

HB0285S03 compared with HB0285S02

~~text~~ shows text that was in HB0285S02 but was deleted in HB0285S03.

text shows text that was not in HB0285S02 but was inserted into HB0285S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jordan D. Teuscher proposes the following substitute bill:

PUBLIC SECTOR LABOR ~~UNION~~ ORGANIZATIONS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~{} Jordan D. Teuscher~~

Senate Sponsor: ~~{ Curtis S. Bramble }~~ Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions ~~governing~~ related to public ~~employers and~~ 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 ~~union dues~~ from a public employee's

HB0285S03 compared with HB0285S02

wages union dues for a collective bargaining representative, except in certain
~~{circumstances;~~

~~→ prohibits using public money or public property to assist, promote, or deter union
organizing or administration;~~

~~→ prohibits a public employer from compensating a public employee for union
activity, with certain exceptions;~~

~~→ requires certain labor organizations to provide the number of members in
the } circumstances;~~

▶ requires a labor organization ~~{to a}~~ that engages in collective bargaining to annually
provide certain information to the public employer ~~{upon request}~~ or state auditor;

▶ addresses enforcement of the provisions of this bill;

▶ defines terms; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{~~ ~~34-32-1~~, as last amended by Laws of Utah 2011, Chapter 220

~~}~~ ~~34-32-1.1~~, as last amended by Laws of Utah 2023, Chapter 16

~~{34-32-4}~~ 34-32-3, as last amended by Laws of Utah ~~{2011}~~ 2018, Chapter ~~{297}~~ 148

ENACTS:

~~{34-20-15}~~ 34-32-2.5, Utah Code Annotated 1953

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

Section 1. Section ~~{34-20-15}~~ 34-32-1.1 is ~~{enacted to read:~~

~~34-20-15. Recertification requirements for public employee labor organizations:~~

~~(1) As used in this section:~~

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

HB0285S03 compared with HB0285S02

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

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

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

~~—— (iii) "Labor organization" does not include:~~

~~—— (A) an organization governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151 et seq.; or~~

~~—— (B) an organization composed solely of public safety employees.~~

~~—— (d) "Public employee" means an individual employed by a public employer as defined in Section 34-32-1.1.~~

~~—— (e) "Public safety employee" means a public employee who is:~~

~~—— (i) a law enforcement officer as defined in Section 53-13-103;~~

~~—— (ii) a correctional officer as defined in Section 53-13-104;~~

~~—— (iii) a dispatcher as defined in Section 53-6-102; or~~

~~—— (iv) a firefighter.~~

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

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

~~—— (b) The third party election facilitator shall conduct the election no later than December 1.~~

~~—— (3) (a) If in the election at least 51% of all the employees in the collective bargaining unit vote in favor of certifying the collective bargaining representative, the collective bargaining representative may continue as the collective bargaining unit's collective bargaining~~

HB0285S03 compared with HB0285S02

representative:

~~—— (b) If in the election less than 51% of all employees in the collective bargaining unit vote in favor of certifying the collective bargaining representative, the bargaining representative no longer represents the collective bargaining unit and the collective bargaining unit is unrepresented in collective bargaining as of the later of:~~

~~—— (i) January 1 immediately following the election; or~~

~~—— (ii) if an existing collective bargaining agreement is in place on January 1 immediately following the election, the earlier of:~~

~~—— (A) the day on which the collective bargaining agreement expires; or~~

~~—— (B) the second January 1 following the election.~~

~~—— (4) A collective bargaining unit that votes not to certify a collective bargaining representative as described in Subsection (3)(b) may not be included in a substantially similar collective bargaining unit for 12 months after the day on which the collective bargaining representative's representation stops:~~

~~—— (5) Nothing in this section provides public employees a right to collective bargaining:~~

~~—— Section 2. Section ~~34-32-1~~ is amended to read:~~

~~—— **34-32-1. Assignments to labor unions -- Effect.**~~

~~—— (1) As used in this section:~~

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

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

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

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

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

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

HB0285S03 compared with HB0285S02

~~_____ (c) "Public employee" means the same as that term is defined in Section 34-32-1.1.~~

~~_____ (d) "Public employer" means the same as that term is defined in Section 34-32-1.1.~~

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

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

~~_____ [(3) An employer shall promptly commence or cease making deductions for union dues from the wages of an employee for the benefit of a labor organization when the employer receives a written communication from the employee directing the employer to commence or cease making deductions.]~~

~~_____ [(4) An employee's request that an employer cease making deductions may not be conditioned upon a labor organization's:]~~

~~_____ [(a) receipt of advance notice of the request; or]~~

~~_____ [(b) prior consent to cessation of the deductions.]~~

~~_____ (2) (a) Except as provided in Subsection (2)(b), a public employer may not deduct union dues from a public employee's wages.~~

~~_____ (b) A public employer may deduct union dues from a public employee's wages:~~

~~_____ (i) as required by federal law or an agreement with the federal government;~~

~~_____ (ii) pursuant to an agreement on file with the federal government; or~~

~~_____ (iii) (A) if the public employee affirmatively elects each year to have the public employer deduct the union dues and the total deductions each month do not exceed 3% of the employee's monthly wages; and~~

~~_____ (B) the labor organization that receives the union dues pays a 1.5% transaction fee for costs associated with the deduction.~~

~~_____ (c) A public employee may revoke an election under Subsection (2)(b)(iii) at any time, without advance notice to or consent from the labor organization.~~

~~_____ [(5)] (d) A labor organization is not liable for any claim, service, or benefit that is:~~

~~_____ [(a)] (i) available only to a member of the labor organization; and~~

~~_____ [(b)] (ii) terminated as a result of an employee's request that the public employer cease making deductions for union dues.~~

HB0285S03 compared with HB0285S02

~~[(6)] (3) (a) [An] A public employee may join a labor organization or terminate membership at any time.~~

~~(b) A person may not place a restriction on the time that [an] a public employee may join, or terminate membership with, a labor organization.~~

~~(4) Upon request, a labor organization that is a party to a collective bargaining agreement with a public employer shall report to the public employer or the state auditor:~~

~~(a) the number of members in the labor organization; and~~

~~(b) the number of public employees represented in the collective bargaining unit.~~

~~[(7)] (5) [An] A public employee may not waive a provision of this section.~~

~~(6) To the extent prohibited by a collective bargaining agreement that is in effect on May 1, 2024, Subsections (2) through (4) do not apply until the public employer and the labor organization enter into a new collective bargaining agreement or renew, extend, or modify the existing collective bargaining agreement.~~

~~Section 3. Section 34-32-1.1 is amended to read:~~

~~amended to read:~~

CHAPTER 32. LABOR ORGANIZATIONS AND PAYROLL DEDUCTIONS

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

(1) As used in this section:

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

(ii) Except as provided in Subsection (1)(a)(iii), "labor organization" includes each employee association and union for public employees.

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

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

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

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

HB0285S03 compared with HB0285S02

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

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

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

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

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

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

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

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

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

(ii) a state institution of higher education; or

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

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

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

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

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

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

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

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

(iii) fulfilling the labor organization's obligations;

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

(v) union organizing.

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

HB0285S03 compared with HB0285S02

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

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

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

primarily for political purposes as defined in this chapter.

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

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

- (i) assist or support union ~~{organizing or union }~~activity;
- (ii) compensate a public employee or a third party for union activity; or
- (iii) provide a public employee paid leave that is in addition to the public employee's

regularly accrued leave and provided for the purpose of allowing the public employee to participate in union activity.

(b) A labor organization, member, or representative may not use public money or public property for union ~~{organizing or union }~~activity.

(4) Nothing in Subsection (3) prohibits:

(a) a public employer from:

(i) spending public money or using public property:

(A) for negotiating or administering a collective bargaining agreement on behalf of the public employer; ~~or~~

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

~~{ (C) pursuant to an agreement on file with the federal government; or~~

~~{ (ii) compensating a public employee for vacation leave, sick leave, or other leave that the public employee accrues as a benefit of the public employee's employment, provided the~~

HB0285S03 compared with HB0285S02

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

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

~~(i) in the same manner and to the same extent as other private individuals and entities;~~

~~(5) Notwithstanding anything to the contrary in Subsection (3), a~~ the public employer ~~shall provide to a labor organization, member, or representative the same access to public property that~~ allows any other individual or entity; or

~~(ii) on a limited case-by-case basis at the public~~ ~~employer provides to any other person;~~

~~(3) (6) The attorney general may bring an action to require~~ employer's invitation, if the public employer determines that allowing the labor organization's or representative's access to the public property is in the public employees' best interests; or

~~(c) a public~~ ~~employer to comply with the requirements of this section;~~

~~(7) employee from engaging in conversation with other individuals in the workplace during the public employee's breaks or other time periods during which non-work issues are allowed to be discussed.~~

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

~~34-32-3. Failure to comply -- Penalty.~~

~~Any employer, dealer or processor who willfully fails to comply with the duties imposed by this chapter is guilty of a class B misdemeanor.~~

~~Section 4~~ 2. Section ~~34-32-4;~~ 34-32-2.5 is ~~amended~~ enacted to read:

~~34-32-4. Exceptions from chapter:~~

~~(1) The provisions of this chapter do not apply to carriers~~ 34-32-2.5. Public employee collective bargaining organizations -- Recertification requirements -- Limitations on payroll deductions -- Information available to public employers and state auditor.

(1) As used in this section:

(a) "Collective bargaining representative" means a labor organization that engages in

HB0285S03 compared with HB0285S02

collective bargaining on a collective bargaining unit's behalf.

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

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

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

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

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

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

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

(d) "Public employee" means the same as that term is defined in the Railway Labor Act passed by the Congress of the United States, June 21, 1934. 48 Stat. 1189, U.S. Code, Title 45, Section 151.

~~— (2) Subsection 34-32-1(2) does not apply~~ by Section 34-32-1.1.

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

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

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

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

(b) (i) If in the election at least 51% of all the employees in the collective bargaining unit vote in favor of certifying the collective bargaining representative, the collective

HB0285S03 compared with HB0285S02

bargaining representative may continue as the collective bargaining unit's collective bargaining representative.

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

(A) January 1 immediately following the election; or

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

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

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

(b) A public employer may deduct union dues as described in Subsection (3)(a):

(i) as required by federal law or an agreement with the federal government;

(ii) pursuant to an agreement on file with the federal government; or

(iii) if the public employee ~~is a public safety employee as defined in Section~~

~~34-20-15:~~

~~— (2) (3) affirmatively elects each year to have the public employer deduct the union dues and the total deductions each month do not exceed 3% of the employee's monthly wages, and the labor organization that receives the union dues pays a 1.5% transaction fee for costs associated with the deduction.~~

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

(d) A labor organization is not liable for any claim, service, or benefit that is:

(i) available only to a member of the labor organization; and

(ii) terminated as a result of a public employee's request that the public employer cease

HB0285S03 compared with HB0285S02

making deductions for union dues.

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

(a) the number of members in the labor organization; and

(b) the number of public employees represented in the collective bargaining unit.

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

(6) Nothing in this chapter is intended to, or may be construed to, preempt any requirement of federal law:

~~Section 5~~ section provides public employees a right to collective bargaining.

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

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

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

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

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

Section 4. Effective date.

This bill takes effect on May 1, 2024.