

HOUSE BILL NO. 448

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE WORKER FREEDOM ACT; PROVIDING AN EMPLOYEE WITH FREEDOM OF CHOICE ON WHETHER TO JOIN A LABOR ORGANIZATION; REQUIRING WRITTEN AUTHORIZATION OF PARTICIPATION; REQUIRING POSTED NOTICE; DESCRIBING VIOLATIONS; PROVIDING PENALTIES; ELIMINATING THE RIGHT OF NONASSOCIATION FOR PUBLIC EMPLOYEES FOR CERTAIN REASONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 39-31-201 AND 39-31-203, MCA; REPEALING SECTIONS 39-33-101, 39-33-102, 39-33-103, 39-33-104, AND 39-33-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Worker Freedom Act".

NEW SECTION. **Section 2. Policy.** It is the public policy of the state, in order to maximize individual freedom of choice in the pursuit of employment and to encourage an employment climate conducive to economic growth, that the right to work may not be subject to restraint or coercion. An individual's right to work may not be infringed on or restricted based on the individual's membership in, affiliation with, or financial support of a labor organization or on the individual's refusal to join, affiliate with, or support, financially or otherwise, a labor organization.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 10] the following definitions apply:

- (1) "Employer" means an individual, corporation, association, organization, or entity that employs

1 one or more individuals. The term includes the state and its political subdivisions and all districts, boards,
2 commissions, or other units whose governing body exercises governmental powers. The term also includes an
3 employer of agricultural labor.

4 (2) "Labor organization" means an organization or association in which employees participate and
5 which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages,
6 rates of pay, hours of employment, fringe benefits, or other conditions of employment.

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8 **NEW SECTION. Section 4. Freedom of choice guaranteed.** An individual may not be required as a
9 condition of employment or continuation of employment to:

10 (1) resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial
11 support of a labor organization;

12 (2) become or remain a member of a labor organization or pay dues, fees, assessments, or other
13 charges of any kind or amount to a labor organization; or

14 (3) pay a charity or other third party, in lieu of payment to a labor organization, an amount
15 equivalent to or a pro rata portion of dues, fees, assessments, or other charges of any kind regularly required of
16 members of a labor organization.

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18 **NEW SECTION. Section 5. Voluntary deductions protected.** (1) It is unlawful for an employer to
19 deduct from the wages, earnings, or compensation of an employee any dues, fees, assessments, or other
20 charges of any kind to be held for, transferred to, or paid over to a labor organization unless the employee has
21 first presented, and the employer has received, a signed written authorization for the deductions.

22 (2) The authorization given pursuant to subsection (1) may be revoked by the employee at any
23 time by submitting written notice to the employer 30 days before the date of revocation. An employer receiving
24 an authorization from an employee shall promptly notify the employee in writing of the employee's right to
25 revoke the authorization by giving the employer 30 days' written notice.

26

27 **NEW SECTION. Section 6. Agreements in violation and actions to induce agreements illegal.**

28 (1) An agreement, understanding, or practice, written or oral, implied or expressed, between a labor

1 organization and an employer that violates the rights of an employee guaranteed by [sections 1 through 10] is
2 void.

3 (2) Any strike, picketing, boycott, or other action by a labor organization to induce or attempt to
4 induce an employer to enter into an agreement prohibited by [sections 1 through 10] is illegal and constitutes a
5 violation of [sections 1 through 10].

6
7 **NEW SECTION. Section 7. Posted notice required.** An employer shall continuously display the
8 following notice in a place or places where it may be readily seen by all employees in the employer's business
9 establishment and shall furnish a copy of the notice to each employee when the employment begins and ends:

10 "EMPLOYEE FREEDOM OF CHOICE

11 Under the law of the state of Montana, an employee is protected in the exercise of the employee's
12 freedom of choice to join or to refrain from joining a labor organization. It is unlawful for a labor organization and
13 an employer to enter into a contract or agreement that requires the employee to pay dues, fees, assessments,
14 or other charges of any kind to a labor organization as a condition of obtaining or retaining a job. Under this law,
15 an employer may not discharge or otherwise discriminate against an employee because of the employee's
16 refusal to join or pay dues, fees assessments, or other charges of any kind to a labor organization."

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18 **NEW SECTION. Section 8. Criminal penalties.** A violation of [sections 1 through 10] is a
19 misdemeanor, and on conviction, an individual, employer, or labor organization or an agent or representative of
20 an employer or labor organization shall be fined an amount of up to \$1,000. A violation of [sections 1 through
21 10] is an absolute liability offense as provided in 45-2-104.

22
23 **NEW SECTION. Section 9. Civil penalties.** A person harmed as a result of a violation or threatened
24 violation of [sections 1 through 10] may:

- 25 (1) file a complaint to enjoin the violator or person threatening violation; and
26 (2) recover damages, including costs and reasonable attorney fees, resulting from the violation or
27 threatened violation.

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1 NEW SECTION. Section 10. Exceptions. [Sections 1 through 10] do not apply to:

- 2 (1) employers and employees to the extent that they are subject to the Railway Labor Act, 45
- 3 U.S.C. 151, et seq.;
- 4 (2) the United States or employees of the United States;
- 5 (3) employers and employees on exclusive federal enclaves; or
- 6 (4) the extent any of its provisions would otherwise conflict with, or be preempted by, federal law.

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8 **Section 11.** Section 39-31-201, MCA, is amended to read:

9 **"39-31-201. ~~Public employees protected in right~~ Right of self-organization -- choice as to**
 10 **membership.** (1) Public employees ~~shall have and shall be~~ are protected in the exercise of the right of self-
 11 organization, to form, join, or assist any labor organization, the right to bargain collectively through
 12 representatives of their own choosing on questions of wages, hours, fringe benefits, and other conditions of
 13 employment, and the right to engage in other concerted activities for the purpose of collective bargaining or
 14 other mutual aid or protection free from interference, restraint, or coercion.

15 (2) A public employee, on an individual basis, has the right to choose not to join or assist any labor
 16 organization, free from interference, restraint, or coercion."

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18 **Section 12.** Section 39-31-203, MCA, is amended to read:

19 **"39-31-203. Deduction of dues from employee's pay.** (1) ~~Upon~~ On written authorization of any
 20 public employee within a bargaining unit, the public employer shall deduct from the pay of the public employee
 21 the monthly amount of dues as certified by the secretary of the exclusive representative and shall deliver the
 22 dues to the treasurer of the exclusive representative.

23 (2) The authorization given pursuant to subsection (1) may be revoked by the public employee at
 24 any time by submitting written notice to the public employer 30 days before the date of revocation. A public
 25 employer receiving an authorization from a public employee shall promptly notify the employee in writing of the
 26 employee's right to revoke the authorization by giving the employer 30 days' written notice."

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28 NEW SECTION. Section 13. Repealer. The following sections of the Montana Code Annotated are

- 1 repealed:
- 2 39-33-101. Intent of part.
- 3 39-33-102. Immediate family defined.
- 4 39-33-103. Unfair labor practice.
- 5 39-33-104. Beer and liquor establishment excepted.
- 6 39-33-105. Violation.

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8 **NEW SECTION. Section 14. Codification instruction.** [Sections 1 through 10] are intended to be
 9 codified as an integral part of Title 39, chapter 33, and the provisions of Title 39, chapter 33, apply to [sections
 10 1 through 10].

11

12 **NEW SECTION. Section 15. Severability.** If a part of [this act] is invalid, all valid parts that are
 13 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
 14 the part remains in effect in all valid applications that are severable from the invalid applications.

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16 **NEW SECTION. Section 16. Effective date.** [This act] is effective on passage and approval.

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