

HOUSE BILL NO. 216

INTRODUCED BY B. MERCER

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PUBLIC EMPLOYEES AND LABOR ORGANIZATIONS; PROVIDING A POLICY STATEMENT; REVISING LAWS RELATED TO PUBLIC EMPLOYEE MEMBERSHIP IN A LABOR ORGANIZATION; ALLOWING A PUBLIC EMPLOYEE TO CANCEL MEMBERSHIP IN A LABOR ORGANIZATION; REVISING LAWS RELATED TO COLLECTION OF LABOR ORGANIZATION DUES FROM EMPLOYEES' PAY; REQUIRING AFFIRMATIVE CONSENT OF THE PUBLIC EMPLOYEE TO THE COLLECTION OF LABOR ORGANIZATION DUES; REVISING LAWS RELATED TO UNFAIR LABOR PRACTICES OF PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS; AMENDING SECTIONS 39-31-101, 39-31-201, 39-31-203, 39-31-401, AND 39-31-402, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

**"39-31-101. Policy.** In order to promote public business by removing certain recognized sources of strife and unrest, it is the policy of the state of Montana to encourage the practice and procedure of collective bargaining to arrive at friendly adjustment of all disputes between public employers and their employees. It is also the policy of the state of Montana that a public employee may not be required to become or remain a member of, or financially support, a labor organization to obtain or retain public employment."

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

**"39-31-201. ~~Public Rights of public employees protected in right of self-organization.~~** (1) Public employees shall have and shall be protected in the exercise of the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, fringe benefits, and other conditions of employment, and to engage in other concerted 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 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."

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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 collection of labor organization dues for  
 26 the year following the September 1 disclosure through a certification in writing signed by the public employee  
 27 and submitted to the public employer; and

28 (c) the public employee has not revoked the authorization for the deduction of labor organization

1 dues through written notice to the public employer or the labor organization.

2 (2) If the public employee has revoked the authorization for the deduction of labor organization  
3 dues or canceled the employee's membership in the labor organization, the public employer shall cease  
4 collecting dues from the public employee as soon as practicable, but in no case later than 30 days from the  
5 notice to the public employer.

6 (3) A certification completed by a public employee as described in subsection (1) expires no later  
7 than December 31 of the year for which it has resulted in the deduction of labor organization dues from the  
8 public employee's pay."

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10 **Section 4.** Section 39-31-401, MCA, is amended to read:

11 **"39-31-401. Unfair labor practices of public employer.** It is an unfair labor practice for a public  
12 employer to:

13 (1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-  
14 101 and 39-31-201;

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

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

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

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

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

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

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26 **Section 5.** Section 39-31-402, MCA, is amended to read:

27 **"39-31-402. Unfair labor practices of labor organization.** It is an unfair labor practice for a labor  
28 organization or its agents to:

- 1           (1)     restrain or coerce:
- 2           (a)     employees in the exercise of the ~~right~~ rights guaranteed in 39-31-101 or 39-31-201; or
- 3           (b)     a public employer in the selection of a representative for the purpose of collective bargaining or
- 4     the adjustment of grievances;
- 5           (2)     refuse to bargain collectively in good faith with a public employer if ~~it~~ the labor organization has
- 6     been designated as the exclusive representative of public employees in an appropriate unit;
- 7           (3)     ~~use collect agency shop fees for contributions to political candidates or parties at state or local~~
- 8     ~~levels from public employees."~~

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10           NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are

11     severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

12     the part remains in effect in all valid applications that are severable from the invalid applications.

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14           NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2023.

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16           NEW SECTION. Section 8. Applicability. [This act] applies to collective bargaining agreements or

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

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