

**Representative Chad E. Bennion** proposes the following substitute bill:

**VOLUNTARY CONTRIBUTION ACT**

**AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Chad E. Bennion**

**This act modifies Labor Code and Election Code provisions relating to political activities by labor organizations. This act prohibits labor organizations from: requiring contributions to certain political groups as a condition of membership; expending union dues for political purposes; and transferring union dues to a political fund. This act requires labor organizations that wish to make political contributions to: establish a political fund that is separate from any account containing monies received as union dues; ensure that the costs of administering the political fund are made from the fund and not from union dues; ensure that each contribution to the fund is voluntary; and register the fund as a political action committee or political issues committee. This act repeals certain provisions. This act authorizes the attorney general to bring an action against a labor organization to enforce compliance. This act modifies requirements relating to payments to labor organizations. This act authorizes employee-approved payments from employee paychecks for union dues. This act prohibits public employers from deducting monies from a public employee's paycheck for certain purposes. This act authorizes the attorney general to bring an action against the public employer to enforce compliance. This act provides a severability clause and addresses the act's effect on present and future contracts.**

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

AMENDS:

**20A-11-1402**, as enacted by Chapter 285, Laws of Utah 2001



26 **34-32-1**, as repealed and reenacted by Chapter 285, Laws of Utah 2001

27 **53A-3-411**, as enacted by Chapter 2, Laws of Utah 1988

28 ENACTS:

29 **10-3-1109**, Utah Code Annotated 1953

30 **17-33-11.5**, Utah Code Annotated 1953

31 **17A-1-604**, Utah Code Annotated 1953

32 **20A-11-1406**, Utah Code Annotated 1953

33 **34-32-1.1**, Utah Code Annotated 1953

34 REPEALS AND REENACTS:

35 **20A-11-1403**, as enacted by Chapter 285, Laws of Utah 2001

36 **20A-11-1404**, as enacted by Chapter 285, Laws of Utah 2001

37 REPEALS:

38 **20A-11-1405**, as enacted by Chapter 285, Laws of Utah 2001

39 This act enacts uncodified material.

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

41 Section 1. Section **10-3-1109** is enacted to read:

42 **10-3-1109. Compliance with Labor Code requirements.**

43 Each municipality shall comply with the requirements of Section 34-32-1.1.

44 Section 2. Section **17-33-11.5** is enacted to read:

45 **17-33-11.5. Compliance with Labor Code requirements.**

46 Each county shall comply with the requirements of Section 34-32-1.1.

47 Section 3. Section **17A-1-604** is enacted to read:

48 **17A-1-604. Compliance with Labor Code requirements.**

49 Each special district shall comply with the requirements of Section 34-32-1.1.

50 Section 4. Section **20A-11-1402** is amended to read:

51 **20A-11-1402. Definitions.**

52 (1) As used in this part:

53 (a) "Ballot proposition" includes constitutional amendments, initiatives, referenda,  
54 [~~proposed constitutional amendments, and any other items~~] judicial retention questions,  
55 opinion questions, or other questions submitted to the voters for their approval or rejection.

56 [~~(b) "Filing entity" means a candidate, officeholder, political action committee,~~

57 ~~political issues committee, political party, and each other entity required to report contributions~~  
58 ~~under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements.]~~

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

61 ~~[(d)]~~ (b) (i) "Labor organization" means ~~[any association or]~~ a lawful organization of  
62 any kind that is composed, in whole or in part, of employees[;] and ~~[any agency, employee~~  
63 ~~representation committee, or plan in which employees participate]~~ that exists for the purpose,  
64 in whole or in part, [to advocate on behalf of employees about] of dealing with employers  
65 concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms  
66 and conditions of employment.

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

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

72 ~~[(e) "Political activities" means electoral activities, independent expenditures, or~~  
73 ~~expenditures made to any candidate, political party, political action committee, political issues~~  
74 ~~committee, voter registration campaign, or any other political or legislative cause, including~~  
75 ~~ballot propositions:]~~

76 (c) "Political fund" means a separate segregated fund established by a labor  
77 organization for political purposes that meets the requirements of this part.

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

81 (i) any candidate for public office at any caucus, political convention, primary, or  
82 election; or

83 (ii) any ballot proposition.

84 ~~[(f)]~~ (e) "Union dues" means dues, fees, monies, or other ~~[monies]~~ assessments  
85 required as a condition of membership or participation in a labor organization ~~[or as a~~  
86 ~~condition of employment]~~.

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

88 Section 5. Section **20A-11-1403** is repealed and reenacted to read:

89 **20A-11-1403. Prohibition of required contributions for political purposes.**

90 A labor organization may not require any contribution to a candidate, personal  
 91 campaign committee, political action committee, political issues committee, registered political  
 92 party, ballot proposition, or political fund as a condition of membership or participation in the  
 93 labor organization.

94 Section 6. Section **20A-11-1404** is repealed and reenacted to read:

95 **20A-11-1404. Establishment and administration of political fund.**

96 (1) A labor organization wishing to make expenditures for political purposes shall  
 97 establish a political fund.

98 (2) Each labor organization that establishes a political fund shall:

99 (a) maintain the political fund as a separate, segregated account apart from any account  
 100 containing monies received by a labor organization as union dues;

101 (b) pay the costs of administering the political fund from contributions to the political  
 102 fund and not from union dues;

103 (c) ensure that each contribution to the political fund is voluntary; and

104 (d) register the political fund as a political action committee or political issues  
 105 committee as required by this chapter.

106 (3) (a) A labor organization may only make expenditures for political purposes from a  
 107 political fund established in accordance with this part.

108 (b) A labor organization may not expend union dues for political purposes § [f] or transfer  
 109 union dues to a political fund [h] § .

110 Section 7. Section **20A-11-1406** is enacted to read:

111 **20A-11-1406. Enforcement of part -- Attorney general.**

112 h [The] (1) SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (2) AND (3), THE h attorney  
 112a general may bring an action to require the labor organization to comply  
 113 with the requirements of this part.

113a **h (2) BEFORE BRINGING AN ACTION UNDER SUBSECTION (1), THE ATTORNEY GENERAL**  
 113b **SHALL:**

113c **(a) NOTIFY THE LABOR ORGANIZATION IN WRITING OF THE PRECISE NATURE OF THE**  
 113d **VIOLATION OF THIS PART; AND**

113e **(b) GIVE THE LABOR ORGANIZATION 10 DAYS TO CEASE AND DESIST THE VIOLATION OF**  
 113f **THIS PART.**

113g **(3) THE ATTORNEY GENERAL MAY NOT BRING AN ACTION UNDER SUBSECTION (1) IF THE**  
 113h **LABOR ORGANIZATION: h**

113i            h (a) CEASES AND DESISTS FROM VIOLATING THIS PART WITHIN 10 DAYS; AND  
113j            (b) PROVIDES THE ATTORNEY GENERAL WITH WRITTEN CONFIRMATION THAT THE LABOR  
113k ORGANIZATION HAS CEASED FROM ENGAGING IN THE CONDUCT THE ATTORNEY GENERAL  
113l DETERMINED TO BE A VIOLATION OF THIS PART. h

114            Section 8. Section **34-32-1** is amended to read:

115            **34-32-1. Assignments to labor unions -- Effect.**

116            (1) As used in this section:

117            (a) "Ballot proposition" means opinion questions specifically authorized by the  
118 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions

119 that are submitted to the voters for their approval or rejection.

120 [~~(a)~~] (b) "Employee" means a person employed by any person, partnership, public,  
121 private, or municipal corporation, school district, the state, or any political subdivision of the  
122 state.

123 [~~(b)~~] (c) "Employer" means the person or entity employing an employee.

124 [~~(c)~~] (d) (i) "Labor organization" means [~~any association or~~] a lawful organization of  
125 any kind that is composed, in whole or in part, of employees, and [~~any agency, employee~~  
126 representation committee, or plan in which employees participate] that exists for the purpose,  
127 in whole or in part, [~~to advocate on behalf of employees about]~~ of dealing with employers  
128 concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms  
129 and conditions of employment.

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

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

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

138 (i) any candidate for public office at any caucus, political convention, primary, or  
139 election; or

140 (ii) any ballot proposition.

141 [~~(d)~~] "~~Public employee~~" means a person employed by the state, a municipal corporation,  
142 a county, a municipality, a school district, a special district, or any other political subdivision of  
143 ~~the state.]~~

144 [~~(e)~~] (f) "Union dues" means dues, fees, monies, or other [~~monies~~] assessments  
145 required as a condition of membership or participation in a labor organization [~~or as a~~  
146 ~~condition of employment].~~

147 (2) (a) [~~Except as prohibited by Subsection (6), an~~] An employee may [~~elect to~~] direct  
148 [~~his~~], in writing, that an employer [~~to: (a)~~] deduct from the employee's wages a specified sum  
149 [~~of up to~~] for union dues, not to exceed 3% per month [~~from his wages; and (b) pay the~~

150 ~~amount deducted], to be paid to a labor organization [as assignee] designated by the employee.~~

151 (b) An employer shall cease making deductions for union dues from the wages of an  
 152 employee for the benefit of a labor organization when the employer receives a written  
 153 communication from the employee directing that the deductions cease.

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

156 ~~[(a) directs the employer to make the deduction;]~~

157 ~~[(b) identifies the amount of the deduction;]~~

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

159 ~~[(d) directs the employer to pay the deduction to that person or entity.]~~

160 ~~[(4) An employer who receives a signed statement shall:]~~

161 ~~[(a) keep the statement on file;]~~

162 ~~[(b) deduct the specified sum from the employee's salary; and]~~

163 ~~[(c) pay the deducted amount to the labor organization designated by the employee.]~~

164 ~~[(5) The employer shall continue to make and pay the deduction as directed by the~~  
 165 ~~employee until the employee revokes or modifies the deduction in writing:]~~

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

168 ~~[(a) a registered political action committee;]~~

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

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

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

173 Section 9. Section **34-32-1.1** is enacted to read:

174 **34-32-1.1. Prohibiting public employers from making payroll deductions for**  
 175 **political purposes.**

176 (1) As used in this section:

177 (a) "Ballot proposition" means opinion questions specifically authorized by the  
 178 Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions  
 179 that are submitted to the voters for their approval or rejection.

180 (b) (i) "Labor organization" means a lawful organization of any kind that is composed,

181 in whole or in part, of employees and that exists for the purpose, in whole or in part, of dealing  
182 with employers concerning grievances, labor disputes, wages, rates of pay, hours of  
183 employment, or other terms and conditions of employment.

184 (ii) Except as provided in Subsection (1)(b)(iii), "labor organization" includes each  
185 employee association and union for public employees.

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

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

192 (i) any candidate for public office at any caucus, political convention, primary, or  
193 election; or

194 (ii) any ballot proposition.

195 (d) "Public employee" means a person employed by:

196 (i) the state of Utah or any administrative subunit of the state;

197 (ii) a state institution of higher education; or

198 (iii) a municipal corporation, a county, a municipality, a school district, a special  
199 district, or any other political subdivision of the state.

200 (e) "Public employer" means an employer that is:

201 (i) the state of Utah or any administrative subunit of the state;

202 (ii) a state institution of higher education; or

203 (iii) a municipal corporation, a county, a municipality, a school district, a special  
204 district, or any other political subdivision of the state.

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

207 (2) A public employer may not deduct from the wages of its employees any amounts to  
208 be paid to:

209 (a) a candidate as defined in Section 20A-11-101;

210 (b) a personal campaign committee as defined in Section 20A-11-101;

211 (c) a political action committee as defined in Section 20A-11-101;



- 212 (d) a political issues committee as defined in Section 20A-11-101;
- 213 (e) a registered political party as defined in Section 20A-11-101;
- 214 (f) a political fund as defined in Section 20A-11-1402; or
- 215 (g) any entity established by a labor organization to solicit, collect, or distribute monies
- 216 primarily for political purposes.

217 (3) The attorney general may bring an action to require the public employer to comply  
218 with the requirements of this section.

219 Section 10. Section **53A-3-411** is amended to read:

220 **53A-3-411. Employment of school personnel -- Length of contract -- Termination**  
221 **for cause -- Labor Code compliance.**

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

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

226 (3) Each local school board shall:

227 (a) ensure that each employment contract complies with the requirements of Section  
228 34-32-1.1; and

229 (b) comply with the requirements of Section 34-32-1.1 in employing any personnel,  
230 whether by employment contract or otherwise.

231 Section 11. **Effect on existing and future contracts.**

232 (1) This act does not apply to any lawful contract in force on the effective date of this  
233 act.

234 (2) This act applies to all future contracts with a public employer, including any  
235 renewal or extension of any existing contract with a public employer.

236 Section 12. **Repealer.**

237 This act repeals:

238 Section **20A-11-1405, Registration -- Disclosure.**

239 Section 13. **Severability clause.**

240 If a court of competent jurisdiction holds that any portion of this act or the application  
241 of any portion of this act to any person or circumstance is invalid:

242 (1) the invalid portion or application shall be severed; and

243           (2) the remainder of this act shall remain in effect without the invalid portion or  
244 application.