

1 SENATE BILL NO. 277

2 INTRODUCED BY M. REGIER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING LABOR
5 ORGANIZATION PAYMENTS AND COLLECTION OF POLITICAL CONTRIBUTIONS BY PUBLIC
6 EMPLOYERS; PROHIBITING PUBLIC EMPLOYERS FROM DEDUCTING FROM PUBLIC EMPLOYEES'
7 SALARY OR ASSISTING IN THE COLLECTION OF DUES, FEES, FINES, ASSESSMENTS, OR
8 CONTRIBUTIONS ON BEHALF OF LABOR ORGANIZATIONS, POLITICAL COMMITTEES, OR POLITICAL
9 ORGANIZATIONS; MAKING IT AN UNFAIR LABOR PRACTICE FOR A PUBLIC EMPLOYER TO DEDUCT
10 OR ASSIST IN THE COLLECTION OF DUES OR CONTRIBUTIONS; MAKING IT AN UNFAIR LABOR
11 PRACTICE FOR A LABOR ORGANIZATION TO INDUCE A PUBLIC EMPLOYER TO DEDUCT OR ASSIST
12 IN THE COLLECTION OF DUES OR CONTRIBUTIONS; AMENDING SECTIONS 2-2-121, 2-2-122, 17-8-212,
13 39-31-203, 39-31-401, AND 39-31-402, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN
14 APPLICABILITY DATE."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 2-2-121, MCA, is amended to read:

19 **"2-2-121. Rules of conduct for public officers and public employees.** (1) Proof of commission of
20 any act enumerated in subsection (2) is proof that the actor has breached a public duty.

21 (2) A public officer or a public employee may not:

22 (a) subject to subsection (6), use public time, facilities, equipment, state letterhead, supplies,
23 personnel, or funds for the officer's or employee's private business purposes;

24 (b) engage in a substantial financial transaction for the officer's or employee's private business
25 purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

26 (c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or
27 other economic benefit from the officer's or employee's agency;

28 (d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic

1 benefit from any agency;

2 (e) perform an official act directly and substantially affecting to its economic benefit a business or
3 other undertaking in which the officer or employee either has a substantial financial interest or is engaged as
4 counsel, consultant, representative, or agent; or

5 (f) solicit or accept employment, or engage in negotiations or meetings to consider employment,
6 with a person whom the officer or employee regulates in the course of official duties without first giving written
7 notification to the officer's or employee's supervisor and department director.

8 (3) (a) A candidate, as defined in 13-1-101(8)(a), may not use or permit the use of state funds for
9 any advertisement or public service announcement in a newspaper, on radio, or on television that contains the
10 candidate's name, picture, or voice except in the case of a state or national emergency and then only if the
11 announcement is reasonably necessary to the candidate's official functions.

12 (b) A state officer may not use or permit the use of public time, facilities, equipment, state
13 letterhead, supplies, personnel, or funds to produce, print, or broadcast any advertisement or public service
14 announcement in a newspaper, on radio, or on television that contains the state officer's name, picture, or voice
15 except in the case of a state or national emergency if the announcement is reasonably necessary to the state
16 officer's official functions or in the case of an announcement directly related to a program or activity under the
17 jurisdiction of the office or position to which the state officer was elected or appointed.

18 (4) A public officer or public employee may not participate in a proceeding when an organization,
19 other than an organization or association of local government officials, of which the public officer or public
20 employee is an officer or director is:

21 (a) involved in a proceeding before the employing agency that is within the scope of the public
22 officer's or public employee's job duties; or

23 (b) attempting to influence a local, state, or federal proceeding in which the public officer or public
24 employee represents the state or local government.

25 (5) A public officer or public employee may not engage in any activity, including lobbying, as
26 defined in 5-7-102, on behalf of an organization, other than an organization or association of local government
27 officials, of which the public officer or public employee is a member while performing the public officer's or
28 public employee's job duties. The provisions of this subsection do not prohibit a public officer or public

1 employee from performing charitable fundraising activities if approved by the public officer's or public
2 employee's supervisor or authorized by law.

3 (6) A listing by a public officer or a public employee in the electronic directory provided for in 30-
4 17-101 of any product created outside of work in a public agency is not in violation of subsection (2)(a) of this
5 section. The public officer or public employee may not make arrangements for the listing in the electronic
6 directory during work hours.

7 (7) A department head or a member of a quasi-judicial or rulemaking board may perform an official
8 act notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a
9 statute and if the person complies with the disclosure procedures under 2-2-131.

10 (8) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee
11 unless the member is also a full-time public employee.

12 (9) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local
13 government from performing an official act when the member's participation is necessary to obtain a quorum or
14 to otherwise enable the body to act. The member shall disclose the interest creating the appearance of
15 impropriety prior to performing the official act.

16 (10) Failure by a public employer to comply with 39-31-203 may be treated as a violation of the
17 code of ethics and is subject to enforcement under this part pursuant to 39-31-203(4)."

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19 **Section 2.** Section 2-2-122, MCA, is amended to read:

20 **"2-2-122. Use of public resources for political purposes.** (1) Except as provided in this section, a
21 judicial officer, public officer, legislator, or public employee may not use or permit the use of public time,
22 facilities, equipment, state letterhead, supplies, personnel, or funds to solicit support for or opposition to any
23 political committee, the nomination or election of any person to public office, or the passage of a ballot issue
24 unless the use is:

25 (a) authorized by law;

26 (b) properly incidental to another activity required or authorized by law, such as the function of a
27 judicial officer, public officer, legislator, or public employee in the normal course of duties; or

28 (c) reasonably considered to be also available to the public.

(2) As used in subsection (1), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(a) the activities of a judicial officer, public officer, legislator, or public employee related to determining the impact of passage or failure of a ballot issue on state or local government operations;

(b) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors.

Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors;

(c) the activities of personal staff of legislative leadership who are exempt as provided in 2-18-104, related to assisting legislators in expressing opinions on a statewide ballot issue involving an initiative, referendum, or constitutional amendment.

(3) It is a properly incidental activity for personal staff of legislative leadership who are exempt as provided in 2-18-104 to support nonelection political caucus activity involving legislative business in the normal course of duties as directed by legislative leadership.

(4) Subsection (1) is not intended to restrict the right of a judicial officer, public officer, legislator, or public employee to express personal political views.

(5) (a) If the public officer or public employee is a Montana highway patrol chief or highway patrol officer appointed under Title 44, chapter 1, the term "equipment" as used in subsection (1) includes the chief's or officer's official highway patrol uniform.

(b) A Montana highway patrol chief's or highway patrol officer's title may not be referred to in the solicitation of support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

(6) A judicial officer, public officer, legislator, or public employee that violates this section may also be prosecuted by the appropriate county attorney for official misconduct as specified in 45-7-401.

(7) Legislators are allowed limited use of public time, facilities, equipment, state letterhead, supplies, and personnel to:

(a) respond to inquiries or comments from the public, media, or government agencies;

(b) express opinions in any media or platform, including online and on social media; and

(c) publicly support or oppose statewide ballot issues or the nomination of a person to a public office.

(8) A judicial officer, public officer, legislator, or public employee is not liable for any violation of this section because of conduct prohibited by 39-31-203 occurring prior to July 1, 2025."

Section 3. Section 17-8-212, MCA, is amended to read:

"17-8-212. Effect of assignment. Nothing contained herein ~~shall~~may in any way impair the negotiability of state warrants or preclude employees of the state from authorizing deductions from salaries for employees' group insurance programs authorized by law; ~~union dues, or the~~ purchase of U.S. government savings bonds."

Section 4. Section 39-31-203, MCA, is amended to read:

"39-31-203. Deduction of dues from employee's pay and collection of dues prohibited. ~~Upon written authorization of any public employee within a bargaining unit, the (1) A public employer shall~~may not deduct from the pay of the a public employee the monthly amount of dues as certified by the secretary of the exclusive representative and shall deliver the dues to the treasurer of the exclusive representative dues, fees, fines, assessments, or contributions on behalf of:

(a) a labor organization;

(b) a political committee as defined in 13-1-101; or

(c) a political organization as defined in 26 U.S.C. 527.

(2) A public employer may not assist, directly or indirectly, any labor organization, political committee as defined in 13-1-101, or political organization as defined in 26 U.S.C. 527 with the collection of dues, fees, assessments, or contributions.

(3) Upon petition by a public employer that has been notified by the United States department of

1 labor that the public employer's protective arrangement covering mass transit employees does not meet the
2 requirements of 49 U.S.C. 5333(b) and would jeopardize the public employer's continued eligibility to receive
3 federal transit administration funding, the board may waive the application of this section to the extent
4 necessary for the public employer to comply with the requirements of 49 U.S.C. 5333(b).

5 (4) For the purposes of enforcement, violations of this section may be treated as violations of the
6 state code of ethics as provided in Title 2, chapter 2, part 1."

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8 **Section 5.** Section 39-31-401, MCA, is amended to read:

9 **"39-31-401. Unfair labor practices of public employer.** It is an unfair labor practice for a public
10 employer to:

11 (1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-
12 201;

13 (2) dominate, interfere, or assist in the formation or administration of any labor organization.
14 However, subject to rules adopted by the board under 39-31-104, an employer is not prohibited from permitting
15 employees to confer with the employer during working hours without loss of time or pay.

16 (3) discriminate in regard to hire or tenure of employment or any term or condition of employment
17 in order to encourage or discourage membership in any labor organization;

18 (4) discharge or otherwise discriminate against an employee because the employee has signed or
19 filed an affidavit, petition, or complaint or given any information or testimony under this chapter; or

20 (5) refuse to bargain collectively in good faith with an exclusive representative; or

21 (6) violate 39-31-203."

22
23 **Section 6.** Section 39-31-402, MCA, is amended to read:

24 **"39-31-402. Unfair labor practices of labor organization.** It is an unfair labor practice for a labor
25 organization or its agents to:

26 (1) restrain or coerce:

27 (a) employees in the exercise of the right guaranteed in 39-31-201; or

28 (b) a public employer in the selection of a representative for the purpose of collective bargaining or

1 the adjustment of grievances;

2 (2) refuse to bargain collectively in good faith with a public employer if it has been designated as
3 the exclusive representative of employees;

4 (3) use agency shop fees for contributions to political candidates or parties at state or local levels;
5 or

6 (4) induce a public employer to violate 39-31-203."

7
8 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are
9 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
10 the part remains in effect in all valid applications that are severable from the invalid applications.

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12 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2025.

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14 NEW SECTION. Section 9. Applicability. [This act] applies to collective bargaining agreements or
15 other contracts executed, modified, extended, or amended on or after July 1, 2025.

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