

**REPEAL OF PRIOR AMENDMENTS TO THE  
VOLUNTARY CONTRIBUTIONS ACT**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Neil A. Hansen**

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**LONG TITLE**

**General Description:**

This bill modifies Labor Code and Election Code provisions relating to political activities by labor organizations.

**Highlighted Provisions:**

This bill:

- ▶ permits labor organizations to expend union dues for political purposes in some situations;
- ▶ requires labor organizations to establish a segregated fund for funds to be used for political activities;
- ▶ permits labor organizations to transfer union dues to a political fund in some situations;
- ▶ requires labor organizations to inform employees about the political fund's purpose;
- ▶ requires labor organizations to inform employees that they may refuse to contribute to the political fund;
- ▶ permits labor organizations to pay the costs of administering the political fund from union dues in certain situations;
- ▶ permits labor organizations to use union dues to communicate directly with its own members about political candidates, ballot propositions, and other political issues in certain situations;
- ▶ removes authorization for the attorney general to bring an action for compliance



28 against a labor organization;

29       ▶ removes authorization for the attorney general to bring an action to enforce  
30 compliance with the act;

31       ▶ removes affirmative requirements for municipalities, counties, and special districts  
32 to comply with the act; and

33       ▶ addresses the acts effect on present and future contracts.

34 **Monies Appropriated in this Bill:**

35       None

36 **Other Special Clauses:**

37       This bill provides a severability clause.

38 **Utah Code Sections Affected:**

39 AMENDS:

40       **20A-11-1402**, as last amended by Chapter 220, Laws of Utah 2004

41       **34-32-1**, as last amended by Chapter 220, Laws of Utah 2004

42       **53A-3-411**, as last amended by Chapters 284 and 315, Laws of Utah 2003

43 ENACTS:

44       **20A-11-1405.5**, Utah Code Annotated 1953

45 REPEALS AND REENACTS:

46       **20A-11-1403**, as repealed and reenacted by Chapter 284, Laws of Utah 2003

47       **20A-11-1404**, as last amended by Chapter 220, Laws of Utah 2004

48 REPEALS:

49       **10-3-1109**, as enacted by Chapter 284, Laws of Utah 2003

50       **17-33-11.5**, as enacted by Chapter 284, Laws of Utah 2003

51       **17A-1-604**, as enacted by Chapter 284, Laws of Utah 2003

52       **20A-11-1406**, as enacted by Chapter 284, Laws of Utah 2003

53       **34-32-1.1**, as last amended by Chapter 220, Laws of Utah 2004

54 **Uncodified Material Affected:**

55 ENACTS UNCODIFIED MATERIAL



57 *Be it enacted by the Legislature of the state of Utah:*

58       Section 1. Section **20A-11-1402** is amended to read:

59           **20A-11-1402. Definitions.**

60           (1) As used in this part:

61           (a) "Ballot proposition" includes constitutional amendments, initiatives, referenda,  
62 judicial retention questions, opinion questions, or other questions submitted to the voters for  
63 their approval or rejection.64           **(b) "Fund" means the separate segregated fund established by a labor organization for**  
65 **political purposes according to the procedures and requirements of this part.**66           ~~[(b)]~~ (c) (i) "Labor organization" means a lawful organization of any kind that is  
67 composed, in whole or in part, of employees and that exists for the purpose, in whole or in part,  
68 of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of  
69 employment, or other terms and conditions of employment.70           (ii) Except as provided in Subsection (1)~~[(b)]~~ (c)(iii), "labor organization" includes  
71 each employee association and union for employees of public and private sector employers.72           (iii) "Labor organization" does not include organizations governed by the National  
73 Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151  
74 et seq.75           **(d) "Political activities" means electoral activities, independent expenditures, or**  
76 **expenditures made to any candidate, political party, political action committee, political issues**  
77 **committee, voter registration campaign, or any other political or legislative cause, including**  
78 **ballot propositions.**79           ~~[(c) "Political fund" means a separate segregated fund established by a labor~~  
80 ~~organization for political purposes that meets the requirements of this part.]~~81           ~~[(d) "Political purposes" means an act done with the intent or in a way to influence or~~  
82 ~~tend to influence, directly or indirectly, any person to refrain from voting or to vote for or~~  
83 ~~against any candidate for public office at any caucus, political convention, primary, or~~  
84 ~~election.]~~85           (e) "Union dues" means dues, fees, ~~[monies,]~~ or other ~~[assessments]~~ monies required as  
86 a condition of membership ~~[or participation]~~ in a labor organization or as a condition of  
87 employment.

88           (2) Other terms defined in Section 20A-11-101 apply to this part.

89           Section 2. Section **20A-11-1403** is repealed and reenacted to read:

90           **20A-11-1403. Limits on labor organization contributions.**

91           (1) Except as provided in Subsection (2), a labor organization may not expend union  
92 dues for political activities.

93           (2) (a) A labor organization may only make expenditures for political activities if the  
94 labor organization establishes a separate segregated fund that meets the requirements of this  
95 part.

96           (b) The labor organization shall ensure that:

97           (i) in soliciting contributions for the fund, the solicitor discloses, in clear and  
98 unambiguous language on the face of the solicitation, that contributions are voluntary and that  
99 the fund is a political fund and will be expended for political activities;

100           (ii) union dues are not used for political activities, transferred to the fund, or  
101 intermingled in any way with fund monies;

102           (iii) the cost of administering the fund is paid from fund contributions and not from  
103 union dues; and

104           (iv) each contribution is voluntary.

105           (3) At the time the labor organization is soliciting contributions for the fund from an  
106 employee, the labor organization shall:

107           (a) affirmatively inform the employee, in writing, of the fund's political purpose; and

108           (b) affirmatively inform the employee, in writing, of the employee's right to refuse to  
109 contribute without fear of reprisal or loss of membership in the labor organization.

110           (4) The labor organization has the burden of proof to establish that the requirements of  
111 Subsections (2)(b) and (3) are met.

112           (5) Notwithstanding the requirements of Subsection (2)(b)(ii), a labor organization may  
113 use union dues to communicate directly with its own members about political candidates, ballot  
114 propositions, and other political issues.

115           Section 3. Section **20A-11-1404** is repealed and reenacted to read:

116           **20A-11-1404. Criminal acts -- Penalties.**

117           (1) (a) It is unlawful for a labor organization to make expenditures for political  
118 activities by using contributions:

119           (i) secured by physical force or threat of force, job discrimination or threat of job  
120 discrimination, membership discrimination or threat of membership discrimination, or

121 economic reprisals or threat of economic reprisals; or

122 (ii) from union dues except as provided in Subsection 20A-11-1403(5).

123 (b) When a labor organization is soliciting contributions for a fund from an employee,  
124 it is unlawful for a labor organization to fail to:

125 (i) affirmatively inform the employee in writing of the fund's political purpose; and

126 (ii) affirmatively inform the employee in writing of the employee's right to refuse to  
127 contribute without fear of reprisal or loss of membership in the labor organization.

128 (c) It is unlawful for a labor organization to solicit contributions for the fund from any  
129 person other than its members and their families.

130 (d) It is unlawful for a labor organization to pay a member for contributing to the fund  
131 by providing a bonus, expense account, rebate of union dues, or by any other form of direct or  
132 indirect compensation.

133 (2) Any person or entity violating this section is guilty of a class A misdemeanor.

134 Section 4. Section **20A-11-1405.5** is enacted to read:

135 **20A-11-1405.5. Registration -- Disclosure.**

136 Each fund established by a labor organization under this part shall:

137 (1) register as a political action committee as required by this chapter; and

138 (2) file the financial reports for political action committees required by this chapter.

139 Section 5. Section **34-32-1** is amended to read:

140 **34-32-1. Assignments to labor unions -- Effect.**

141 (1) As used in this section:

142 (a) "Employee" means a person employed by any person, partnership, public, private,  
143 or municipal corporation, school district, the state, or any political subdivision of the state.

144 (b) "Employer" means the person or entity employing an employee.

145 (c) (i) "Labor organization" means a lawful organization of any kind that is composed,  
146 in whole or in part, of employees, and that exists for the purpose, in whole or in part, of dealing  
147 with employers concerning grievances, labor disputes, wages, rates of pay, hours of  
148 employment, or other terms and conditions of employment.

149 (ii) Except as provided in Subsection (1)(c)(iii), "labor organization" includes each  
150 employee association and union for employees of public and private sector employers.

151 (iii) "Labor organization" does not include organizations governed by the National

152 Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151  
153 et seq.

154 (d) "Public employee" means a person employed by the state, a municipal corporation,  
155 a county, a municipality, a school district, a special district, or any other political subdivision of  
156 the state.

157 ~~[(d)]~~ (e) "Union dues" means dues, fees, ~~[monies;]~~ or other ~~[assessments]~~ monies  
158 required as a condition of membership ~~[or participation]~~ in a labor organization or as a  
159 condition of employment.

160 (2) ~~[(a) An]~~ Except as provided in Subsection (6), an employee may elect to direct~~[-in~~  
161 ~~writing, that an]~~ his employer deduct from the employee's wages a specified sum for union  
162 dues, not to exceed 3% per month, to be paid to a labor organization designated by the  
163 employee.

164 ~~[(b) An employer shall cease making deductions for union dues from the wages of an~~  
165 ~~employee for the benefit of a labor organization when the employer receives a written~~  
166 ~~communication from the employee directing that the deductions cease.]~~

167 (3) If the employee elects to direct the employer to make the deduction authorized by  
168 Subsection (2), the employee shall sign a statement that:

169 (a) directs the employer to make the deduction;

170 (b) identifies the amount of the deduction;

171 (c) identifies the person or entity to whom the deduction is to be paid; and

172 (d) directs the employer to pay the deduction to that person or entity.

173 (4) An employer who receives a signed statement shall:

174 (a) keep the statement on file;

175 (b) deduct the specified sum from the employee's wages; and

176 (c) pay the deducted amount to the labor organization designated by the employee.

177 (5) The employer shall continue to make and pay the deduction as directed by the  
178 employee until the employee revokes or modifies the deduction in writing.

179 (6) A public employee may not direct an employer to deduct monies from his wages  
180 and pay them to:

181 (a) a registered political action committee;

182 (b) a fund as defined by Section 20A-11-1402; or

183 (c) any intermediary that contributes to a fund as defined in Section 20A-11-1402.

184 (7) Nothing in this section prohibits an individual from making personal contributions  
185 to a registered political action committee or to a fund as defined by Section 20A-11-1402.

186 Section 6. Section **53A-3-411** is amended to read:

187 **53A-3-411. Employment of school personnel -- Length of contract -- Termination**  
188 **for cause -- Individual contract of employment.**

189 (1) A local school board may enter into a written employment contract for a term not to  
190 exceed five years.

191 (2) Nothing in the terms of the contract shall restrict the power of a local school board  
192 to terminate the contract for cause at any time.

193 (3) (a) A local school board may not enter into a collective bargaining agreement that  
194 prohibits or limits individual contracts of employment.

195 (b) Subsection (3)(a) does not apply to an agreement that was entered into before May  
196 5, 2003.

197 [~~(4) Each local school board shall:~~]

198 [~~(a) ensure that each employment contract complies with the requirements of Section~~  
199 ~~34-32-1.1; and]~~

200 [~~(b) comply with the requirements of Section 34-32-1.1 in employing any personnel,~~  
201 ~~whether by employment contract or otherwise.]~~

202 Section 7. **Repealer.**

203 This bill repeals:

204 Section **10-3-1109, Compliance with Labor Code requirements.**

205 Section **17-33-11.5, Compliance with Labor Code requirements.**

206 Section **17A-1-604, Compliance with Labor Code requirements.**

207 Section **20A-11-1406, Enforcement of part -- Attorney general.**

208 Section **34-32-1.1, Prohibiting public employers from making payroll deductions**  
209 **for political purposes.**

210 Section 8. **Effect on existing and future contracts.**

211 (1) This bill does not apply to any lawful contract in force on the effective date of this  
212 bill.

213 (2) This bill applies to all future contracts with a public employer, including any

214 renewal or extension of any existing contract with a public employer.

215           Section 9. **Severability clause.**

216           If any provision of this bill, or the application of any provision to any person or

217 circumstance, is held invalid, the remainder of this bill shall be given effect without the invalid

218 provision or application.

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**Legislative Review Note**

**as of 1-26-05 4:39 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

It is estimated that the Office of the Attorney General will require an appropriation of \$27,100 in General Funds in FY 2006 and an ongoing appropriation of \$26,200 in General Funds beginning FY 2007 to implement provisions of this bill.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$27,100	\$26,200	\$0	\$0
<b>TOTAL</b>	<b>\$27,100</b>	<b>\$26,200</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Labor organizations will have greater financial flexibility and options in pursuing political purposes.

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**Office of the Legislative Fiscal Analyst**