

Representative Gregory H. Hughes proposes the following substitute bill:

LABOR ORGANIZATIONS AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies Title 34, Labor in General, by amending provisions related to employee payroll deductions for labor organizations and provisions related to collective bargaining on behalf of public employees and by enacting the Public Employees Union Financial Responsibility Act to provide certain reporting by unions of public employees.

Highlighted Provisions:

This bill:

- ▶ requires that only an employee can submit a written request to an employer to have payroll deductions made to pay union dues;
- ▶ provides for the prompt commencement and ceasing of deductions upon request;
- ▶ prohibits an employee who requests to have payroll deductions made to pay union dues from being required to continue the payments for any set period or total amount;
- ▶ 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;



- 26 ▶ requires public employee labor organizations to file an annual financial report to the
- 27 labor commissioner and provides for its contents;
- 28 ▶ requires each officer of a labor organization and each employee of a labor
- 29 organization to file a report on certain interests held in businesses that do business
- 30 with the labor organization or governmental agencies having employees that the
- 31 labor organization represents;
- 32 ▶ provides that the reports filed are public information, with certain exceptions, and
- 33 provides for retention of certain records for certain periods;
- 34 ▶ provides for certain rulemaking authority;
- 35 ▶ permits members of labor organizations to obtain court orders to review certain
- 36 financial records of the labor organization;
- 37 ▶ provides for criminal penalties, investigations, and enforcement;
- 38 ▶ provides for certain exceptions; and
- 39 ▶ makes technical changes.

40 **Monies Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 AMENDS:

46 **34-32-1**, as last amended by Chapter 220, Laws of Utah 2004

47 ENACTS:

48 **34-44-101**, Utah Code Annotated 1953

49 **34-44-102**, Utah Code Annotated 1953

50 **34-44-201**, Utah Code Annotated 1953

51 **34-44-202**, Utah Code Annotated 1953

52 **34-44-203**, Utah Code Annotated 1953

53 **34-44-301**, Utah Code Annotated 1953

54 **34-44-302**, Utah Code Annotated 1953

55 **34-44-303**, Utah Code Annotated 1953

56 **34-44-401**, Utah Code Annotated 1953

- 57 **34-44-501**, Utah Code Annotated 1953
- 58 **34-44-502**, Utah Code Annotated 1953
- 59 **34-44-503**, Utah Code Annotated 1953
- 60 **34-44-601**, Utah Code Annotated 1953



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

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

64 **34-32-1. Assignments to labor unions -- Restrictions -- Effect.**

65 (1) As used in this section:

66 (a) "Employee" means a person employed by any person, partnership, public, private,
67 or municipal corporation, school district, the state, or any political subdivision of the state.

68 (b) "Employer" means the person or entity employing an employee.

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

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

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

78 (d) "Union dues" means dues, fees, monies, or other assessments required as a
79 condition of membership or participation in a labor organization.

80 (2) (a) An employee may direct an employer, in writing, [~~that an employer~~] to deduct
81 from the employee's wages a specified sum for union dues[~~, not to exceed 3% per month,~~] to be
82 paid to a labor organization designated by the employee[-] if:

83 (i) the amount deducted per month does not exceed 3% of the employee's monthly
84 wages;

85 (ii) the employer promptly begins making deductions for union dues from the wages of
86 the employee for the benefit of a labor organization when the employer receives a written
87 communication from the employee directing that deductions begin; and

88 (iii) the employee is not under any agreement, contract, or obligation to continue
89 payments or contributions to the labor organization:

90 (A) for any set period in excess of one month; or

91 (B) in a total amount exceeding the limit specified under this Subsection (2).

92 (b) (i) An employer shall promptly cease making deductions for union dues from the
93 wages of an employee for the benefit of a labor organization when the employer receives a
94 written communication from the employee directing that the deductions cease.

95 (ii) An employee's request that the employer cease making deductions shall not be
96 conditioned upon the labor organization's:

97 (A) receipt of advance notice of the request; or

98 (B) prior consent to cessation of the deductions.

99 Section 2. Section **34-44-101** is enacted to read:

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

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

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

103 Section 3. Section **34-44-102** is enacted to read:

104 **34-44-102. Definitions.**

105 As used in this chapter:

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

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

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

113 (3) "Labor organization" means an organization:

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

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

118 (4) "Member" or "member in good standing," when used in reference to a labor

119 organization, includes any person who has fulfilled the requirements for membership in the
120 organization, and who neither has voluntarily withdrawn from membership nor has been
121 expelled or suspended from membership after appropriate proceedings consistent with lawful
122 provisions of the constitution and bylaws of such organization.

123 (5) "Officer" means:

124 (a) any constitutional officer of the labor organization;

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

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

128 Section 4. Section **34-44-201** is enacted to read:

129 **34-44-201. Report of labor organizations.**

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

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

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

136 (c) a copy of the adopted constitution and bylaws;

137 (d) (i) the initiation fee or fees required from a new or transferred member; and

138 (ii) fees, if any, for work permits required by the reporting labor organization;

139 (e) the regular dues or fees or other periodic payments required to remain a member of
140 the reporting labor organization; and

141 (f) detailed statements, or references to specific provisions of documents filed under
142 this Subsection (1) which contain the statements, showing the provisions made and procedures
143 followed with respect to each of the following:

144 (i) qualifications for, or restrictions on, membership;

145 (ii) levying of assessments;

146 (iii) participating in insurance or other benefit plans;

147 (iv) authorization for disbursement of funds of the labor organization;

148 (v) audit of financial transactions of the labor organization;

149 (vi) the calling of regular and special meetings;

- 150 (vii) the selection of officers, stewards, and any representatives to other bodies
151 composed of labor organizations' representatives, with a specific statement of the manner in
152 which each officer was elected, appointed, or otherwise selected;
- 153 (viii) discipline or removal of officers or agents for breaches of their trust;
154 (ix) imposition of fines, suspensions, and expulsions of members, including the
155 grounds for the action, and any provision made for notice, hearing, judgment on the evidence,
156 and appeal procedures;
- 157 (x) authorization for bargaining demands;
158 (xi) ratification of contract terms;
159 (xii) authorization for strikes; and
160 (xiii) issuance of work permits.
- 161 (2) The report shall be filed with the commissioner as defined under Section
162 34A-1-102, on or before December 31, 2007.
- 163 (3) If any change is made in the information required under Subsection (1), the labor
164 organization shall file an amended report at the time the reporting labor organization files with
165 its annual financial report required under Section 34-44-202.
- 166 Section 5. Section **34-44-202** is enacted to read:
167 **34-44-202. Annual financial reports.**
- 168 (1) A labor organization shall file an annual financial report disclosing its financial
169 condition and operations for its preceding fiscal year. The report shall be signed by its
170 president and treasurer, or corresponding principal officers, and contain the following
171 information:
- 172 (a) assets and liabilities at the beginning and end of the fiscal year;
173 (b) receipts of any kind and the sources thereof;
174 (c) salary, allowances, and other direct or indirect disbursements, including reimbursed
175 expenses, to each officer and also to each employee who, during the fiscal year, received more
176 than \$10,000 in the aggregate from the labor organization and any other labor organization
177 affiliated with it or with which it is affiliated, or which is affiliated with the same parent body;
178 (d) direct and indirect loans made to any officer, employee, or member, which when
179 aggregated equal more than \$250 during the fiscal year, including a statement of the purpose of
180 each loan, security for each loan, if any, and arrangements for repayment of each loan;

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

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

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

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

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

194 Section 6. Section **34-44-203** is enacted to read:

195 **34-44-203. Report of officers and employees of labor organizations.**

196 (1) Except for an employee that performs exclusively clerical or custodial services,
197 each officer and employee of a labor organization shall file with the commissioner, a signed
198 report listing and describing, for the preceding fiscal year of the labor organization:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

236 Section 7. Section **34-44-301** is enacted to read:

237 **34-44-301. Attorney-client communications exempted.**

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

242 Section 8. Section **34-44-302** is enacted to read:

243 **34-44-302. Reports made public information.**

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

247 (2) The commissioner may:

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

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

253 Section 9. Section **34-44-303** is enacted to read:

254 **34-44-303. Maintenance of records.**

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

259 (2) A labor organization required to file a report under this chapter shall keep the
260 records available for examination for a period of not less than five years after the filing of the
261 documents based on the information which they contain.

262 Section 10. Section **34-44-401** is enacted to read:

263 **34-44-401. Rules.**

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

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

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

273 Section 11. Section **34-44-501** is enacted to read:

274 **34-44-501. Penalties.**

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

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

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

284 (4) An individual required to sign reports under Section 34-44-201, 34-44-202, or
285 34-44-203 shall be personally responsible for the filing of the reports and for any statement
286 contained in the report the individual knows to be false.

287 Section 12. Section **34-44-502** is enacted to read:

288 **34-44-502. Civil enforcement.**

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

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

294 Section 13. Section **34-44-503** is enacted to read:

295 **34-44-503. Investigations.**

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

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

304 Section 14. Section **34-44-601** is enacted to read:

305 **34-44-601. Exemption for organizations covered by federal statute.**

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