

SENATE BILL NO. 343

INTRODUCED BY J. FULLER

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A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE USE OF PUBLIC FUNDS AND RESOURCES FOR LABOR ORGANIZATION ACTIVITIES; PROHIBITING CERTAIN LABOR ORGANIZATION ACTIVITIES WHILE RECEIVING COMPENSATION; PROVIDING LIMITATIONS; PROVIDING A DEFINITION; AND AMENDING SECTION 2-2-121, MCA."

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

NEW SECTION. **Section 1. Use of public resources for labor organization activities.** (1) A public employer may not provide any form of compensation or paid leave to a public employee for time spent engaged in labor organization activities.

(2) A public employer may not reimburse a public employee for expenses incurred while working on labor organization activities.

(3) This section does not prevent:

(a) a public employee from using compensated personal leave accrued at the same rate by all public employees in an appropriate unit to engage in labor organization activities;

(b) a public employer from authorizing a public employee to take uncompensated leave to engage in labor organization activities; or

(c) a labor organization from compensating a public employee for engaging in labor organization activities.

(4) For purposes of this section, "labor organization activities" means any activities undertaken at the direction of, on behalf of, or to advance the purposes of a labor organization by, including but not limited to:

(a) supporting or opposing any candidate for federal, state, or local public office;

(b) influencing the passage or defeat of any federal or state legislation, federal or state regulation, local ordinance, or any ballot measure;

(c) soliciting membership on behalf of the labor organization;

- 1 (d) preparing, conducting, or attending labor organization events or training;
- 2 (e) preparing, filing, or pursuing unfair labor practice complaints or grievances;
- 3 (f) participating in the administration, business, or internal governance of a labor organization;
- 4 (g) distributing labor organization communications;
- 5 (h) seeking certification to represent employees in collective bargaining with their employer;
- 6 (i) engaging in collective bargaining and any related mediation, fact-finding, or arbitration;
- 7 (j) administering a collective bargaining agreement;
- 8 (k) participating in labor-management committees; or
- 9 (l) representing or speaking on behalf of the labor organization in any setting, venue, or process.

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11 **Section 2.** Section 2-2-121, MCA, is amended to read:

12 **"2-2-121. Rules of conduct for public officers and public employees.** (1) Proof of commission of
13 any act enumerated in subsection (2) is proof that the actor has breached a public duty.

14 (2) A public officer or a public employee may not:

15 (a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for
16 the officer's or employee's private business purposes;

17 (b) engage in a substantial financial transaction for the officer's or employee's private business
18 purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

19 (c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or
20 other economic benefit from the officer's or employee's agency;

21 (d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic
22 benefit from any agency;

23 (e) perform an official act directly and substantially affecting to its economic benefit a business or
24 other undertaking in which the officer or employee either has a substantial financial interest or is engaged as
25 counsel, consultant, representative, or agent; or

26 (f) solicit or accept employment, or engage in negotiations or meetings to consider employment,
27 with a person whom the officer or employee regulates in the course of official duties without first giving written
28 notification to the officer's or employee's supervisor and department director; or

1 (g) violate [section 1].

2 (3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use or
3 permit the use of public time, facilities, equipment, supplies, personnel, or funds to solicit support for or
4 opposition to any political committee, the nomination or election of any person to public office, or the passage of
5 a ballot issue unless the use is:

6 (i) authorized by law; or

7 (ii) properly incidental to another activity required or authorized by law, such as the function of an
8 elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

9 (b) As used in this subsection (3), "properly incidental to another activity required or authorized by
10 law" does not include any activities related to solicitation of support for or opposition to the nomination or
11 election of a person to public office or political committees organized to support or oppose a candidate or
12 candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

13 (i) the activities of a public officer, the public officer's staff, or legislative staff related to
14 determining the impact of passage or failure of a ballot issue on state or local government operations;

15 (ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the
16 requirements of law governing public meetings of the local board of trustees, including the resulting
17 dissemination of information by a board of trustees or a school superintendent or a designated employee in a
18 district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors.

19 Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond
20 issue or levy submitted to the electors.

21 (c) This subsection (3) is not intended to restrict the right of a public officer or public employee to
22 express personal political views.

23 (d) (i) If the public officer or public employee is a Montana highway patrol chief or highway patrol
24 officer appointed under Title 44, chapter 1, the term "equipment" as used in this subsection (3) includes the
25 chief's or officer's official highway patrol uniform.

26 (ii) A Montana highway patrol chief's or highway patrol officer's title may not be referred to in the
27 solicitation of support for or opposition to any political committee, the nomination or election of any person to
28 public office, or the passage of a ballot issue.

1 (4) (a) A candidate, as defined in 13-1-101(8)(a), may not use or permit the use of state funds for
2 any advertisement or public service announcement in a newspaper, on radio, or on television that contains the
3 candidate's name, picture, or voice except in the case of a state or national emergency and then only if the
4 announcement is reasonably necessary to the candidate's official functions.

5 (b) A state officer may not use or permit the use of public time, facilities, equipment, supplies,
6 personnel, or funds to produce, print, or broadcast any advertisement or public service announcement in a
7 newspaper, on radio, or on television that contains the state officer's name, picture, or voice except in the case
8 of a state or national emergency if the announcement is reasonably necessary to the state officer's official
9 functions or in the case of an announcement directly related to a program or activity under the jurisdiction of the
10 office or position to which the state officer was elected or appointed.

11 (5) A public officer or public employee may not participate in a proceeding when an organization,
12 other than an organization or association of local government officials, of which the public officer or public
13 employee is an officer or director is:

14 (a) involved in a proceeding before the employing agency that is within the scope of the public
15 officer's or public employee's job duties; or

16 (b) attempting to influence a local, state, or federal proceeding in which the public officer or public
17 employee represents the state or local government.

18 (6) A public officer or public employee may not engage in any activity, including lobbying, as
19 defined in 5-7-102, on behalf of an organization, other than an organization or association of local government
20 officials, of which the public officer or public employee is a member while performing the public officer's or
21 public employee's job duties. The provisions of this subsection do not prohibit a public officer or public
22 employee from performing charitable fundraising activities if approved by the public officer's or public
23 employee's supervisor or authorized by law.

24 (7) A listing by a public officer or a public employee in the electronic directory provided for in 30-
25 17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this
26 section. The public officer or public employee may not make arrangements for the listing in the electronic
27 directory during work hours.

28 (8) A department head or a member of a quasi-judicial or rulemaking board may perform an official

1 act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a
2 statute and if the person complies with the disclosure procedures under 2-2-131.

3 (9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
4 unless the member is also a full-time public employee.

5 (10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local
6 government from performing an official act when the member's participation is necessary to obtain a quorum or
7 to otherwise enable the body to act. The member shall disclose the interest creating the appearance of
8 impropriety prior to performing the official act."

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10 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
11 integral part of Title 39, chapter 31, and the provisions of Title 39, chapter 31, apply to [section 1].

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13 NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured,
14 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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16 NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are
17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
18 the part remains in effect in all valid applications that are severable from the invalid applications.

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