

House Bill 645

In The House

February 5, 1981

Introduced and referred  
to Committee on Labor and  
Industry.

February 21, 1981

Committee recommend bill  
do not pass.

1 HOUSE BILL NO. 645  
2 INTRODUCED BY BURNETT

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PUBLIC  
5 EMPLOYEE TO CHOOSE WHETHER TO BE A MEMBER OF A LABOR  
6 ORGANIZATION ON AN INDIVIDUAL BASIS; AMENDING SECTIONS  
7 39-31-201, 39-31-205, AND 39-31-401, MCA; REPEALING SECTION  
8 39-31-2C4, MCA; AND PROVIDING AN EFFECTIVE DATE OF JULY 1,  
9 1981."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 39-31-201, MCA, is amended to read:

13 ~~"39-31-201. Public--employees-protected-in-right Right~~  
14 ~~of self-organization -- choice as to membership. (1) Public~~  
15 ~~employees shall have and shall be protected in the exercise~~  
16 ~~of the right of self-organization, to form, join, or assist~~  
17 ~~any labor organization, to bargain collectively through~~  
18 ~~representatives of their own choosing on questions of wages,~~  
19 ~~hours, fringe benefits, and other conditions of employment,~~  
20 ~~and to engage in other concerted activities for the purpose~~  
21 ~~of collective bargaining or other mutual aid or protection~~  
22 ~~free from interference, restraint, or coercion.~~

23 ~~(2) A public employee, on an individual basis, has the~~  
24 ~~right and shall be protected in the exercise of the right to~~  
25 ~~choose not to form, join, or assist any labor organization~~

1 ~~free from interference, restraint, or coercion."~~  
2 Section 2. Section 39-31-205, MCA, is amended to read:  
3 "39-31-205. Designated labor organizations to  
4 represent employees without discrimination. Labor  
5 organizations designated in accordance with the provisions  
6 of this chapter are responsible for representing the  
7 interest of all employees ~~in who choose on an individual~~  
8 ~~basis to be members of~~ the exclusive bargaining unit without  
9 discrimination for the purposes of collective bargaining  
10 with respect to rates of pay, hours, fringe benefits, and  
11 other conditions of employment."

12 ~~NEW SECTION.~~ Section 3. Agreement invalid as to  
13 employee who is not voluntary member. If an agreement exists  
14 between a public employer and a labor organization under  
15 which an employee is represented who has not chosen to be a  
16 member of the organization on an individual basis, the  
17 agreement is invalid as it pertains to that employee.

18 ~~NEW SECTION.~~ Section 4. Individual decision to join  
19 organization to follow election. Whether or not a particular  
20 employee will join the labor organization shall be a  
21 voluntary decision made by the individual employee following  
22 the representation or consent election.

23 Section 5. Section 39-31-401, MCA, is amended to read:  
24 "39-31-401. Unfair labor practices of public employer.  
25 It is an unfair labor practice for a public employer to:

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

3 (2) dominate, interfere, or assist in the formation or  
4 administration of any labor organization; however, subject  
5 to rules adopted by the board under 39-31-104, an employer  
6 is not prohibited from permitting employees to confer with  
7 him during working hours without loss of time or pay;

8 (3) discriminate in regard to hire or tenure of  
9 employment or any term or condition of employment in order  
10 to encourage or discourage membership in any labor  
11 organization; ~~however--nothing--in--this--chapter--or--in--any~~  
12 ~~other--statute--of--this--state--precludes--a--public--employer--from~~  
13 ~~making--an--agreement--with--an--exclusive--representative--to~~  
14 ~~require,--as--a--condition--of--employment,--that--an--employee--who~~  
15 ~~is--not--or--does--not--become--a--union--member,--must--have--an~~  
16 ~~amount--equal--to--the--union--initiation--fee--and--monthly--dues~~  
17 ~~deducted--from--his--wages--in--the--same--manner--as--checkoff--of~~  
18 ~~union--dues~~

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

23 (5) refuse to bargain collectively in good faith with  
24 an exclusive representative."

25 Section 6. Validity of existing agreement. (1) This

1 act does not affect the validity of any agreement between a  
2 labor organization and a public employer entered into before  
3 July 1, 1981.

4 (2) However, this act applies to any extension or  
5 renewal of an agreement after July 1, 1981.

6 Section 7. Codification instruction. (1) Section 3 is  
7 intended to be codified as an integral part of Title 39,  
8 chapter 31, and the provisions of Title 39, chapter 31,  
9 apply to section 3.

10 (2) Section 4 is intended to be codified as an  
11 integral part of Title 39, chapter 31, part 2, and the  
12 provisions of Title 39, chapter 31, apply to section 4.

13 Section 8. Severability. If a part of this act is  
14 invalid, all valid parts that are severable from the invalid  
15 part remain in effect. If a part of this act is invalid in  
16 one or more of its applications, the part remains in effect  
17 in all valid applications that are severable from the  
18 invalid applications.

19 Section 9. Repealer. Section 39-31-204, MCA, is  
20 repealed.

21 Section 10. This act is effective on July 1, 1981.

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