

1 **VOLUNTARY CONTRIBUTION ACT**

2 **AMENDMENTS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Michael R. Styler**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies Labor Code and Election Code provisions relating to political
10 activities by labor organizations.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ allows labor organizations to make expenditures from sources other than a political
14 fund, including union dues, to influence ballot propositions;

15 ▶ allows a labor organization to use union dues to pay the cost of establishing and
16 administering a political fund;

17 ▶ allows a labor organization to use union dues to solicit contributions from its
18 members to a political fund;

19 ▶ clarifies that labor organizations may expend union dues to communicate with their
20 members about political candidates or political issues; and

21 ▶ makes technical corrections.

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill provides a severability clause.

26 This bill provides an immediate effective date.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **20A-11-1402**, as last amended by Chapter 284, Laws of Utah 2003

30 **20A-11-1404**, as repealed and reenacted by Chapter 284, Laws of Utah 2003

31 **34-32-1**, as last amended by Chapter 284, Laws of Utah 2003

32 **34-32-1.1**, as enacted by Chapter 284, Laws of Utah 2003

33 **34-32-4**, as enacted by Chapter 85, Laws of Utah 1969



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

36 Section 1. Section **20A-11-1402** is amended to read:

37 **20A-11-1402. Definitions.**

38 (1) As used in this part:

39 (a) "Ballot proposition" includes constitutional amendments, initiatives, referenda,
40 judicial retention questions, opinion questions, or other questions submitted to the voters for
41 their approval or rejection.

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

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

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

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

53 (d) "Political purposes" means an act done with the intent or in a way to influence or
54 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
55 against~~[-(†)]~~ any candidate for public office at any caucus, political convention, primary, or
56 election~~[-or]~~.

57 ~~[(†) any ballot proposition.]~~

58 (e) "Union dues" means dues, fees, monies, or other assessments required as a

59 condition of membership or participation in a labor organization.

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

61 Section 2. Section **20A-11-1404** is amended to read:

62 **20A-11-1404. Establishment and administration of political fund.**

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

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

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

68 ~~[(b) pay the costs of administering the political fund from contributions to the political
69 fund and not from union dues;]~~

70 ~~[(c)]~~ (b) ensure that each contribution to the political fund is voluntary; and

71 ~~[(d)]~~ (c) register the political fund as a political action committee or political issues
72 committee as required by this chapter.

73 (3) (a) ~~[A]~~ Except as otherwise provided in this part, a labor organization may only
74 make expenditures for political purposes from a political fund established in accordance with
75 this part.

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

78 (4) Nothing in this part precludes a labor organization from making expenditures of
79 union dues to communicate directly with its own members about political candidates or
80 political issues.

81 (5) Nothing in this part precludes a labor organization from making expenditures of
82 union dues either for the establishment and administration of a political fund or to solicit
83 contributions from its members to a political fund.

84 (6) Nothing in this part is intended to, or may be construed to, preempt any requirement
85 of federal law.

86 Section 3. Section **34-32-1** is amended to read:

87 **34-32-1. Assignments to labor unions -- Effect.**

88 (1) As used in this section:

89 ~~[(a) "Ballot proposition" means opinion questions specifically authorized by the~~

90 ~~Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions~~
91 ~~that are submitted to the voters for their approval or rejection.]~~

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

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

96 ~~[(d)]~~ (c) (i) "Labor organization" means a lawful organization of any kind that is
97 composed, in whole or in part, of employees, and that exists for the purpose, in whole or in
98 part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay,
99 hours of employment, or other terms and conditions of employment.

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

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

105 ~~[(e)] "Political purposes" means an act done with the intent or in a way to influence or~~
106 ~~tend to influence, directly or indirectly, any person to refrain from voting or to vote for or~~
107 ~~against:]~~

108 ~~[(i) any candidate for public office at any caucus, political convention, primary, or~~
109 ~~election; or]~~

110 ~~[(ii) any ballot proposition.]~~

111 ~~[(f)]~~ (d) "Union dues" means dues, fees, monies, or other assessments required as a
112 condition of membership or participation in a labor organization.

113 (2) (a) An employee may direct, in writing, that an employer deduct from the
114 employee's wages a specified sum for union dues, not to exceed 3% per month, to be paid to a
115 labor organization designated by the employee.

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

119 Section 4. Section **34-32-1.1** is amended to read:

120 **34-32-1.1. Prohibiting public employers from making payroll deductions for**

121 **political purposes.**

122 (1) As used in this section:

123 [~~(a)~~] ~~"Ballot proposition" means opinion questions specifically authorized by the~~
124 ~~Legislature, constitutional amendments, initiatives, referenda, and judicial retention questions~~
125 ~~that are submitted to the voters for their approval or rejection.]~~126 [~~(b)~~] (a) (i) "Labor organization" means a lawful organization of any kind that is
127 composed, in whole or in part, of employees and that exists for the purpose, in whole or in part,
128 of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of
129 employment, or other terms and conditions of employment.130 (ii) Except as provided in Subsection (1)(b)(iii), "labor organization" includes each
131 employee association and union for public employees.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 [~~(c)~~] (b) "Political purposes" means an act done with the intent or in a way to influence
136 or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
137 against~~[-(f)]~~ any candidate for public office at any caucus, political convention, primary, or
138 election~~[-or]~~.139 [~~(d)~~] ~~any ballot proposition.]~~140 [~~(e)~~] (c) "Public employee" means a person employed by:

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

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

143 (iii) a municipal corporation, a county, a municipality, a school district, a special
144 district, or any other political subdivision of the state.145 [~~(f)~~] (d) "Public employer" means an employer that is:

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

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

148 (iii) a municipal corporation, a county, a municipality, a school district, a special
149 district, or any other political subdivision of the state.150 [~~(g)~~] (e) "Union dues" means dues, fees, assessments, or other monies required as a
151 condition of membership or participation in a labor organization.

152 (2) ~~It is the intent of the Legislature to amend Section 20A-11-101 to read:~~ It is the intent of the Legislature to amend Section 20A-11-101 to read:
 152a1 public

152a employer may not deduct from the wages of its employees any amounts to
 153 be paid to:

- 154 (a) a candidate as defined in Section 20A-11-101;
- 155 (b) a personal campaign committee as defined in Section 20A-11-101;
- 156 (c) a political action committee as defined in Section 20A-11-101;
- 157 (d) a political issues committee as defined in Section 20A-11-101;
- 158 (e) a registered political party as defined in Section 20A-11-101;
- 159 (f) a political fund as defined in Section 20A-11-1402; or
- 160 (g) any entity established by a labor organization to solicit, collect, or distribute monies
 161 primarily for political purposes as defined in this chapter.

162 (3) The attorney general may bring an action to require ~~the~~ a public employer to
 163 comply with the requirements of this section.

164 Section 5. Section ~~34-32-4~~ is amended to read:

165 **34-32-4. Exceptions from chapter.**

166 (1) The provisions of this chapter shall not apply to carriers as that term is defined in
 167 the Railway Labor Act passed by the Congress of the United States, June 21, 1934. 48 Stat.
 168 1189, U.S. Code, Title 45, Section 151.

169 (2) Nothing in this chapter is intended to, or may be construed to, preempt any
 170 requirement of federal law.

171 Section 6. **Severability clause.**

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

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

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

177 Section 7. **Effective date.**

178 If approved by two-thirds of all the members elected to each house, this bill takes effect
 179 upon approval by the governor, or the day following the constitutional time limit of Utah
 180 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
 181 the date of veto override.

Legislative Review Note
as of 2-19-04 3:01 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0302

Voluntary Contribution Act Amendments

20-Feb-04

10:54 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst