

Representative Jordan D. Teuscher proposes the following substitute bill:

PUBLIC SECTOR LABOR ORGANIZATIONS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to public employee labor organizations.

Highlighted Provisions:

This bill:

- ▶ prohibits using public money or public property to assist or promote union organizing or administration;
- ▶ prohibits a public employer from compensating a public employee for union activity, with certain exceptions;
- ▶ requires public employee labor organizations to conduct a recertification election every five years;
- ▶ prohibits a public employer from deducting from a public employee's wages union dues for a collective bargaining representative, except in certain circumstances;
- ▶ requires a labor organization that engages in collective bargaining to annually provide certain information to the public employer or state auditor;
- ▶ addresses enforcement of the provisions of this bill;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **34-32-1.1**, as last amended by Laws of Utah 2023, Chapter 16

32 **34-32-3**, as last amended by Laws of Utah 2018, Chapter 148

33 ENACTS:

34 **34-32-2.5**, Utah Code Annotated 1953



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

37 Section 1. Section **34-32-1.1** is amended to read:

38 **CHAPTER 32. LABOR ORGANIZATIONS AND PAYROLL DEDUCTIONS**

39 **34-32-1.1. Prohibiting public employers from making payroll deductions for**
40 **political purposes - Prohibiting use of public money or public property for union activity.**

41 (1) As used in this section:

42 (a) (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)(a)(iii), "labor organization" includes each
47 employee association and union for public employees.

48 (iii) "Labor organization" does not include ~~organizations~~:

49 (A) an organization governed by the National Labor Relations Act, 29 U.S.C. Sec. 151
50 et seq. ~~or~~;

51 (B) an organization governed by the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.; or

52 (C) an organization that has entered into a labor agreement or labor protective
53 agreement pursuant to the Urban Mass Transportation Act, 49 U.S.C. Sec. 5333(b).

54 (b) "Member" means a public employee who is a member of a labor organization.

55 ~~(b)~~ (c) "Political purposes" means an act done with the intent or in a way to influence
56 or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or

57 against any candidate for public office at any caucus, political convention, primary, or election.

58 ~~[(c) "Public employee" means a person employed by:]~~

59 ~~[(i) the state of Utah or any administrative subunit of the state;]~~

60 ~~[(ii) a state institution of higher education; or]~~

61 ~~[(iii) a municipal corporation, a county, a municipality, a school district, a special~~
62 ~~district, a special service district, or any other political subdivision of the state.]~~

63 (d) "Public employee" means an individual employed by a public employer.

64 ~~[(d)]~~ (e) "Public employer" means an employer that is:

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

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

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

69 (f) "Public money" means the same as that term is defined in Section [76-1-101.5](#).

70 (g) (i) "Public property" means real property, personal property, or intellectual property
71 that is owned, held, or managed by a public employer.

72 (ii) "Public property" includes a website, computer program, record, or data that is
73 owned, held, or managed by a public employer.

74 (h) "Representative" means a labor organization representative.

75 (i) "Union activity" means an activity that a labor organization, a member, or a
76 representative performs that relates to:

77 (i) advocating the interests of members in wages, benefits, or terms and conditions of
78 employment;

79 (ii) enforcing the labor organization's internal policies and procedures;

80 (iii) fulfilling the labor organization's obligations;

81 (iv) advancing the labor organization's external relations; or

82 (v) union organizing.

83 ~~[(e)]~~ (j) "Union dues" means dues, fees, assessments, or other money required as a
84 condition of membership or participation in a labor organization.

85 (k) "Union organizing" means communicating with a public employee in an effort to
86 persuade the public employee to join or support a labor organization.

87 (2) A public employer may not deduct from the wages of its employees any amounts to

88 be paid to:

- 89 (a) a candidate as defined in Section 20A-11-101;
- 90 (b) a personal campaign committee as defined in Section 20A-11-101;
- 91 (c) a political action committee as defined in Section 20A-11-101;
- 92 (d) a political issues committee as defined in Section 20A-11-101;
- 93 (e) a registered political party as defined in Section 20A-11-101;
- 94 (f) a political fund as defined in Section 20A-11-1402; or
- 95 (g) any entity established by a labor organization to solicit, collect, or distribute money

96 primarily for political purposes as defined in this chapter.

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

99 (3) (a) A public employer may not use public money or public property to:

100 (i) assist or support union activity;

101 (ii) compensate a public employee or a third party for union activity; or

102 (iii) provide a public employee paid leave that is in addition to the public employee's

103 regularly accrued leave and provided for the purpose of allowing the public employee to

104 participate in union activity.

105 (b) A labor organization, member, or representative may not use public money or

106 public property for union activity.

107 (4) Nothing in Subsection (3) prohibits:

108 (a) a public employer from:

109 (i) spending public money or using public property:

110 (A) for negotiating or administering a collective bargaining agreement on behalf of the

111 public employer; or

112 (B) for performing an activity required by federal law or state law; or

113 (ii) compensating a public employee for vacation leave, sick leave, or other leave that

114 the public employee accrues as a benefit of the public employee's employment, provided the

115 employer gives the compensation on the same terms as any other employee;

116 (b) a labor organization or a representative from accessing public property that is real
117 property:

118 (i) in the same manner and to the same extent as the public employer allows any other

119 individual or entity; or

120 (ii) on a limited case-by-case basis at the public employer's invitation, if the public
121 employer determines that allowing the labor organization's or representative's access to the
122 public property is in the public employees' best interests; or

123 (c) a public employee from engaging in conversation with other individuals in the
124 workplace during the public employee's breaks or other time periods during which non-work
125 issues are allowed to be discussed.

126 (5) To the extent prohibited by a collective bargaining agreement that is in effect on
127 May 1, 2024, Subsections (3) and (4) do not apply until the public employer and the labor
128 organization enter into a new collective bargaining agreement or renew, extend, or modify the
129 existing collective bargaining agreement.

130 Section 2. Section **34-32-2.5** is enacted to read:

131 **34-32-2.5. Public employee collective bargaining organizations -- Recertification**
132 **requirements -- Limitations on payroll deductions -- Information available to public**
133 **employers and state auditor.**

134 (1) As used in this section:

135 (a) "Collective bargaining representative" means a labor organization that engages in
136 collective bargaining on a collective bargaining unit's behalf.

137 (b) "Collective bargaining unit" means a group of public employees represented by a
138 single labor organization for purposes of collective bargaining.

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

143 (ii) "Labor organization" includes each employee association and union for employees
144 of public and private sector employers.

145 (iii) "Labor organization" does not include an organization that:

146 (A) is governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq.;

147 (B) is governed by the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.; or

148 (C) has entered into a labor agreement or labor protective agreement pursuant to the
149 Urban Mass Transportation Act, 49 U.S.C. Sec. 5333(b).

150 (d) "Public employee" means the same as that term is defined by Section 34-32-1.1.

151 (e) "Third party election facilitator" means an entity that, as part of the entity's
152 operations, provides impartial election administration, including ballot preparation, tabulation,
153 and results certification.

154 (f) "Union dues" means dues, fees, money, or other assessments required as a condition
155 of membership or participation in a labor organization.

156 (2) (a) (i) In 2025 and every fifth calendar year thereafter, a collective bargaining
157 representative shall, at the collective bargaining representative's expense, engage a third party
158 election facilitator to conduct a secret ballot election to certify the collective bargaining
159 representative.

160 (ii) The third party election facilitator shall conduct the election no later than
161 December 1.

162 (b) (i) If in the election at least 51% of all the employees in the collective bargaining
163 unit vote in favor of certifying the collective bargaining representative, the collective
164 bargaining representative may continue as the collective bargaining unit's collective bargaining
165 representative.

166 (ii) If in the election less than 51% of all employees in the collective bargaining unit
167 vote in favor of certifying the collective bargaining representative, the bargaining
168 representative no longer represents the collective bargaining unit and the collective bargaining
169 unit is unrepresented in collective bargaining as of the later of:

170 (A) January 1 immediately following the election; or

171 (B) if an existing collective bargaining agreement is in place on January 1 immediately
172 following the election, the earlier of the day on which the collective bargaining agreement
173 expires or the second January 1 following the election.

174 (c) A collective bargaining unit that votes not to certify a collective bargaining
175 representative as described in Subsection (2)(b) may not be included in a substantially similar
176 collective bargaining unit for 12 months after the day on which the collective bargaining
177 representative's representation stops.

178 (3) (a) Notwithstanding Section 34-32-1 and except as provided in Subsection (3)(b), a
179 public employer may not deduct union dues from a public employee's wages if the union dues
180 are for a collective bargaining representative.

181 (b) A public employer may deduct union dues as described in Subsection (3)(a):
 182 (i) as required by federal law or an agreement with the federal government;
 183 (ii) pursuant to an agreement on file with the federal government; or
 184 (iii) if the public employee affirmatively elects each year to have the public employer
 185 deduct the union dues and the total deductions each month do not exceed 3% of the employee's
 186 monthly wages, and the labor organization that receives the union dues pays a 1.5% transaction
 187 fee for costs associated with the deduction.

188 (c) A public employee may revoke an election under Subsection (3)(b)(iii) at any time,
 189 without advance notice to or consent from the collective bargaining representative.

190 (d) A labor organization is not liable for any claim, service, or benefit that is:
 191 (i) available only to a member of the labor organization; and
 192 (ii) terminated as a result of a public employee's request that the public employer cease
 193 making deductions for union dues.

194 (4) On January 1 of each year, a collective bargaining representative shall report to the
 195 public employer or the state auditor:

196 (a) the number of members in the labor organization; and
 197 (b) the number of public employees represented in the collective bargaining unit.

198 (5) To the extent prohibited by a collective bargaining agreement that is in effect on
 199 May 1, 2024, Subsection (3) does not apply until the public employer and the labor
 200 organization enter into a new collective bargaining agreement or renew, extend, or modify the
 201 existing collective bargaining agreement.

202 (6) Nothing in this section provides public employees a right to collective bargaining.

203 (7) A public employee may not waive a provision of this section.

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

205 **34-32-3. Failure to comply -- Penalty--Attorney General to enforce.**

206 (1) Any employer, dealer or processor who willfully fails to comply with the duties
 207 imposed by [~~this chapter~~] [Section 34-32-1](#) or [34-32-2](#) is guilty of a class B misdemeanor.

208 (2) The attorney general may bring a civil action to require compliance with a
 209 provision of this chapter.

210 Section 4. **Effective date.**

211 This bill takes effect on May 1, 2024.

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