

VOLUNTARY CONTRIBUTIONS ACT

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Chad E. Bennion

This act modifies labor law and election law to address issues related to labor organizations' participation in campaigning and elections. This act requires labor organizations to establish a separate fund for political purposes and establishes registration and disclosure requirements for the fund. This act establishes criminal penalties. This act prohibits public employees from authorizing payroll deductions to a labor organization's political fund. This act makes technical changes.

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

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

REPEALS AND REENACTS:

34-32-1, as last amended by Chapter 86, Laws of Utah 2000

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

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

Part 14. Voluntary Contributions Act

20A-11-1401. Title.

This part is known as the "Voluntary Contributions Act."

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

20A-11-1402. Definitions.

(1) As used in this part:

(a) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other items submitted to the voters for their approval or rejection.

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

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

(d) (i) "Labor organization" means any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment.

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

(iii) "Labor organization" does not include organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec 151 et seq.

(e) "Political activities" means electoral activities, independent expenditures, or expenditures made to any candidate, political party, political action committee, political issues committee, voter registration campaign, or any other political or legislative cause, including ballot propositions.

(f) "Union dues" means dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

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

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

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

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

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

(b) The labor organization shall ensure that:

(i) in soliciting contributions for the fund, the solicitor discloses, in clear and unambiguous language on the face of the solicitation, that contributions are voluntary and that the fund is a

political fund and will be expended for political activities;

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

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

(iv) each contribution is voluntary.

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

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

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

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

(5) Notwithstanding the requirements of Subsection (2)(b)(ii), a labor organization may use union dues to communicate directly with its own members about political candidates, ballot propositions, and 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 expenditures for political activities by using contributions:

(i) secured by physical force or threat of force, job discrimination or threat of job discrimination, membership discrimination or threat of membership discrimination, or economic reprisals or threat of economic reprisals; or

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

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

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

(ii) affirmatively inform the employee in writing of the employee's right to refuse to

contribute without fear of reprisal or loss of membership in the labor organization.

(c) It is unlawful for a labor organization to solicit contributions 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 union dues, 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 repealed and reenacted to read:

34-32-1. Voluntary contributions act -- Assignments to labor unions -- Effect.

(1) As used in this section:

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

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

(c) (i) "Labor organization" means any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment.

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

(iii) "Labor organization" does not include organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.

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

state.

(e) "Union dues" means dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

(2) Except as prohibited by Subsection (6), an employee may elect to direct his employer to:

(a) deduct a specified sum of up to 3% per month from his wages; and

(b) pay the amount deducted to a labor organization as assignee.

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

(a) directs the employer to make the deduction;

(b) identifies the amount of the deduction;

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

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

(4) An employer who receives a signed 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 labor organization designated by the employee.

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

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

(a) a registered political action committee;

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

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

(7) 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.