

1st Sub. H.B. 534
BOARDS AND COMMISSIONS MODIFICATIONS

Senator **Karen Kwan** proposes the following amendments:

1. Page 1, Line 22:

22 {~~•Labor Relations Board;~~}

2. Page 4, Line 116 through Page 5, Line 119:

116 {~~34-20-2, as last amended by Laws of Utah 2016, Chapter 370~~}

117 {~~34-20-8, as last amended by Laws of Utah 2016, Chapter 348~~}

118 {~~34-20-9, as last amended by Laws of Utah 1987, Chapter 161~~}

119 {~~34A-1-202, as last amended by Laws of Utah 2013, Chapter 413~~}

3. Page 8, Lines 230 through 236:

230 {~~34-20-3, as last amended by Laws of Utah 2020, Chapters 352, 373~~}

231 {~~34-20-4, as last amended by Laws of Utah 1997, Chapter 375~~}

232 {~~34-20-5, as last amended by Laws of Utah 2011, Chapter 297~~}

233 {~~34-20-6, as enacted by Laws of Utah 1969, Chapter 85~~}

234 {~~34-20-10, as last amended by Laws of Utah 2008, Chapter 382~~}

235 {~~34-20-11, as last amended by Laws of Utah 1997, Chapter 296~~}

236 {~~34-20-12, as enacted by Laws of Utah 1969, Chapter 85~~}

4. Page 87, Line 2668 through Page 92, Line 2836:

2668 {~~Section 38. Section 34-20-2 is amended to read:~~

2669 ~~34-20-2. Definitions:~~

2670 ~~As used in this chapter:~~

2671 ~~(1) "Affecting commerce" means in commerce, or burdening or obstructing commerce~~

2672 ~~or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or~~

2673 ~~obstructing commerce or the free flow of commerce within the state.~~

2674 ~~(2) "Commerce" means trade, traffic, commerce, transportation, or communication~~

2675 ~~within the state.~~

2676 ~~(3) "Election" means a proceeding in which the employees in a collective bargaining~~

2677 ~~unit cast a secret ballot for collective bargaining representatives or for any other purpose~~

2678 ~~specified in this chapter and includes elections conducted by the board or by any tribunal~~

2679 ~~having competent jurisdiction or whose jurisdiction was accepted by the parties.~~

2680 ~~—— (4) (a) "Employee" includes any employee unless this chapter explicitly states~~
2681 ~~otherwise, and includes an individual whose work has ceased as a consequence of, or in~~
2682 ~~connection with, any current labor dispute or because of any unfair labor practice, and who has~~
2683 ~~not obtained any other regular and substantially equivalent employment:~~
2684 ~~—— (b) "Employee" does not include an individual employed as an agricultural laborer, or~~
2685 ~~in the domestic service of a family or person at his home, or an individual employed by his~~
2686 ~~parent or spouse:~~
2687 ~~—— (5) "Employer" includes a person acting in the interest of an employer, directly or~~
2688 ~~indirectly, but does not include:~~
2689 ~~—— (a) the United States;~~
2690 ~~—— (b) a state or political subdivision of a state;~~
2691 ~~—— (c) a person subject to the federal Railway Labor Act;~~
2692 ~~—— (d) a labor organization, other than when acting as an employer;~~
2693 ~~—— (e) a corporation or association operating a hospital if no part of the net earnings inures~~
2694 ~~to the benefit of any private shareholder or individual; or~~
2695 ~~—— (f) anyone acting in the capacity of officer or agent of a labor organization:~~
2696 ~~—— (6) "Federal executive agency" means an executive agency, as defined in 5 U.S.C.~~
2697 ~~Sec.105, of the federal government:~~
2698 ~~—— (7) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.~~
2699 ~~—— (8) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.~~
2700 ~~—— (9) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.~~
2701 ~~—— (10) "Labor dispute" means any controversy between an employer and the majority of~~
2702 ~~the employer's employees in a collective bargaining unit concerning the right or process or~~
2703 ~~details of collective bargaining or the designation of representatives:~~
2704 ~~—— (11) "Labor organization" means an organization of any kind or any agency or~~
2705 ~~employee representation committee or plan in which employees participate that exists for the~~
2706 ~~purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes,~~
2707 ~~wages, rates of pay, hours of employment, or conditions of work:~~
2708 ~~—— [(12) "Labor relations board" or "board" means the board created in Section 34-20-3.]~~
2709 ~~—— [(13)] (12) "Person" includes an individual, partnership, association, corporation, legal~~
2710 ~~representative, trustee, trustee in bankruptcy, or receiver:~~
2711 ~~—— [(14)] (13) "Representative" includes an individual or labor organization:~~
2712 ~~—— [(15)] (14) "Secondary boycott" includes combining or conspiring to cause or threaten~~
2713 ~~to cause injury to one with whom no labor dispute exists, whether by:~~
2714 ~~—— (a) withholding patronage, labor, or other beneficial business intercourse;~~
2715 ~~—— (b) picketing;~~
2716 ~~—— (c) refusing to handle, install, use, or work on particular materials, equipment, or~~
2717 ~~supplies; or~~
2718 ~~—— (d) by any other unlawful means, in order to bring him against his will into a concerted~~
2719 ~~plan to coerce or inflict damage upon another:~~

2720 ~~_____ [(16)] (15) "Unfair labor practice" means any unfair labor practice listed in Section~~
2721 ~~34-20-8.}~~
2722 ~~{ Section 39. Section 34-20-8 is amended to read:~~
2723 ~~_____ 34-20-8. Unfair labor practices.~~
2724 ~~_____ (1) It shall be an unfair labor practice for an employer, individually or in concert with~~
2725 ~~others:~~
2726 ~~_____ (a) To interfere with, restrain or coerce employees in the exercise of the rights~~
2727 ~~guaranteed in Section 34-20-7.~~
2728 ~~_____ (b) To dominate or interfere with the formation or administration of any labor~~
2729 ~~organization or contribute financial or other support to it[, provided, that subject to rules and~~
2730 ~~regulations made and published by the board pursuant to Section 34-20-6], provided that an~~
2731 ~~employer is not prohibited from permitting employees to confer with the employer during~~
2732 ~~working hours without loss of time or pay.~~
2733 ~~_____ (c) By discrimination in regard to hire or tenure of employment or any term or~~
2734 ~~condition of employment to encourage or discourage membership in any labor organization;~~
2735 ~~provided, that nothing in this act shall preclude an employer from making an agreement with a~~
2736 ~~labor organization (not established, maintained or assisted by any action defined in this act as~~
2737 ~~an unfair labor practice) to require as a condition of employment, membership therein, if such~~
2738 ~~labor organization is the representative of the employees as provided in Subsection 34-20-9(1)~~
2739 ~~in the appropriate collective bargaining unit covered by such agreement when made.~~
2740 ~~_____ (d) To refuse to bargain collectively with the representative of a majority of the~~
2741 ~~employer's employees in any collective bargaining unit[, provided, that, when two or more~~
2742 ~~labor organizations claim to represent a majority of the employees in the bargaining unit, the~~
2743 ~~employer shall be free to file with the board a petition for investigation of certification of~~
2744 ~~representatives and during the pendency of the proceedings the employer may not be~~
2745 ~~considered to have refused to bargain].~~
2746 ~~_____ (e) To bargain collectively with the representatives of less than a majority of the~~
2747 ~~employer's employees in a collective bargaining unit.~~
2748 ~~_____ (f) To discharge or otherwise discriminate against an employee because the employee~~
2749 ~~has filed charges or given testimony under this chapter.~~
2750 ~~_____ (2) It shall be an unfair labor practice for an employee individually or in concert with~~
2751 ~~others:~~
2752 ~~_____ (a) To coerce or intimidate an employee in the enjoyment of the employee's legal~~
2753 ~~rights, including those guaranteed in Section 34-20-7, or to intimidate the employee's family,~~
2754 ~~picket the employee's domicile, or injure the person or property of the employee or the~~
2755 ~~employee's family.~~
2756 ~~_____ (b) To coerce, intimidate or induce an employer to interfere with any of the employer's~~
2757 ~~employees in the enjoyment of their legal rights, including those guaranteed in Section 34-20-7,~~
2758 ~~or to engage in any practice with regard to the employer's employees which would constitute an~~
2759 ~~unfair labor practice if undertaken by the employer on the employer's own initiative.~~

2760 ~~—— (c) To co-operate in engaging in, promoting, or inducing picketing (not constituting an~~
2761 ~~exercise of constitutionally guaranteed free speech), boycotting or any other overt concomitant~~
2762 ~~of a strike unless a majority in a collective bargaining unit of the employees of an employer~~
2763 ~~against whom such acts are primarily directed have voted by secret ballot to call a strike:~~
2764 ~~—— (d) To hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of~~
2765 ~~any kind the pursuit of any lawful work or employment, or to obstruct or interfere with~~
2766 ~~entrance to or egress from any place of employment, or to obstruct or interfere with free and~~
2767 ~~uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel~~
2768 ~~or conveyance:~~
2769 ~~—— (e) To engage in a secondary boycott, or to hinder or prevent, by threats, intimidation,~~
2770 ~~force, coercion, or sabotage, the obtaining, use or disposition of materials, equipment, or~~
2771 ~~services; or to combine or conspire to hinder or prevent the obtaining, use or disposition of~~
2772 ~~materials, equipment or services, provided, however, that nothing herein shall prevent~~
2773 ~~sympathetic strikes in support of those in similar occupations working for other employers in~~
2774 ~~the same craft:~~
2775 ~~—— (f) To take unauthorized possession of property of the employer:~~
2776 ~~—— (3) It shall be an unfair labor practice for any person to do or cause to be done on~~
2777 ~~behalf of or in the interest of employers or employees, or in connection with or to influence the~~
2778 ~~outcome of any controversy as to employment relations, any act prohibited by Subsections (1)~~
2779 ~~and (2) of this section.}~~
2780 ~~{ Section 40. Section 34-20-9 is amended to read:~~
2781 ~~—— 34-20-9. Collective bargaining -- Representatives:~~
2782 ~~—— (1) [(a)] Representatives designated or selected for the purposes of collective~~
2783 ~~bargaining by the majority of the employees in a unit appropriate for those purposes shall be~~
2784 ~~the exclusive representatives of all the employees in that unit for the purposes of collective~~
2785 ~~bargaining in respect to rate of pay, wages, hours of employment, and of other conditions of~~
2786 ~~employment:~~
2787 ~~—— [(b)] (2) Any individual employee or group of employees may present grievances to~~
2788 ~~their employer at any time:~~
2789 ~~—— [(2) The board shall decide in each case whether, in order to ensure to employees the~~
2790 ~~full benefit of their right to self-organization and to collective bargaining, and otherwise to~~
2791 ~~effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining~~
2792 ~~shall be the employer unit, craft unit, plant unit, or subdivision of same.}]~~
2793 ~~—— [(3) Whenever a question affecting intrastate commerce or the orderly operation of~~
2794 ~~industry arises concerning the representation of employees, the board may investigate such~~
2795 ~~controversy and certify to the parties in writing, the name or names of the representatives that~~
2796 ~~have been designated or selected. In any such investigation, the board shall provide for an~~
2797 ~~appropriate hearing upon due notice, either in conjunction with a proceeding under Section~~
2798 ~~34-20-10, or otherwise, and may take a secret ballot of employees, or utilize any other suitable~~
2799 ~~method to ascertain such representatives.}]~~

2800 ~~—— [(4) (a) Whenever an order of the board made according to Section 34-20-10 is based~~
2801 ~~in whole or in part upon facts certified following an investigation under Subsection (3), and~~
2802 ~~there is a petition for the enforcement or review of such order, the certification and the record~~
2803 ~~of the investigation shall be included in the transcript of the entire record required to be filed~~
2804 ~~under Section 34-20-10.]~~
2805 ~~—— [(b) The decree of the court enforcing, modifying, or setting aside in whole or in part~~
2806 ~~the order of the board shall be made and entered upon the pleadings, testimony, and~~
2807 ~~proceedings set forth in the transcript.}]~~
2808 ~~{ Section 41. Section 34A-1-202 is amended to read:~~
2809 ~~—— 34A-1-202. Divisions and office -- Creation -- Duties -- Appeals Board, councils,~~
2810 ~~and panel.~~
2811 ~~—— (1) There is created within the commission the following divisions and office:~~
2812 ~~—— (a) the Division of Industrial Accidents that shall administer the regulatory~~
2813 ~~requirements of this title concerning industrial accidents and occupational disease;~~
2814 ~~—— (b) the Division of Occupational Safety and Health that shall administer the regulatory~~
2815 ~~requirements of Chapter 6, Utah Occupational Safety and Health Act;~~
2816 ~~—— (c) the Division of Boiler and Elevator Safety that shall administer the regulatory~~
2817 ~~requirements of Chapter 7, Safety;~~
2818 ~~—— (d) the Division of Antidiscrimination and Labor that shall administer the regulatory~~
2819 ~~requirements of:~~
2820 ~~—— (i) Title 34, Labor in General, when specified by statute;~~
2821 ~~—— (ii) Chapter 5, Utah Antidiscrimination Act;~~
2822 ~~—— (iii) this title, when specified by statute; and~~
2823 ~~—— (iv) Title 57, Chapter 21, Utah Fair Housing Act;~~
2824 ~~—— (e) the Division of Adjudication that shall adjudicate claims or actions brought under~~
2825 ~~this title; and~~
2826 ~~—— (f) the Utah Office of Coal Mine Safety created in Section 40-2-201.~~
2827 ~~—— (2) In addition to the divisions created under this section, within the commission are~~
2828 ~~the following:~~
2829 ~~—— [(a) the Labor Relations Board created in Section 34-20-3;]~~
2830 ~~—— [(b)] (a) the Appeals Board created in Section 34A-1-205; and~~
2831 ~~—— [(c)] (b) the following program advisory councils:~~
2832 ~~—— (i) the workers' compensation advisory council created in Section 34A-2-107;~~
2833 ~~—— (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203; and~~
2834 ~~—— (iii) the Coal Miner Certification Panel created in Section 40-2-204.~~
2835 ~~—— (3) In addition to the responsibilities described in this section, the commissioner may~~
2836 ~~assign to a division a responsibility granted to the commission by law. }~~

5. Page 243, Lines 7518 through 7527:

7518 { ~~Section 34-20-3, Labor relations board.~~ }

7519 { ~~Section 34-20-4, Labor relations board -- Employees -- Agencies -- Expenses.~~ }

7520 { ~~Section 34-20-5, Labor relations board -- Offices -- Jurisdiction -- Member's~~
7521 participation in case. }

7522 { ~~Section 34-20-6, Labor relations board -- Rules and regulations.~~ }

7523 { ~~Section 34-20-10, Unfair labor practices -- Powers of board to prevent --~~
7524 Procedure. }

7525 { ~~Section 34-20-11, Hearings and investigations -- Power of board -- Witnesses --~~
7526 Procedure. }

7527 { ~~Section 34-20-12, Willful interference -- Penalty.~~ }