted by the board under 39-31-104, an employer is not prohibited from permitting employees

1 to confer with the employer during working hours without loss of time or pay.

2 (3) discriminate in regard to hire or tenure of employment or any term or condition of employment in order
3 to encourage or discourage membership in any labor organization. ~~However, nothing in this chapter or in any
4 other statute of this state precludes a public employer from making an agreement with an exclusive representative
5 to require, as a condition of employment, that an employee who is not or does not become a union member must
6 have an amount equal to the union initiation fee and monthly dues deducted from the employee's wages in the
7 same manner as checkoff of union dues.;~~

8 (4) discharge or otherwise discriminate against an employee because the employee has signed or filed
9 an affidavit, petition, or complaint or given any information or testimony under this chapter; or

10 (5) refuse to bargain collectively in good faith with an exclusive representative."
11

12 **Section 6.** Section 39-31-402, MCA, is amended to read:

13 **"39-31-402. Unfair labor practices of labor organization.** It is an unfair labor practice for a labor
14 organization or its agents to:

15 (1) restrain or coerce:

16 (a) employees in the exercise of the right guaranteed in 39-31-201 or [section 1(1)]; or

17 (b) a public employer in the selection of a representative for the purpose of collective bargaining or the
18 adjustment of grievances;

19 (2) refuse to bargain collectively in good faith with a public employer if ~~it~~ the labor organization has been
20 designated as the exclusive representative of its member employees;

21 (3) use agency shop fees for contributions to political candidates or parties at state or local levels."
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23 **NEW SECTION. Section 7. Repealer.** The following sections of the Montana Code Annotated are
24 repealed:

25 39-31-203. Deduction of dues from employee's pay.

26 39-31-204. Right of nonassociation with labor organization on religious grounds -- requirements and
27 procedure for assertion of right.
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29 **NEW SECTION. Section 8. Codification instruction.** (1) [Section 1] is intended to be codified as an
30 integral part of Title 39, chapter 31, part 1, and the provisions of Title 39, chapter 31, part 1, apply to [section 1].

