

1 HOUSE BILL NO. 216

2 INTRODUCED BY B. MERCER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PUBLIC

5 EMPLOYEES AND LABOR ORGANIZATIONS; PROVIDING A POLICY STATEMENT; REVISING LAWS

6 RELATED TO PUBLIC EMPLOYEE MEMBERSHIP IN A LABOR ORGANIZATION; ALLOWING A PUBLIC

7 EMPLOYEE TO CANCEL MEMBERSHIP IN A LABOR ORGANIZATION; REVISING LAWS RELATED TO

8 COLLECTION OF LABOR ORGANIZATION DUES FROM EMPLOYEES' PAY; REQUIRING AFFIRMATIVE

9 CONSENT OF THE PUBLIC EMPLOYEE TO THE COLLECTION OF LABOR ORGANIZATION DUES;

10 REVISING LAWS RELATED TO UNFAIR LABOR PRACTICES OF PUBLIC EMPLOYERS ~~AND LABOR~~

11 ~~ORGANIZATIONS~~; AMENDING SECTIONS 39-31-101, 39-31-201, 39-31-203, AND 39-31-401, ~~AND 39-31-~~

12 ~~402~~, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

13

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

15

16 **Section 1.** Section 39-31-101, MCA, is amended to read:

17 **"39-31-101. Policy.** In order to promote public business by removing certain recognized sources of

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

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

20 also the policy of the state of Montana that a public employee may not be required to become or remain a

21 member of, or financially support, a labor organization to obtain or retain public employment."

22

23 **Section 2.** Section 39-31-201, MCA, is amended to read:

24 **"39-31-201. Public Rights of public employees protected in right of self-organization.** (1) Public

25 employees shall have and shall be protected in the exercise of the right of self-organization, to form, join, or

26 assist any labor organization, to bargain collectively through representatives of their own choosing on questions

27 of wages, hours, fringe benefits, and other conditions of employment, and to engage in other concerted

28 activities for the purpose of collective bargaining or other mutual aid or protection free from interference,

1 restraint, or coercion.

2 (2) A public employee may not be required to become or remain a member of, or financially  
3 support, a labor organization as a condition of obtaining or retaining public employment.

4 (3) A public employee may cancel the ~~public employee's membership and cease financial support~~  
5 ~~of a labor organization deduction of union dues or fees from the public employee's pay~~ at any time.

6 (4) A public employer may not collect dues from compensation paid to a public employee on behalf  
7 of a labor organization without the ~~annual~~ affirmative consent of the public employee."

8

9 Section 3. Section 39-31-203, MCA, is amended to read:

10 "39-31-203. Deduction of dues from employee's pay. ~~(1) Upon written authorization of any public~~  
11 ~~employee within a bargaining unit, the~~ A public employer shall deduct from the pay of the a public employee  
12 ~~within an appropriate unit~~ the monthly amount of dues as certified by the secretary of the exclusive  
13 representative and shall deliver the dues to the ~~treasurer of the exclusive representative~~ if:

14 (a) ~~the public employer has, by September 1 of each year, provided the public employee with an~~  
15 ~~annual notice and certification that:~~

16 (i) ~~informs the public employee of the public employee's first amendment rights against compelled~~  
17 ~~speech, including a disclosure that union membership and dues payments are voluntary; and~~

18 (ii) ~~contains the following statement:~~

19 ~~"The State of Montana wishes to make you aware that you, as a public employee, have a first~~  
20 ~~amendment right to associate, including the right not to associate. Therefore, you have a right to refrain from~~  
21 ~~joining and paying dues to a union. Union membership and payment of dues are voluntary, and you may not be~~  
22 ~~discriminated against for your refusal to join or financially support a union. By signing this form, you are~~  
23 ~~agreeing to authorize your employer to deduct union dues from your pay in the amounts specified by your~~  
24 ~~union."~~

25 (b) ~~the public employee has affirmatively consented to any the collection of labor organization~~  
26 ~~dues for the year following the September 1 disclosure~~ through a certification in writing, signed by the public  
27 employee and submitted to the public employer, ~~and that contains the following statement:~~

28 ~~"The State of Montana wishes to make you aware that you, as a public employee, have a first~~

1 amendment right to associate, including the right not to associate. Therefore, you have a right to refrain from  
2 joining and paying dues to a union. Union membership and payment of dues are voluntary, and you may not be  
3 discriminated against for your refusal to join or financially support a union. If you sign this form, you are  
4 agreeing to authorize your employer to deduct union dues from your pay in the amounts specified by your  
5 union. You may cancel the deduction of union dues from your paychecks at any time by submitting a written  
6 request to your payroll office."

7 ~~(c) the public employee has not revoked the authorization for the deduction of labor organization~~  
8 ~~dues through written notice to the public employer or the labor organization.~~

9 (2) ~~If the a public employee has revoked~~ revokes the authorization for the deduction of labor  
10 organization dues or canceled the employee's membership in the labor organization, through written notice to  
11 the employer, the public employer shall cease ~~collecting deducting~~ dues from the public ~~employee~~ employee's  
12 pay as soon as practicable, but in no case later than 30 days from the notice to the public employer.

13 (3) ~~A certification completed by a public employee as described in subsection (1) expires no later~~  
14 ~~than December 31 of the year for which it has resulted in the deduction of labor organization dues from the~~  
15 ~~public employee's pay~~ At least once each calendar year, beginning the year after the year of the effective date,  
16 a public employer shall provide a public employee in an appropriate unit with notice of the public employee's  
17 first amendment rights against compelled speech that includes a disclosure that union membership and dues  
18 payment are voluntary and that contains the following statement:

19 "The State of Montana wishes to make you aware that you, as a public employee, have a first  
20 amendment right to associate, including the right not to associate. Therefore, you have a right to refrain from  
21 joining and paying dues to a union. Union membership and payment of dues are voluntary, and you may not be  
22 discriminated against for your refusal to join or financially support a union. You may cancel the deduction of  
23 union dues from your paycheck at any time by submitting a written request to your payroll office."

24

25 **Section 4.** 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-

1 101 and 39-31-201;

2 (2) dominate, interfere, or assist in the formation or administration of any labor organization.

3 However, subject to rules adopted by the board under 39-31-104, an employer is not prohibited from permitting  
4 employees to confer with the employer during working hours without loss of time or pay.

5 (3) discriminate in regard to hire or tenure of employment or any term or condition of employment  
6 in order to encourage or discourage membership in any labor organization;

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

9 (5) refuse to bargain collectively in good faith with an exclusive representative; or

10 (6) execute a collective bargaining agreement with an exclusive representative containing  
11 provisions contrary to this chapter."

12

13 ~~Section 5. Section 39-31-402, MCA, is amended to read:~~

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

16 ~~(1) — restrain or coerce:~~

17 ~~(a) — employees in the exercise of the right rights guaranteed in 39-31-101 or 39-31-201; or~~

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

20 ~~(2) — refuse to bargain collectively in good faith with a public employer if it the labor organization has~~  
21 ~~been designated as the exclusive representative of public employees in an appropriate unit;~~

22 ~~(3) — use collect agency shop fees for contributions to political candidates or parties at state or local~~  
23 ~~levels from public employees."~~

24

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

28

**Amendment - 1st Reading-white - Requested by: Bill Mercer - (H) State Administration**

- 2023

68th Legislature 2023

Drafter: Rebecca Power,

HB0216.001.001

1            NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2023.

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3            NEW SECTION. **Section 7. Applicability.** [This act] applies to collective bargaining agreements or

4 other contracts executed, modified, extended, or amended on or after July 1, 2023.

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- END -

AMENDED