

RIGHT-TO-WORK

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: The Right-to-Work concept is that a union agreement cannot require an employee to be a member of a union or pay alternative dues (called agency fees) for the benefits that a union negotiates. In other words, an employee has a right to work without being a dues-paying member of a union or paying alternative fees. The U.S. Supreme Court in 2018 ruled 5-4 in [Janus v AFSCME Council 31](#) that state laws could not require nonunion public-sector employees to pay for the costs of bargaining for wage and job protections that unions seek for members. Under “right-to-work” conditions, an employee does not have a right to be hired, just a right not to join a union. Similarly, “right-to-work” laws do not abolish unions, but the right-to-work laws are seen as weakening unions because under the Taft-Hartley Act of 1947 the unions’ benefits pass through to nonunion members as well as to union members. Right-to-work laws remove the payment mechanism for nonmembers that benefit from the union’s collective bargaining.

Twenty-eight states have adopted legislation that prohibits imposition of agency fees (cited in the Supreme Court decision above). Montana is not one of them. A very narrow exception is in Title 39, chapter 33, under which mom-and-pop sole proprietorships or two-person partnerships in retail or amusement businesses (but not taverns) may hire immediate family without regard to unions.

Montana statutes governing collective bargaining are under Title 39, chapter 31, for public employees, and under chapter 32 for nurses.

Legislative Services Division Materials: None

Other Materials:

2017 Montana State Employee [Profile](#), which states that 60% of the state's executive branch employees are in one of 63 collective bargaining units, although that number may have decreased because of mergers in 2018 among bargaining units. The largest representative is the Montana Public Employees' Association. The smallest is the Labor Relations and Appeals Union.

A series of information requests from legislators (see: <file:///w:/Data/Leg/InfoReq/12L-3428-ls-Essman-attmnt.pdf>) dealt with union interaction with government employers.

Article in *Montana Employment Law Letter*, August 2018, entitled "'Fair-share' fee ruling brings new day for public employers, employees".

Article in *State Politics & Policy Quarterly* by Vladimir Kogan, "Do Anti-Union Policies Increase Inequality: Evidence from State-Adoption of Right-to-Work Laws," 2017, Vol. 17(2), pp. 180-200.

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2021

[HB 168](#) – Missed Deadline for General Bill Transmittal. "AN ACT GENERALLY REVISING LAWS RELATED TO PUBLIC EMPLOYEES AND LABOR ORGANIZATIONS; REQUIRING LABOR ORGANIZATIONS TO ALLOW PUBLIC EMPLOYEES TO OPT OUT OF MEMBERSHIP; PROHIBITING LABOR ORGANIZATIONS FROM REQUIRING PAYMENT OF DUES, FEES, ASSESSMENTS, OR OTHER CHARGES; REQUIRING FREE AND AFFIRMATIVE CONSENT BY PUBLIC EMPLOYEES TO ASSOCIATE WITH A LABOR ORGANIZATION; REQUIRING THE EMPLOYER PUBLIC ENTITY TO PROVIDE NOTICE AND RECEIVE THE PUBLIC EMPLOYEE'S AFFIRMATIVE CONSENT; REVISING UNFAIR LABOR PRACTICES; AMENDING SECTIONS 39-31-101, 39-31-203, 39-31-401, AND 39-31-402, MCA; REPEALING SECTION 39-31-204, MCA; AND PROVIDING AN EFFECTIVE DATE."

[HB 251](#) – Missed Deadline for General Bill Transmittal. "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; REPEALING THE RIGHT OF NONASSOCIATION FOR PUBLIC EMPLOYEES FOR CERTAIN REASONS; AMENDING SECTIONS 39-31-201, 39-31-203, AND 39-31-401, MCA; REPEALING SECTIONS 39-31-204, 39-33-101, 39-33-102, 39-33-103, 39-33-104, AND 39-33-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

[HB 289](#) – Chapter Number Assigned. AN ACT ONLY PROHIBITING UNION DUES AND OTHER ASSESSMENTS TO BE CHARGED TO NONMEMBER PUBLIC EMPLOYEES; AMENDING SECTION 39-31-401, MCA; AND REPEALING SECTION 39-31-204, MCA

[HB 461](#) – Missed Deadline for General Bill Transmittal. "AN ACT REVISING UNION MEMBERSHIP LAWS; REQUIRING AN EMPLOYEE OF A NONPROFIT TO CONSENT TO AGENCY FEES AND OTHER PAYMENTS;

DECLARING THE COLLECTION WITHOUT CONSENT OF AGENCY FEES OR OTHER PAYMENTS FROM NURSES TO BE AN UNFAIR LABOR PRACTICE; AND AMENDING SECTION 39-32-109, MCA.”

[SB 89](#) – Missed Deadline for General Bill Transmittal. “AN ACT REVISING LAWS RELATED TO UNION MEMBERSHIP DUES; ~~PROVIDING FOR FREE ASSOCIATION BY PUBLIC EMPLOYEES WITH A PUBLIC LABOR ORGANIZATION~~; REVISING LAWS RELATING TO AUTOMATIC COLLECTION OF UNION DUES; AND AMENDING SECTIONS ~~39-31-401~~, 39-31-203, AND 39-31-401, ~~AND 39-31-402~~, MCA ; ~~AND REPEALING SECTION 39-31-204, MCA.~~”

[SB 228](#) – Missed Deadline for General Bill Transmittal. “AN ACT ALLOWING A PUBLIC EMPLOYEE TO WITHDRAW FROM A BARGAINING UNIT; PROVIDING FOR WRITTEN NOTICE; ESTABLISHING THE TIMELINE FOR PAYMENT OF DUES TO CEASE; AMENDING ~~SECTIONS SECTION~~ 39-31-203 ~~AND 39-31-401~~, MCA; ~~REPEALING SECTION 39-31-204, MCA~~; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

2019

[HB 323](#) – Vetoed by Governor. AN ACT PROVIDING FOR FREE ASSOCIATION BY PUBLIC EMPLOYEES WITH A PUBLIC LABOR ORGANIZATION AND PROHIBITING UNION DUES AND OTHER ASSESSMENTS TO BE CHARGED TO NONMEMBER EMPLOYEES; AMENDING SECTION 39-31-401, MCA; REPEALING SECTION 39-31-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

2017 None

2015

[HB 462](#) – Missed Deadline for General Bill Transmittal. "AN ACT PROVIDING FOR FREE ASSOCIATION BY PUBLIC EMPLOYEES WITH A LABOR ORGANIZATION AND REMOVING CERTAIN PUBLIC EMPLOYERS' OBLIGATIONS TO WITHHOLD UNION DUES OR OTHER ASSESSMENTS; PROVIDING AN OPTION FOR LOCAL GOVERNMENTS; AMENDING SECTIONS 39-31-101, 39-31-401, AND 39-31-402, MCA; AND REPEALING SECTIONS 39-31-203 AND 39-31-204, MCA."

[SB 351](#) – Died in Standing Committee. "AN ACT PROHIBITING LABOR ORGANIZATIONS FROM REQUIRING MANDATORY MEMBERSHIP OF YOUTH UNDER 18 YEARS OF AGE; AND PROVIDING AN APPLICABILITY DATE."

2013 None

2011 None

2009

[SB 194](#) – Died in Process. "AN ACT EXEMPTING PROFESSIONAL LAND SURVEYORS AND LAND SURVEYOR INTERNS FROM MEMBERSHIP IN LABOR UNIONS AND COLLECTIVE BARGAINING UNITS FOR PUBLIC EMPLOYEES; AND AMENDING SECTION 39-31-103, MCA."

[SB 339](#) – Died in Standing Committee. "AN ACT CREATING THE WORKERS' 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; REPEALING THE RIGHT OF NONASSOCIATION FOR PUBLIC EMPLOYEES FOR CERTAIN REASONS; REPEALING RIGHT-TO-WORK PROVISIONS; AMENDING SECTIONS 39-31-201, 39-31-205, 39-31-401, AND 50-78-102, MCA; REPEALING SECTIONS 39-31-204, 39-33-101, 39-33-102, 39-33-103, 39-33-104, AND 39-33-105, MCA; AND PROVIDING AN EFFECTIVE DATE."

2007

[SB 250](#) – Died in Process. "AN ACT CREATING THE WORKERS' FREEDOM ACT; PROVIDING AN EMPLOYEE FREEDOM OF CHOICE ON WHETHER TO JOIN A LABOR ORGANIZATION; AMENDING SECTIONS 39-31-201, 39-31-205, AND 39-31-401, MCA; REPEALING SECTIONS 39-31-204, 39-33-101, 39-33-102, 39-33-103, 39-33-104, AND 39-33-105, MCA; AND PROVIDING AN EFFECTIVE DATE."

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Aug. 31, 2022