

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26 **34-32-1**, as repealed and reenacted by Chapter 285, Laws of Utah 2001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 or transfer
109 union dues to a political fund.

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

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

112 The attorney general may bring an action to require the labor organization to comply
113 with the requirements of this part.

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 ~~[(c)]~~ (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.