

1 **VOLUNTARY CONTRIBUTION ACT**

2 **AMENDMENTS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Chad E. Bennion**

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

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

24 AMENDS:

25 **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26 **34-32-1**, as repealed and reenacted by Chapter 285, Laws of Utah 2001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~~] means constitutional amendments, initiatives,
54 referenda, [proposed constitutional amendments, and any other items] judicial retention
55 questions, opinion questions, bond approvals, or other questions submitted to the voters for
56 their approval or rejection.

57 [(b) "Filing entity" means a candidate, officeholder, political action committee,
58 political issues committee, political party, and each other entity required to report contributions

59 ~~under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements.]~~

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

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

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

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

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

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

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

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

84 (ii) any ballot proposition.

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

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

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

90 **20A-11-1403. Prohibition of required contributions for political purposes.**

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

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

96 **20A-11-1404. Establishment and administration of political fund.**

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

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

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

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

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

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

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

109 (b) A labor organization may not expend union dues for political purposes or transfer
110 union dues to a political fund.

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

112 **20A-11-1406. Enforcement of part -- Attorney general -- Private right of action.**

113 (1) (a) The attorney general may bring an action to require the labor organization to
114 comply with the requirements of this part.

115 (b) If the attorney general prevails, the attorney general may, in addition to other
116 remedies permitted by law, recover attorney fees and court costs from the defendant labor
117 organization.

118 (2) (a) Any person aggrieved by a violation of this part may bring an action to require
119 the labor organization to comply with the requirements of this part.

120 (b) If the person aggrieved by a violation of this part prevails in that action, that person

121 may, in addition to other remedies permitted by law, recover attorney fees and court costs from
122 the defendant labor organization.

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

124 **34-32-1. Assignments to labor unions -- Effect.**

125 (1) As used in this section:

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

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

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

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

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

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

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

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

149 (ii) any ballot proposition.

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

152 the state:]

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

156 (2) ~~(a)~~ ~~[Except as prohibited by Subsection (6), an]~~ An employee may ~~[elect to]~~ direct
 157 ~~[his], in writing, that an~~ employer ~~[to: (a)]~~ deduct from the employee's wages a specified sum
 158 ~~[of up to]~~ for union dues, not to exceed 3% per month ~~[from his wages; and (b) pay the~~
 159 amount deducted], to be paid to a labor organization ~~[as assignee]~~ designated by the employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

182 Section 9. Section ~~34-32-1.1~~ is enacted to read:

183 **34-32-1.1. Prohibiting public employers from making payroll deductions for**
184 **political purposes.**

185 (1) As used in this section:

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

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

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

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

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

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

203 (ii) any ballot proposition.

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

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

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

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

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

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

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

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

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

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

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

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

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

221 (d) a political issues committee as defined in Section 20A-11-101;

222 (e) a registered political party as defined in Section 20A-11-101;

223 (f) a political fund as defined in Section 20A-11-1402; or

224 (g) any entity established by a labor organization to solicit, collect, or distribute monies
225 primarily for political purposes.

226 (3) (a) (i) The attorney general may bring an action to require the public employer to
227 comply with the requirements of this section.

228 (ii) If the attorney general prevails, the attorney general may, in addition to other
229 remedies permitted by law, recover attorney fees and court costs from the defendant public
230 employer.

231 (b) (i) Any person aggrieved by a violation of this part may bring an action to require
232 the public employer to comply with the requirements of this part.

233 (ii) If the person aggrieved by a violation of this part prevails in that action, that person
234 may, in addition to other remedies permitted by law, recover attorney fees and court costs from
235 the defendant public employer.

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

237 **53A-3-411. Employment of school personnel -- Length of contract -- Termination**
238 **for cause -- Labor Code compliance.**

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

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

243 (3) Each local school board shall:

244 (a) ensure that each employment contract complies with the requirements of Section

245 34-32-1.1; and

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

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

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

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

253 Section 12. **Repealer.**

254 This act repeals:

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

256 Section 13. **Severability clause.**

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

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

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

Legislative Review Note
as of 1-29-03 7:01 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

It is estimated that provisions of this bill can be implemented with existing resources. However, there may be additional costs associated with the retention of outside legal counsel should litigation arise.

Individual and Business Impact

Labor organizations will be required to separate union activities and funding from political action activities and funding. There may be costs associated with this separation of activities. It is anticipated that these costs will have no significant impact on the affected organizations.

Office of the Legislative Fiscal Analyst