



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0168

Title: Generally revise laws related to union fees

Primary Sponsor: Mercer, Bill

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: HB 168 has no fiscal impact to the state.

FISCAL ANALYSIS

Technical Notes:

Department of Labor and Industry

- Section 1(1)(b): This provision may conflict with the Contracts Clauses of the United States and Montana constitutions, which prohibit government impairment of private contracts. Labor organization membership is an agreement between the organization and its membership.
- Section 1(2)(b): This provision is duplicative of the requirements of the Montana Wage Payment Act. The WPA requires employers to pay wages earned to the employee. See 39-3-204, MCA. This provision appears additionally to enhance the burden of an employee to consent to deductions of wages, which is not required in other employment relationships, or other types of deductions for employees covered by a collective bargaining agreement. That distinction appears to disparately treat labor organizations from other similarly situated entities which may receive deducted wages from employees.

3. In Section 5(2), labor organizations are required presently to bargain on behalf of all members of the certified unit. Unit determinations are governed by statute and rule to encompass those employees with a community of interest. The proposed amendment appears to draw a distinction between employees who are members of the union and those who are not, and to permit the union to represent only “its member” employees. The proposal would create a conflict with the laws governing appropriate unit certification. See, e.g. 39-31-205, MCA, (requiring labor organizations to represent “the interest of all employees in the exclusive bargaining unit without discrimination...”). A distinction between employees of a single unit of workers may also create confusion for management regarding which rights and remedies are available to each employee supervised. That potential confusion could lead to the loss of protections for employers for suits like Wrongful Discharge, due to a failure to provide proper grievance procedures; similar employees may lose access to remedies, believing themselves covered by a certain remedial scheme only to find out they grieved under the wrong provision and are then time barred.
4. Because Section 1 seeks to create unfair labor practices for employers and labor organizations, as a matter of drafting and ease of enforcement, the provisions would be more appropriately placed in 39-31-401 and -402, MCA, which set forth other unfair labor practices.

NOT SIGNED BY SPONSOR

Sponsor's Initials

1/28/21

Date

KA

Budget Director's Initials

1/25/21

Date