

FIRST REGULAR SESSION

# SENATE BILL NO. 202

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time January 27, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0281S.011

## AN ACT

To repeal section 33.103, RSMo, and to enact in lieu thereof two new sections relating to labor organizations.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 33.103, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 33.103 and 105.504, to read as  
3 follows:

33.103. 1. Whenever the employees of any state department, division or  
2 agency establish any voluntary retirement plan, or participate in any group  
3 hospital service plan, group life insurance plan, medical service plan or other  
4 such plan, or if they are members of an employee collective bargaining  
5 organization, or if they participate in a group plan for uniform rental, the  
6 commissioner of administration may deduct from such employees' compensation  
7 warrants the amount necessary for each employee's participation in the plan or  
8 collective bargaining dues, provided that such dues deductions shall be made only  
9 from those individuals agreeing to such deductions. Before such deductions are  
10 made, the person in charge of the department, division or agency shall file with  
11 the commissioner of administration an authorization showing the names of  
12 participating employees, the amount to be deducted from each such employee's  
13 compensation, and the agent authorized to receive the deducted amounts. The  
14 amount deducted shall be paid to the authorized agent in the amount of the total  
15 deductions by a warrant issued as provided by law.

16 2. The commissioner of administration may, in the same manner, deduct  
17 from any state employee's compensation warrant:

18 (1) Any amount authorized by the employee for the purchase of shares in  
19 a state employees' credit union in Missouri;

20 (2) Any amount authorized by the employee for contribution to a fund  
21 resulting from a united, joint community-wide solicitation or to a fund resulting  
22 from a nationwide solicitation by charities rendering services or otherwise  
23 fulfilling charitable purposes if the fund is administered in a manner requiring  
24 public accountability and public participation in policy decisions;

25 (3) Any amount authorized by the employee for the payment of dues in an  
26 employee association;

27 (4) Any amount determined to be owed by the employee to the state in  
28 accordance with guidelines established by the commissioner of administration  
29 which shall include notice to the employee and an appeal process;

30 (5) Any amount voluntarily assigned by the employee for payment of child  
31 support obligations determined pursuant to chapter 452 or 454;

32 (6) Any amount authorized by the employee for contributions to any  
33 qualified state tuition program pursuant to Section 529 of the Internal Revenue  
34 Code of 1986, as amended, sponsored by the state of Missouri; and

35 (7) Any amount for cafeteria plan administrative fees under subdivision  
36 (4) of subsection 3 of this section.

37 3. The commissioner of administration may establish a cafeteria plan in  
38 accordance with Section 125 of Title 26 United States Code for state  
39 employees. The commissioner of administration must file a written plan  
40 document to be filed in accordance with chapter 536. Employees must be  
41 furnished with a summary plan description one hundred twenty days prior to the  
42 effective date of the plan. In connection with such plans, the commissioner may:

43 (1) Include as an option in the plan any employee benefit, otherwise  
44 available to state employees, administered by a statutorily created retirement  
45 system;

46 (2) Provide and administer, or select companies on the basis of  
47 competitive bids or proposals to provide or administer, any group insurance, or  
48 other plan which may be included as part of a cafeteria plan, provided such plan  
49 is not duplicative of any other plan, otherwise available to state employees,  
50 administered by a statutorily created retirement system;

51 (3) Include as an option in the plan any other product eligible under  
52 Section 125 of Title 26 of the United States Code the selection of which may be  
53 solicited by a vendor on site in state facilities, subject to regulations promulgated  
54 by the office of administration, and including payment to the state by vendors  
55 providing those products for the cost of administering those deductions, as set by

56 the office of administration; and

57 (4) Reduce each employee's compensation warrant by the amount  
58 necessary for each employee's participation in the cafeteria plan, except for those  
59 individual employees who affirmatively elect not to participate in the cafeteria  
60 plan. No such reduction in salary for the purpose of participation in a cafeteria  
61 plan shall have the effect of reducing the compensation amount used in  
62 calculating the state employee's retirement benefit under a statutorily created  
63 retirement system or reducing the compensation amount used in calculating the  
64 state employee's compensation or wages for purposes of any workers'  
65 compensation claim governed by chapter 287.

66 4. Employees may authorize deductions as provided in this section in  
67 writing or by electronic enrollment, **except for authorization for deductions**  
68 **to be paid to a public labor organization, which shall only be made in**  
69 **writing under section 105.504.**

105.504. 1. **No sum shall be withheld from the earnings of any**  
2 **public employee for the purposes of paying any portion of dues, agency**  
3 **shop fees, or any other fees paid by members of a labor organization,**  
4 **or individuals who are not members except upon the written**  
5 **authorization of the member, or individual who is not a member,**  
6 **received within the previous twelve months on a form described by**  
7 **subsection 2 of this section.**

8 2. **The authorization referred to in subsection 1 of this section**  
9 **shall be made on the following form, the sole purpose of which is the**  
10 **documentation of such authorization. The form's title shall read, in at**  
11 **least twenty-four point bold type, "Consent for Withholding Union**  
12 **Dues/Fees" and shall state in at least fourteen-point bold type, the**  
13 **following specific text:**

14 **"Signing this form authorizes the amount of \$..... to be withheld**  
15 **from your monthly earnings and allocated to your labor organization**  
16 **during the next twelve months as a portion of your dues, agency shop**  
17 **fees, or other fee payments. You are not obligated to sign this**  
18 **authorization. Your signature below is completely voluntary and**  
19 **cannot in any way affect your employment."**

20 3. **No public labor organization shall use or obtain any portion**  
21 **of dues, agency shop fees, or any other fees paid by members of the**  
22 **labor organization, or individuals who are not members, to make**

23 contributions or expenditures as defined in section 130.011, except  
24 upon the written authorization of the member, or individual who is not  
25 a member, received within the previous twelve months on a form  
26 described by subsection 4 of this section signed by the member or  
27 nonmember and an officer of the union.

28 4. The authorization referred to in subsection 3 of this section  
29 shall be made on the following form, the sole purpose of which is the  
30 documentation of such authorization. The form's title shall read, in at  
31 least twenty-four point bold type, "Consent for Political Use of  
32 Dues/Fees" and shall state in at least fourteen point bold type, the  
33 following specific text:

34 "Signing this form authorizes your union to use the amount of \$.....  
35 from each of your dues or agency shop fee payments during the next  
36 twelve months as a political contribution or expenditure.

37 "Signing this form requests your union to make a deduction of \$.....  
38 from each of your dues or agency shop fee payments during the next  
39 twelve months as a political contribution to the (name of the  
40 committee).

41 Check applicable box.

42 You are not obligated to sign this authorization. Your signature below  
43 is completely voluntary and cannot in any way affect your  
44 employment."

45 5. Any public employee labor organization that uses any portion  
46 of dues, agency shop fees, or other fees to make contributions or  
47 expenditures under subsection 3 of this section shall maintain records  
48 that include a copy of each authorization obtained under subsections  
49 2 and 4 of this section, the amounts and dates funds were actually  
50 withheld, the amounts and dates funds were transferred to a committee  
51 as defined in section 130.011, and the committee to which the funds  
52 were transferred. Records maintained under this subsection shall not  
53 include the employee's home address or telephone number.

54 6. Copies of all records maintained under subsection 5 of this  
55 section shall be sent to the labor and industrial relations commission,  
56 established under section 286.005.

57 7. Individuals who do not authorize contributions or  
58 expenditures under subsection 3 of this section may not have their

59 dues, agency shop fees, or other fees increased in lieu of contribution  
60 or expenditure.

61 8. The requirements of this section may not be waived by the  
62 member or individual and waiver of the requirements shall not be made  
63 a condition of employment or continued employment.

64 9. Signing or refraining from signing the authorizations referred  
65 to in subsections 2 or 4 of this section shall not be made a condition of  
66 employment or continued employment.

67 10. In exchange for trouble and expenses in administering the  
68 withholding and transferring of funds to the public labor organization,  
69 the office of administration shall deduct, from the withheld amount, a  
70 fee consisting of the greater of eight dollars or two percent of the  
71 amount authorized by the employee for deduction. The employee shall  
72 be deemed to have paid to the public labor organization the entire  
73 amount authorized under subsection 2 of this section as a portion of  
74 dues, agency shop fees, or any other fees. The public labor  
75 organization shall not, in any manner, attempt to recoup the  
76 administration fee from any employee.

77 11. For the purposes of this section "agency shop" means an  
78 arrangement that requires an employee, as a condition of continued  
79 employment, either to join the recognized employee organization, or to  
80 pay the organization a service fee.

81 12. For the purposes of this section, "public labor organization"  
82 includes any organization which exists and is constituted for the  
83 purpose, in whole or in part, of collective bargaining or dealing with  
84 public employers concerning grievances, terms, or conditions of  
85 employment, or of other mutual aid or protection.

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