

**PUBLIC EMPLOYEES UNION FINANCIAL
RESPONSIBILITY ACT**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 34, Labor in General, by enacting the Public Employees Union Financial Responsibility Act to provide certain reporting by unions of public employees.

Highlighted Provisions:

This bill:

- ▶ enacts the Public Employees Union Financial Responsibility Act;
- ▶ provides certain definitions;
- ▶ requires public employee labor organizations to adopt bylaws and report the organizations' fees, provisions, and procedures to the Labor commissioner;
- ▶ requires public employee labor organizations to file an annual financial report to the labor commissioner and provides for its contents;
- ▶ requires each officer of a labor organization and each employee of a labor organization to file a report on certain interests held in businesses that do business with the labor organization or governmental agencies having employees that the labor organization represents;
- ▶ provides that the reports filed are public information, with certain exceptions, and provides for retention of certain records for certain periods;
- ▶ provides for certain rulemaking authority;



- 28 ▶ permits members of labor organizations to obtain court orders to review certain
29 financial records of the labor organization;
30 ▶ provides for criminal penalties, investigations, and enforcement; and
31 ▶ provides for certain exceptions.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 ENACTS:

38 **34-44-101**, Utah Code Annotated 1953
39 **34-44-102**, Utah Code Annotated 1953
40 **34-44-201**, Utah Code Annotated 1953
41 **34-44-202**, Utah Code Annotated 1953
42 **34-44-203**, Utah Code Annotated 1953
43 **34-44-301**, Utah Code Annotated 1953
44 **34-44-302**, Utah Code Annotated 1953
45 **34-44-303**, Utah Code Annotated 1953
46 **34-44-401**, Utah Code Annotated 1953
47 **34-44-501**, Utah Code Annotated 1953
48 **34-44-502**, Utah Code Annotated 1953
49 **34-44-503**, Utah Code Annotated 1953
50 **34-44-601**, Utah Code Annotated 1953

51

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

53 Section 1. Section **34-44-101** is enacted to read:

54 **CHAPTER 44. PUBLIC EMPLOYEES UNION FINANCIAL RESPONSIBILITY ACT**

55 **34-44-101. Title.**

56 This chapter is known as the "Public Employees Union Financial Responsibility Act."

57 Section 2. Section **34-44-102** is enacted to read:

58 **34-44-102. Definitions.**

As used in this chapter:

(1) "Commissioner" has the same meaning as provided under Section 34A-1-102.

(2) (a) "Governmental entity" means the state including any departments, units, or administrative subdivisions and any of the state's political subdivisions, including any county, municipality, school district, special district, local district, or any administrative subdivision of those entities.

(b) "Governmental entity" does not include the federal government of the United States or any corporation wholly owned by the government of the United States.

(3) "Labor organization" means an organization:

(a) in which employees of a governmental entity participate; and

(b) which exists for the purpose, in whole or in part, of dealing with a governmental entity concerning grievances, labor disputes, wages, rates of pay, hours of employment, conditions of work compensation, or conditions of employment.

(4) "Member" or "member in good standing," when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in the organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

(5) "Officer" means:

(a) any constitutional officer of the labor organization;

(b) any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization; and

(c) any member of the labor organization's executive board or similar governing body.

Section 3. Section **34-44-201** is enacted to read:

34-44-201. Report of labor organizations.

(1) A labor organization shall adopt a constitution and bylaws and shall file a report, signed by its president and secretary or corresponding principal officers, containing the following information:

(a) the name of the labor organization, its mailing address, and any other address at which it maintains its principal office or at which it keeps the records referred to in this title;

(b) the name and title of each of its officers;

90 (c) a copy of the adopted constitution and bylaws;
91 (d) (i) the initiation fee or fees required from a new or transferred member; and
92 (ii) fees, if any, for work permits required by the reporting labor organization;
93 (e) the regular dues or fees or other periodic payments required to remain a member of
94 the reporting labor organization; and
95 (f) detailed statements, or references to specific provisions of documents filed under
96 this Subsection (1) which contain the statements, showing the provisions made and procedures
97 followed with respect to each of the following:
98 (i) qualifications for, or restrictions on, membership;
99 (ii) levying of assessments;
100 (iii) participating in insurance or other benefit plans;
101 (iv) authorization for disbursement of funds of the labor organization;
102 (v) audit of financial transactions of the labor organization;
103 (vi) the calling of regular and special meetings;
104 (vii) the selection of officers, stewards, and any representatives to other bodies
105 composed of labor organizations' representatives, with a specific statement of the manner in
106 which each officer was elected, appointed, or otherwise selected;
107 (viii) discipline or removal of officers or agents for breaches of their trust;
108 (ix) imposition of fines, suspensions, and expulsions of members, including the
109 grounds for the action, and any provision made for notice, hearing, judgment on the evidence,
110 and appeal procedures;
111 (x) authorization for bargaining demands;
112 (xi) ratification of contract terms;
113 (xii) authorization for strikes; and
114 (xiii) issuance of work permits.
115 (2) The report shall be filed with the commissioner as defined under Section
116 34A-1-102, on or before December 31, 2007.
117 (3) If any change is made in the information required under Subsection (1), the labor
118 organization shall file an amended report at the time the reporting labor organization files with
119 its annual financial report required under Section 34-44-202.
120 Section 4. Section **34-44-202** is enacted to read:

34-44-202. Annual financial reports.

(1) A labor organization shall file an annual financial report disclosing its financial condition and operations for its preceding fiscal year. The report shall be signed by its president and treasurer, or corresponding principal officers, and contain the following information:

(a) assets and liabilities at the beginning and end of the fiscal year;

(b) receipts of any kind and the sources thereof;

(c) salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and also to each employee who, during the fiscal year, received more than \$10,000 in the aggregate from the labor organization and any other labor organization affiliated with it or with which it is affiliated, or which is affiliated with the same parent body;

(d) direct and indirect loans made to any officer, employee, or member, which when aggregated equal more than \$250 during the fiscal year, including a statement of the purpose of each loan, security for each loan, if any, and arrangements for repayment of each loan;

(e) direct and indirect loans made to any business enterprise, including a statement of the purpose of each loan, security of each loan, if any, and arrangements for repayment of each loan; and

(f) other disbursements made by the labor organization, including the purposes for the disbursements in all categories as determined by the commissioner.

(2) The annual financial report shall be filed with the commissioner within 90 days after the end of the labor union's fiscal year.

(3) (a) A labor organization required to file a report under this section shall make the information required to be contained in the report available to all of its members.

(b) A labor organization and its officers shall be under a duty, which shall be enforceable by suit filed by any member of the organization in a court, to permit a member of the labor organization to examine any books, records, and accounts necessary to verify the validity of a report required by this section.

Section 5. Section **34-44-203** is enacted to read:

34-44-203. Report of officers and employees of labor organizations.

(1) Except for an employee that performs exclusively clerical or custodial services, each officer and employee of a labor organization shall file with the commissioner, a signed

152 report listing and describing, for the preceding fiscal year of the labor organization:

153 (a) any stock, bond, security, or other legal or equitable interest, and any income or
154 other benefit with monetary value, including reimbursed expenses, which the officer or
155 employee, or the officer or employee's spouse or minor child, directly or indirectly held in or
156 derived from a business entity, if:

157 (i) (A) the business entity conducts business with a governmental entity whose
158 employees the labor organization represents or is actively seeking to represent; and

159 (B) a substantial part of the business entity's activity consists of buying, selling, and
160 leasing property, goods, or services to or from the labor organization; or

161 (ii) any part of the business entity's activity consists of buying, selling, or leasing
162 property, goods, or services to or from the labor organization;

163 (b) any direct or indirect business transaction or arrangement between the officer or
164 employee, or the officer or employee's spouse or minor child, and any governmental entity
165 whose employees the labor organization represents or is actively seeking to represent, except:

166 (i) work performed and payments and benefits received as a bona fide employee of the
167 governmental entity; and

168 (ii) purchases and sales of goods or services in the regular course of business at prices
169 generally available to any employee of the governmental entity; and

170 (c) any payment of money or other thing of value, including reimbursed expenses,
171 which the officer or employee, or the officer or employee's spouse or minor child, received
172 directly or indirectly from any employer or any person who acts as a labor relations consultant
173 to an employer, except payments of the kinds referred to in 29 U.S.C. 186(c).

174 (2) The provisions of Subsection (1) of this section shall not be construed to require
175 any officer or employee to report:

176 (a) the officer or employee's bona fide investments:

177 (i) in securities traded on a securities exchange registered as a national securities
178 exchange under the Securities Exchange Act of 1934; or

179 (ii) in shares in an investment company registered under the investment company act or
180 in securities of a public utility holding company registered under the Public Utility Holding
181 Company Act of 1935; or

182 (b) to report any income derived from investments described under Subsection (2)(a).

(3) Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a report under Subsection (1) unless the officer or employee, or the officer or employee's spouse or minor child:

(a) holds or has held an interest in the stock, bond, or other interest, has received any income in the stock, bond, or other interest, or any other benefit with monetary value or a loan; or

(b) has engaged in a transaction described under Subsection (1).

Section 6. Section **34-44-301** is enacted to read:

34-44-301. Attorney-client communications exempted.

Nothing contained in this chapter shall be construed to require an attorney who is a member in good standing of the bar of any state, to include in any report required to be filed under this chapter any information which was lawfully communicated to the attorney by any of the attorney's clients in the course of a legitimate attorney-client relationship.

Section 7. Section **34-44-302** is enacted to read:

34-44-302. Reports made public information.

(1) In accordance with Title 63, Chapter 2, Government Records Access and Management Act, the contents of the reports and documents filed with the commissioner under Sections 34-44-201, 34-44-202, and 34-44-203 are public records.

(2) The commissioner may:

(a) publish any information and data which the commissioner obtains under this chapter; and

(b) use the information and data for statistical and research purposes, and compile and publish studies, analyses, reports, and surveys based on the information as the commissioner determines appropriate.

Section 8. Section **34-44-303** is enacted to read:

34-44-303. Maintenance of records.

(1) A person required to file any report under this title shall maintain records on the matters required to be reported, which shall be in sufficient detail so that the reports may be verified, explained, or clarified, and checked for accuracy and completeness. The records shall include vouchers, worksheets, receipts, and applicable resolutions.

(2) A labor organization required to file a report under this chapter shall keep the

records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

Section 9. Section **34-44-401** is enacted to read:

34-44-401. Rules.

In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner may make rules prescribing the form and publication of reports required to be filed under this chapter. The rules shall:

(1) allow simplified reports for labor organizations for whom the commissioner finds that, by virtue of their size, a detailed report would be unduly burdensome; and

(2) allow the commissioner to revoke the allowance for simplified forms of a labor organization if the commissioner determines, after an investigation and due notice and opportunity for a hearing, that the purposes of this chapter would be served by the revocation of the simplified report authorization.

Section 10. Section **34-44-501** is enacted to read:

34-44-501. Penalties.

(1) A person who willfully violates this chapter shall be guilty of a class B misdemeanor.

(2) A person who makes a false statement or representation of a material fact knowing it to be false, or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this chapter, is guilty of a class B misdemeanor.

(3) A person who willfully makes a false entry in or willfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept by any provision of this chapter is guilty of a class B misdemeanor.

(4) An individual required to sign reports under Section 34-44-201, 34-44-202, or 34-44-203 shall be personally responsible for the filing of the reports and for any statement contained in the report the individual knows to be false.

Section 11. Section **34-44-502** is enacted to read:

34-44-502. Civil enforcement.

(1) Whenever it appears that any person has violated or is about to violate any of the provisions of this chapter, the commissioner may bring a civil action for relief as may be

appropriate.

(2) Any action may be brought in a court in the jurisdiction where the alleged violation occurred or in the jurisdiction where the labor organization maintains its principal office.

Section 12. Section **34-44-503** is enacted to read:

34-44-503. Investigations.

(1) The attorney general or the commissioner may make an investigation in connection any violation of this chapter and may enter any places and inspect any records and accounts and question any person the attorney general or the commissioner considers necessary to enable him to determine the relevant facts.

(2) The attorney general or the commissioner may report to interested persons or officials concerning the facts required to be shown in any report required by this chapter and concerning the reasons for failure or refusal to file a report or any other matter which is considered to be appropriate as a result of an investigation.

Section 13. Section **34-44-601** is enacted to read:

34-44-601. Exemption for organizations covered by federal statute.

The provisions of this chapter do not apply to any labor organization required to file annual or semiannual disclosure reports under the federal Labor Management Reporting and Disclosure Act.

Legislative Review Note

as of 2-15-07 9:43 AM

Office of Legislative Research and General Counsel

H.B. 430 - Public Employees Union Financial Responsibility Act**Fiscal Note**

2007 General Session

State of Utah

State Impact

Enactment of this bill will require an appropriation of \$12,000 from the General Fund to the Labor Commission in FY 2008 and thereafter, for expenditures for legal services to implement provisions of this bill. Other provisions required in this bill will be managed by reassigning workers from other tasks.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$12,000	\$12,000	\$0	\$0	\$0
Total	\$0	\$12,000	\$12,000	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, or local governments. Unions identified in the bill will incur cost of additional record keeping and report filing.