SENATE BILL NO. 343
INTRODUCED BY J. FULLER

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE USE OF PUBLIC FUNDS AND RESOURCES FOR LABOR ORGANIZATION ACTIVITIES; PROHIBITING CERTAIN LABOR ORGANIZATION ACTIVITIES WHILE RECEIVING COMPENSATION; PROVIDING LIMITATIONS; PROVIDING A DEFINITION; AND AMENDING SECTION 2-2-121, MCA."

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

NEW SECTION. Section 1. Use of public resources for labor organization activities. (1) A public employer may not provide any form of compensation or paid leave to a public employee for time spent engaged in labor organization activities.

(2) A public employer may not reimburse a public employee for expenses incurred while working on labor organization activities.

(3) This section does not prevent:

(a) a public employee from using compensated personal leave accrued at the same rate by all public employees in an appropriate unit to engage in labor organization activities;

(b) a public employer from authorizing a public employee to take uncompensated leave to engage in labor organization activities; or

(c) a labor organization from compensating a public employee for engaging in labor organization activities.

(4) For purposes of this section, "labor organization activities" means any activities undertaken at the direction of, on behalf of, or to advance the purposes of a labor organization by, including but not limited to:

(a) supporting or opposing any candidate for federal, state, or local public office;

(b) influencing the passage or defeat of any federal or state legislation, federal or state regulation, local ordinance, or any ballot measure;

(c) soliciting membership on behalf of the labor organization;
preparing, conducting, or attending labor organization events or training;
preparing, filing, or pursuing unfair labor practice complaints or grievances;
participating in the administration, business, or internal governance of a labor organization;
distributing labor organization communications;
seeking certification to represent employees in collective bargaining with their employer;
engaging in collective bargaining and any related mediation, fact-finding, or arbitration;
administering a collective bargaining agreement;
participating in labor-management committees; or
representing or speaking on behalf of the labor organization in any setting, venue, or process.

Section 2. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) subject to subsection (7), use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director; or
(g) violate [section 1].

(3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use or permit the use of public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;

(ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors.

Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.

(c) This subsection (3) is not intended to restrict the right of a public officer or public employee to express personal political views.

(d) (i) If the public officer or public employee is a Montana highway patrol chief or highway patrol officer appointed under Title 44, chapter 1, the term "equipment" as used in this subsection (3) includes the chief's or officer's official highway patrol uniform.

(ii) A Montana highway patrol chief's or highway patrol officer's title may not be referred to in the solicitation of support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.
(4) A candidate, as defined in 13-1-101(8)(a), may not use or permit the use of state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate’s name, picture, or voice except in the case of a state or national emergency and then only if the announcement is reasonably necessary to the candidate’s official functions.

(b) A state officer may not use or permit the use of public time, facilities, equipment, supplies, personnel, or funds to produce, print, or broadcast any advertisement or public service announcement in a newspaper, on radio, or on television that contains the state officer’s name, picture, or voice except in the case of a state or national emergency if the announcement is reasonably necessary to the state officer’s official functions or in the case of an announcement directly related to a program or activity under the jurisdiction of the office or position to which the state officer was elected or appointed.

(5) A public officer or public employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the public officer or public employee is an officer or director is:

(a) involved in a proceeding before the employing agency that is within the scope of the public officer’s or public employee’s job duties; or

(b) attempting to influence a local, state, or federal proceeding in which the public officer or public employee represents the state or local government.

(6) A public officer or public employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the public officer or public employee is a member while performing the public officer’s or public employee’s job duties. The provisions of this subsection do not prohibit a public officer or public employee from performing charitable fundraising activities if approved by the public officer’s or public employee’s supervisor or authorized by law.

(7) A listing by a public officer or a public employee in the electronic directory provided for in 30-17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this section. The public officer or public employee may not make arrangements for the listing in the electronic directory during work hours.

(8) A department head or a member of a quasi-judicial or rulemaking board may perform an official activity, as defined in 5-7-102(7), on behalf of the state or a local government.
act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a
statute and if the person complies with the disclosure procedures under 2-2-131.

(9) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
unless the member is also a full-time public employee.

(10) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local
government from performing an official act when the member’s participation is necessary to obtain a quorum or
to otherwise enable the body to act. The member shall disclose the interest creating the appearance of
impropriety prior to performing the official act."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
integral part of Title 39, chapter 31, and the provisions of Title 39, chapter 31, apply to [section 1].

NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured,
penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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

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