



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0251

Title: Implement right-to-work

Primary Sponsor: Hinkle, Caleb

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</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>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: This bill has no fiscal impact to the state.

FISCAL ANALYSIS

Assumptions:

1. HB 251 creates the Worker Freedom Act and provides an employee with freedom of choice on whether to join a labor organization. This bill also requires written authorization of participating, requires posted notice, and provides penalties and repeals the right of non-association for public employers for certain reasons.
2. HB 251 would implement Montana as a right-to-work state.
3. HB 251 would result in minor modifications to the Statewide Accounting, Budgeting and Human Resources System (SABHRS) to start and stop union dues.

Technical Notes:

1. Sections 8, 9, and 10, read in conjunction, violate the requirements of prosecutorial discretion and immunity. Section 10 sets forth a prosecutorial duty to investigate and prosecute. Section 9 permits any individual to bring suit to require a county attorney or the attorney general to prosecute. *See, e.g. State ex rel. Dep't of Justice v. Dist. Ct.*, 172 Mont. 88, 560 P.2d 1328 (1976). Further, Section 8 renders the county attorney and attorney general subject to criminal prosecution for a prosecutorial decision not to prosecute.
2. Section 8 defines the crime as one of "absolute liability." Such may violate constitutional due process requirements.
3. To the extent the legislation purports to vitiate presently existing contracts between private sector employers and labor organizations, it may violate the contracts clauses of the United States and Montana Constitutions.
4. Section 10 indicates that the Attorney General's Office shall investigate and prosecute any complaints of violations. This violation would likely be a misdemeanor offense and not within general jurisdiction of the Department of Justice.
5. The department's involvement in criminal investigations is directed by 44-2-115, MCA. The MCA provides that a Chief, Sheriff, or County Attorney can request investigation within their jurisdiction.

NOT SIGNED BY SPONSOR

Sponsor's Initials

2/5/21

Date

KA

Budget Director's Initials

2/3/21

Date