

**RESTRICTION ON STATE AND LOCAL
GOVERNMENTS COLLECTING MONIES FOR
GROUPS**

1998 GENERAL SESSION

STATE OF UTAH

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AN ACT RELATING TO LABOR AND ELECTION LAW; REQUIRING LABOR ORGANIZATIONS TO ESTABLISH A SEPARATE FUND FOR POLITICAL PURPOSES; ESTABLISHING REGISTRATION AND DISCLOSURE REQUIREMENTS FOR THE FUND; PROVIDING CRIMINAL PENALTIES; PROHIBITING AUTOMATIC PAYROLL DEDUCTIONS FOR CONTRIBUTIONS TO A LABOR ORGANIZATION'S POLITICAL FUND; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

34-32-1, as enacted by Chapter 85, Laws of Utah 1969

ENACTS:

20A-11-1401, Utah Code Annotated 1953

20A-11-1402, Utah Code Annotated 1953

20A-11-1403, Utah Code Annotated 1953

20A-11-1404, Utah Code Annotated 1953

20A-11-1405, Utah Code Annotated 1953

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

Section 1. Section **20A-11-1401** is enacted to read:

1 **Part 14. Political Contribution by Labor Organizations**

2 **20A-11-1401. Title.**

3 This part is known as the "Political Contributions by Labor Organizations Act."

4 Section 2. Section **20A-11-1402** is enacted to read:

5 **20A-11-1402. Definitions.**

6 As used in this part:

7 (1) "Ballot proposition" includes initiatives, referenda, proposed constitutional
8 amendments, and any other ballot propositions submitted to the voters.

9 (2) (a) "Contribution" means any of the following when done for political purposes:

10 (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value
11 given to a filing entity;

12 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,
13 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything
14 of value to a filing entity;

15 (iii) any transfer of funds from a labor organization to a filing entity;

16 (iv) compensation paid by any labor organization for personal services provided without
17 charge to a filing entity;

18 (v) remuneration from any labor organization to compensate a legislator for a loss of salary
19 or income while the Legislature is in session; or

20 (vi) goods or services provided by a labor organization to or for the benefit of a filing
21 entity at less than fair market value.

22 (b) "Contribution" does not include services provided without compensation by
23 individuals volunteering their time on behalf of the filing entity.

24 (3) "Filing entity" means a candidate, officeholder, political action committee, political
25 issues committee, political party, and each other entity required to report contributions under Title
26 20A, Chapter 11, Campaign and Financial Reporting Requirements.

27 (4) "Fund" means the separate segregated fund established by a labor organization for
28 political purposes according to the procedures and requirements of this part.

29 (5) (a) "Labor organization" means any association or organization of employees, and any
30 agency, employee representation committee, or plan in which employees participate that exists,
31 in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages,

1 rates of pay, hours of employment, or conditions of work.

2 (b) "Labor organization" does not include § :

3a (i) AN ASSOCIATION OR ORGANIZATION OF EMPLOYEES THAT DOES NOT PAY ANY SUM,
2b PORTION, OR PERCENTAGE OF ANY OF ITS MEMBERS' DUES TO AND IS NOT AFFILIATED WITH A
2c NATIONAL LABOR ORGANIZATION OR ASSOCIATION; OR

2d (ii) § organizations governed by the National Labor
3 Relations Act, 29 U.S.C. Sec. 151 et. seq. § OR THE RAILROAD LABOR ACT, 45 U.S.C. SEC. 151
3a ET. SEQ. §

4 (6) "Political purposes" means an act done with the intent or in a way to influence or tend
5 to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

6 (a) candidate for public office at any caucus, political convention, primary, or election; or

7 (b) ballot proposition.

8 Section 3. Section **20A-11-1403** is enacted to read:

9 **20A-11-1403. Limits on labor organization contributions.**

10 (1) Except as provided in Subsection (2), a labor organization may not make a contribution
11 to any candidate.

12 (2) (a) A labor organization may make a contribution to a candidate if the labor
13 organization establishes a separate segregated fund to be used for political purposes.

14 (b) The labor organization shall ensure:

15 (i) that contributions to the fund are solicited independently from any other solicitations
16 by the labor organization;

17 (ii) that dues or other fees for membership in the labor organization are not used for
18 political purposes, transferred to the segregated fund, or intermingled in any way with fund
19 monies;

20 (iii) that the cost of administering the fund is paid from fund contributions and not from
21 dues or other fees for membership in the labor organization;

22 (iv) § [~~in the case of a labor organization that has a collective bargaining agreement with the~~
23 employer of the employees which the labor organization represents,] § that contributions are not
24 made from money collected from payroll deductions by that employer; and

25 (v) that each contribution is voluntary.

(3) The labor organization has the burden of proof to establish that the requirements of Subsection (2)(b) are met.

§ (4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2)(b)(ii), A LABOR ORGANIZATION MAY USE DUES OR OTHER FEES FOR MEMBERSHIP IN THE LABOR ORGANIZATION TO COMMUNICATE WITH ITS OWN MEMBERS REGARDING BALLOT PROPOSITIONS, POLITICAL CANDIDATES, OR OTHER POLITICAL ISSUES. §

Section 4. Section **20A-11-1404** is enacted to read:

20A-11-1404. Criminal Acts -- Penalties.

(1) (a) It is unlawful for a labor organization to make a contribution to a candidate by using money or anything of value:

- 3a -

§ ~~[(i) secured by physical force, job discrimination, membership discrimination, or financial reprisals, or threat of force, job discrimination, membership discrimination, or financial reprisals;]~~ §

§ ~~[(ii)] (i)~~ § from dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment; or

§ ~~[(iii)] (ii)~~ § obtained in any commercial transaction.

(b) At the time the labor organization is soliciting money for the fund from an employee, it is unlawful for a labor organization to fail to:

(i) inform an employee of the fund's political purpose; and

(ii) inform an employee of the employee's right to refuse to contribute without fear of reprisal.

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

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

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

Section 5. Section **20A-11-1405** is enacted to read:

20A-11-1405. Registration -- Disclosure.

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

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

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

Section 6. Section **34-32-1** is amended to read:

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

[Whenever] (1) Except as provided in Subsection (4), an employee of any person, firm, school district, private or municipal corporation § , THE STATE, OR ANY POLITICAL SUBDIVISION § within the state [of Utah executes and delivers]

may sign and deliver to his employer § OR AUTHORIZED AGENT § [an instrument in writing whereby such employer is directed

to] a written statement directing the employer to:

(a) deduct a specified sum [at the rate not exceeding] of up to 3% per month from his wages; and [to]

(b) pay the [same] amount deducted to a labor organization or union or any other organization of employees as assignee[, it shall be the duty of such employer to make such

deduction and to pay the same monthly or as designated by employee to such assignee and to continue to do so until otherwise directed by the employee through an instrument in writing].

(2) An employer who receives a written statement shall:

(a) keep the statement on file;

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

(c) pay the deducted amount to the organization or union designated by the employee.

(3) The employer shall continue to make and pay the deduction as § [directed] AUTHORIZED § by the employee until the employee revokes or modifies the deduction in writing.

(4) § (a) § Notwithstanding Subsection (1), an employee may not direct an employer to deduct monies from his wages and pay them to:

§ [(a)] (i) § a registered political action committee;

§ [(b)] (ii) § a fund as defined by Section 20A-11-1402; or

§ [(c)] (iii) § any intermediary that contributes to a registered political action committee or fund as defined in Section 20A-11-1402.

§ (b) THIS SUBSECTION (4) SHALL NOT APPLY TO ANY LABOR ASSOCIATION OR ORGANIZATION THAT IS EXEMPT FROM THE POLITICAL CONTRIBUTIONS BY LABOR ORGANIZATION ACT. §

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

Legislative Review Note

as of 2-11-98 11:11 AM

This bill raises the following constitutional or statutory concerns:

This legislation could be challenged on First Amendment and Equal Protection grounds. If challenged on either ground, parties on both sides of the issue can make reasonable, persuasive arguments that their position should prevail. Consequently, it is impossible to predict whether or not a court would find this statute to be constitutional.

Office of Legislative Research and General Counsel