



AN ACT PROVIDING FOR FREE ASSOCIATION BY PUBLIC EMPLOYEES WITH A PUBLIC LABOR ORGANIZATION AND PROHIBITING UNION DUES AND OTHER ASSESSMENTS TO BE CHARGED TO NONMEMBER EMPLOYEES; AMENDING SECTION 39-31-401, MCA; REPEALING SECTION 39-31-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the U.S. Supreme Court in *Janus v. AFSCME*, Council 31, 138 S. Ct. 2448 (2018), found that forcing free and independent individuals to endorse ideas they find objectionable raises serious First Amendment concerns; and

WHEREAS, the Supreme Court found that forcing nonunion employees to pay agency fees violated the First Amendment's protection on freedom of association and freedom of speech; and

WHEREAS, the Supreme Court ultimately held that neither an agency fee nor any other form of payment to a public sector union may be deducted from an employee, and no other attempt may be made to collect such a payment unless the employee affirmatively consents to pay.

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

Section 1. Section 39-31-401, MCA, is amended to read:

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

(1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-201;

(2) dominate, interfere, or assist in the formation or administration of any labor organization. However, subject to rules adopted by the board under 39-31-104, an employer is not prohibited from permitting employees to confer with the employer during working hours without loss of time or pay.

(3) discriminate in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in any labor organization. ~~However, nothing in this chapter or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative~~

~~to require, as a condition of employment, that an employee who is not or does not become a union member must have an amount equal to the union initiation fee and monthly dues deducted from the employee's wages in the same manner as checkoff of union dues.;~~

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

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

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

39-31-204. Right of nonassociation with labor organization on religious grounds -- requirements and procedure for assertion of right.

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0323, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 323

INTRODUCED BY B. TSCHIDA, W. GALT, C. GLIMM, C. KNUDSEN, D. SKEES, K. WHITE

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