

SECOND REGULAR SESSION

HOUSE BILL NO. 2876

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER.

5668H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 33.103, 105.500, 105.503, 105.510, 105.525, 105.530, 105.533, 105.535, 105.537, 105.540, 105.545, 105.550, 105.555, 105.570, 105.575, 105.580, 105.583, 105.585, 105.590, 105.595, 105.598, 208.850, 208.853, 208.856, 208.859, 208.862, 208.865, 208.868, and 208.871, RSMo, and to enact in lieu thereof fifteen new sections relating to public employees.

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

Section A. Sections 33.103, 105.500, 105.503, 105.510, 105.525, 105.530, 105.533, 105.535, 105.537, 105.540, 105.545, 105.550, 105.555, 105.570, 105.575, 105.580, 105.583, 105.585, 105.590, 105.595, 105.598, 208.850, 208.853, 208.856, 208.859, 208.862, 208.865, 208.868, and 208.871, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 33.103, 105.500, 105.501, 105.503, 105.510, 105.519, 105.523, 105.525, 105.530, 105.539, 105.544, 105.549, 105.554, 105.560, and 105.565, to read as follows:

33.103. 1. Whenever the employees of any state department, division or agency establish any voluntary retirement plan, or participate in any group hospital service plan, group life insurance plan, medical service plan or other such plan, or **except if prohibited by section 105.554**, if they are members of an employee collective bargaining organization, or if they participate in a group plan for uniform rental, the commissioner of administration may deduct from such employees' compensation warrants the amount necessary for each employee's participation in the plan or collective bargaining dues, provided that such dues deductions shall be made only from those individuals agreeing to such deductions **and in accordance with section 105.554**. Before such deductions are made, the person in charge of

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 the department, division or agency shall file with the commissioner of administration an
11 authorization showing the names of participating employees, the amount to be deducted from
12 each such employee's compensation, and the agent authorized to receive the deducted
13 amounts. The amount deducted shall be paid to the authorized agent in the amount of the
14 total deductions by a warrant issued as provided by law.

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

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

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

24 (3) **Unless prohibited by section 105.554**, any amount authorized by the employee
25 for the payment of dues in an employee association;

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

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

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

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

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

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

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

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

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

60 4. Employees may authorize deductions as provided in this section in writing or by
 61 electronic enrollment.

105.500. For purposes of sections 105.500 to ~~[105.598]~~ **105.565**, unless the context
 2 otherwise requires, the following words and phrases mean:

3 (1) ~~["Bargaining unit"]~~ **"Appropriate unit"**, a unit of public employees at any plant
 4 or installation or in a craft or in a function of a public body that establishes a clear and
 5 identifiable community of interest among the public employees concerned;

6 (2) "Board", the state board of mediation established under section 295.030;

7 (3) **"Certification", official recognition by the board that a labor organization is**
 8 **the exclusive bargaining representative of the public employees in an appropriate unit;**

9 (4) **"Collective bargaining", the mutual obligation of a public body and an**
 10 **exclusive bargaining representative to perform the duties described in section 105.519;**

11 (5) **"Confidential employee", a public employee who assists and acts in a**
 12 **confidential capacity to a person who formulates, determines, and effectuates**
 13 **management policies in the area of collective bargaining;**

14 ~~[(3)]~~ (6) "Department", the department of labor and industrial relations established
 15 under section 286.010;

16 ~~[(4)]~~ (7) **"Exclusive bargaining representative", ~~[an]~~ the labor organization that has**
 17 **been ~~[designated or selected, as provided in section 105.575, by a majority of the public~~**
 18 **employees in a bargaining unit as the representative of such public employees in such unit]**
 19 **certified by the board under sections 105.539 to 105.549 as a representative of an**
 20 **appropriate unit of public employees for purposes of collective bargaining;**

21 ~~[(5)]~~ (8) "Labor organization", any organization, agency, or public employee
 22 representation committee or plan, in which public employees participate and that exists for

23 the purpose, in whole or in part, of dealing with a public body or public bodies concerning
24 collective bargaining, grievances, labor disputes, wages, rates of pay, hours of employment,
25 or conditions of work;

26 **(9) "Labor organization activities", any activities undertaken at the direction of,**
27 **on behalf of, or to advance the purposes of a labor organization including, but not**
28 **limited to:**

29 **(a) Supporting or opposing any candidate for federal, state, or local public**
30 **office;**

31 **(b) Influencing the passage or defeat of any federal or state legislation or**
32 **regulation, local ordinance, or any ballot measure;**

33 **(c) Promoting or soliciting membership or participation in or financial support**
34 **of a labor organization;**

35 **(d) Seeking certification as an exclusive bargaining representative;**

36 **(e) Participating in the administration, business, or internal governance of a**
37 **labor organization;**

38 **(f) Preparing, conducting, or attending labor organization events, conferences,**
39 **conventions, meetings, or trainings, unless such training is directly related to the**
40 **performance of the public employees' job duties;**

41 **(g) Distributing labor organization communications;**

42 **(h) Representing or speaking on behalf of a labor organization in any setting,**
43 **venue, or procedure in which the public body is not a participant;**

44 **(i) Preparing, filing, or pursuing grievances;**

45 **(j) Representing public employees in investigatory interview, disciplinary**
46 **proceedings, or appeals up to and including termination or other administrative or legal**
47 **proceedings;**

48 **(k) Engaging in collective bargaining and any related mediation;**

49 **(l) Administering a collective bargaining agreement; or**

50 **(m) Participating in labor-management committees;**

51 **(10) "Managerial employee", an employee of a public body who possesses**
52 **authority to formulate and carry out decisions for the public body or who represents the**
53 **public body's interest by taking or effectively recommending discretionary actions**
54 **relating to policies of the public body;**

55 ~~[(6)]~~ **(11) "Public body", the state of Missouri, or any officer, agency, department,**
56 **bureau, division, board or commission of the state, or any other political subdivision or**
57 **special district of or within the state**~~[-Public body shall not include the department of~~
58 ~~corrections];~~

59 ~~[(7)]~~ **(12) "Public employee", any person employed by a public body, excluding**
60 **elected officials, persons appointed to serve on boards or commissions, or persons who**
61 **are confidential employees, managerial employees, or supervisory employees;**

62 **(13) "Public safety body", means the following public bodies:**

63 **(a) The Missouri National Guard or any other state military forces as defined in**
64 **section 40.005;**

65 **(b) The Missouri state highway patrol established under section 43.020;**

66 **(c) The Missouri department of corrections as defined in section 217.010;**

67 **(d) A regional jail established under section 221.400;**

68 **(e) A county law enforcement agency as defined in section 57.015;**

69 **(f) A police department or police force established under sections 84.015 to**
70 **85.260;**

71 **(g) A fire department as defined in section 320.200; or**

72 **(h) An ambulance service, dispatch agency, or emergency medical response**
73 **agency as defined in section 190.100;**

74 ~~[(8) "Public safety labor organization", a labor organization wholly or primarily~~
75 ~~representing persons trained or authorized by law or rule to render emergency medical~~
76 ~~assistance or treatment, including, but not limited to, firefighters, emergency medical~~
77 ~~technicians, dispatchers, registered nurses and physicians, and persons who are vested with~~
78 ~~the power of arrest for criminal code violations including, but not limited to, police officers,~~
79 ~~sheriffs, and deputy sheriffs]~~

80 **(14) "Representational labor organization activities", activities defined in**
81 **paragraphs (i) through (m) of subdivision (9) of this section;**

82 **(15) "Strike", any concerted action, including the refusal or willful failure, in**
83 **whole or in part, to report to work or to perform employment duties, or the stoppage or**
84 **slowdown of work, by a public employee;**

85 **(16) "Supervisory employee", an employee or a public body who has authority,**
86 **in the interest of the public body, to hire, transfer, suspend, lay off, recall, promote,**
87 **discharge, direct, assign, reward, or discipline other employees; to adjust employee**
88 **grievances; or effectively recommend such action, if the exercise of such authority is not**
89 **of a merely routine or clerical nature but requires the use of individual judgment.**

105.501. 1. The purposes of sections 105.500 to 105.565 are to establish uniform
2 **procedures for the designation of exclusive bargaining representatives by public**
3 **employees while protecting the rights of public employees to revoke the same; to enforce**
4 **the state's obligation to protect the public by assuring, at all times, the orderly and**
5 **uninterrupted operations and functions of government; to promote government**
6 **transparency in the area of collective bargaining and the public's understanding of**

7 the labor organizations representing public employees in this state; and to protect
8 taxpayers in this state by limiting the use of public funds to subsidize the private ends of
9 labor organizations outside of the representational obligations and activities provided
10 under this chapter.

11 2. Notwithstanding subsection 1 of this section, certain institutions of
12 government charged primarily with preserving life, safety, security, property, and
13 providing other emergency services to the public deserve special consideration with
14 respect to the preservation of labor peace and the minimization of disruptions to their
15 employment relations with public employees and labor organizations, provided that
16 such institutions, employees, and labor organizations themselves maintain such peace. It
17 is therefore also the purpose of sections 105.500 to 105.565 to protect public safety and
18 continuity of emergency services through the promotion of labor peace among public
19 employees of public safety bodies by exempting such employees and bodies from the
20 applicability of certain provisions of this chapter.

21 3. Since personal care attendants are not employees of the state or any other
22 public body and the Missouri Quality Home Care Council is defunct, sections 208.850 to
23 208.871, are unnecessary and should be repealed.

24 4. If any provision of this act or the application thereof to anyone or to any
25 circumstances is held invalid by a court of competent jurisdiction, the legislature
26 declares that it would have enacted the remaining valid provisions without the void one
27 and that it intends for the remaining valid provisions to be given full force and effect.

105.503. 1. Except as provided in subsection 2 of this section, the provisions of
2 sections 105.500 to [~~105.598~~] **105.565** shall apply to all employees of a public body, all labor
3 organizations, and all labor agreements between such a labor organization and a public body,
4 whether collective bargaining rights are granted to such entities in section 105.510 or by
5 judicial decision.

6 2. The provisions of sections 105.500 to [~~105.598~~] **105.565** shall not apply to:

7 (1) Public safety labor organizations and all employees of a public body who are
8 members of a public safety labor organization;

9 (2) The department of corrections and all employees of the department of corrections;

10 (3) Members of a labor organization who are not employed by a public body; and

11 (4) Any labor agreement between a labor organization and an employer that is not a
12 public body.

13 3. Nothing in sections 105.500 to [~~105.598~~] **105.565** shall be construed to interfere
14 with the rights and obligations that are specified in Title 29 of the United States Code,
15 provided that in the case of a conflict with Title 29 of the United States Code, the provisions
16 of Title 29 of the United States Code shall prevail.

105.510. ~~Public employees[, except police, deputy sheriffs, Missouri state highway patrolmen, Missouri National Guard, all teachers of all Missouri schools, colleges and universities,]~~ of any public body shall have the right to form and join labor organizations and to present proposals to any public body relative to salaries and other conditions of employment through ~~[the representative]~~ **representatives** of their own choosing. No such employee shall be discharged or discriminated against because of his exercise of such right, nor shall any person or group of persons, directly or indirectly, by intimidation or coercion, compel or attempt to compel any such employee to join or refrain from joining a labor organization~~[, except that the above excepted employees have the right to form benevolent, social, or fraternal associations. Membership in such associations may not be restricted on the basis of race, creed, color, religion or ancestry].~~

105.519. 1. Whenever proposals relative to salaries and other conditions of employment of an appropriate unit of public employees are presented by the certified exclusive bargaining representative to a public body, the public body or its designated representative or representatives shall meet, confer, and discuss such proposals with the labor organization that is the certified exclusive bargaining representative of the public employees. Subject to limitations of this chapter, upon the completion of discussion, the results shall be reduced to writing and be presented to the appropriate administrative, legislative, or other governing body in the form of an ordinance, resolution, bill, or other form required for adoption, modification, or rejection.

2. The discussions between public bodies and exclusive bargaining representatives under this section shall be conducted in public meetings and shall not be closed under chapter 610, except that preparations on behalf of a public body or its representatives for such discussions may be closed under subdivision (9) of section 610.021. Nothing in this subsection shall require a public body to permit public comment during such collective bargaining discussions or negotiations. However, a public body shall permit public comment during any meeting at which the governing body of a public body will vote on the adoption, modification, or rejection of a written contract or agreement with an exclusive bargaining representative under this section.

3. Subsection 2 of this section shall not apply to collective bargaining discussions or negotiations between public safety bodies and exclusive bargaining representatives.

105.523. 1. Whenever the governing body of a public body adopts a written contract or agreement with an exclusive bargaining representative under section 105.519, the public body shall, within thirty days of such adoption, publish a digital copy of such contract or agreement on the public body's website. Such contracts or agreements shall remain available on the public body's website for no less than five years following the expiration thereof.

7 **2. Contracts or agreements described in this section and section 105.520 are**
8 **public records and shall not be closed under chapter 610.**

105.525. [~~Issues with respect to appropriateness of bargaining units and majority~~
2 ~~representative status, as determined under section 105.575;~~] **Questions concerning**
3 **representation** shall be resolved by the board as **provided in sections 105.539 to**
4 **105.549.** In the event that the appropriate administrative body **of a public body, a public**
5 **employee,** or [~~any of the bargaining units shall be~~] **an exclusive bargaining representative**
6 **is aggrieved by [the] a decision of the board,** an appeal may be had to the circuit court of the
7 county where the administrative body **of the public body** is located or in the circuit court of
8 Cole County. **The board shall use the services of the state hearing officer in all contested**
9 **cases.**

105.530. **1.** Nothing contained in [~~sections 105.500 to 105.598~~] **this chapter** shall be
2 construed as granting [~~a right to~~] public employees [~~covered in sections 105.500 to 105.598~~]
3 **the right** to strike.

4 **2. It shall be unlawful for any public employee of a public safety body or any**
5 **exclusive bargaining representative of public employees of a public safety body, directly**
6 **or indirectly, to induce, instigate, threaten, encourage, authorize, consent to, condone, or**
7 **otherwise participate or engage in a strike or work stoppage.**

8 **3. A public safety body shall not compensate a public employee for time spent on**
9 **strike.**

10 **4. Any public body, public employee, labor organization, or resident as defined**
11 **in section 143.101 shall be entitled to bring a civil action in any court of competent**
12 **jurisdiction for injunctive relief against violators of this section and, in addition to the**
13 **relief provided by this subsection, shall be entitled to recover any and all damages,**
14 **including reasonable costs and attorney's fees, resulting from such action.**

15 **5. Failure to comply with any injunction granted under subsection 4 of this**
16 **section shall constitute contempt of court under section 476.110.**

105.539. **1.** A question concerning representation exists when a petition is filed
2 **with the board by a public employee, group of public employees, or a labor organization**
3 **acting on their behalf, alleging that:**

4 **(1) At least thirty percent of the public employees in an appropriate unit wish to**
5 **be represented for purposes of collective bargaining by an exclusive bargaining**
6 **representative; or**

7 **(2) At least thirty percent of the public employees in an appropriate unit no**
8 **longer wish to be represented by the exclusive bargaining representative.**

9 **2. A petition filed under subsection 1 of this section shall be accompanied by**
10 **proof of interest of at least thirty percent of the public employees in the appropriate unit**

11 in the form of individual cards originally signed and dated by the public employees
12 during the twelve months prior to the filing of the petition with the board that contain a
13 clear statement of the public employee's desire to be represented or not represented as
14 described in subsection 1 of this section.

15 3. The board shall validate the authenticity of the cards under subsection 2 of
16 this section by requesting from the public body a list of all public employees alleged by
17 the petition to be the appropriate unit for collective bargaining, or if the board
18 determines that the alleged unit is not appropriate, a list of all public employees
19 determined by the board to be the appropriate unit. The public body shall provide such
20 list to the board no later than ten business days following receipt of such request. The
21 board shall validate the signatures and dates on the cards and determine whether at
22 least thirty percent of the public employees in the appropriate unit have signed valid
23 cards.

24 4. If the board determines that a valid petition has been filed pursuant to the
25 requirements of this section, it shall conduct a secret ballot election under section
26 105.544 and shall certify the results thereof.

27 5. No labor organization shall be certified by the board or recognized by a public
28 body as the exclusive bargaining representative of public employees except through a
29 secret ballot election under section 105.544.

105.544. 1. Upon determining that a valid petition has been filed under section
2 105.539, the board shall set a date for a secret ballot election to be conducted. The date
3 of the election shall be no less than four weeks and no more than eight weeks from the
4 date the board determines the petition to be valid.

5 2. No more than five days after making the determination and setting the date
6 described in subsection 1 of this section, the board shall issue a notice to the parties
7 informing them of the date, time, and place of the election. The notice shall state that
8 the election is by secret ballot and is for the purpose of determining, by a majority of
9 votes cast, whether all employees in the appropriate unit will be represented by a labor
10 organization as the exclusive bargaining representative for purposes of collective
11 bargaining. Such notice shall be posted conspicuously by the public body within any
12 buildings that serve as a principal work site for any of its affected public employees.

13 3. A labor organization other than the labor organization that filed or is the
14 subject of the petition filed with the board under section 105.539 may file an intervening
15 petition with the board to appear on the ballot provided that the intervening petition is
16 filed no more than fourteen days after the board issues the notice under subsection 2 of
17 this section, and is accompanied by proof of interest of at least ten percent of public
18 employees in the appropriate unit. Except as provided in this subsection, such proof of

19 interest shall be in the same form and is subject to the same requirements described in
20 section 105.539.

21 4. No labor organization may appear on the ballot except as provided in section
22 105.539 or this section. Each ballot shall contain a choice of voting for no representation
23 by a labor organization.

24 5. Ballots shall contain:

25 (1) A description of the appropriate unit; and

26 (2) The names of any labor organizations qualified to appear on the ballot,
27 together with a choice of no union representation.

28 6. The labor organization that receives the majority of votes cast in the election
29 shall be certified by the board as the exclusive bargaining representative. If the choice
30 of no representation by a labor organization receives the majority of votes cast in the
31 election, the board shall not certify any labor organization as the exclusive bargaining
32 representative and, if applicable, shall revoke such certification from any labor
33 organization that was the exclusive bargaining representative at the time of the election.

34 7. In any election where there are more than two choices on the ballot and none
35 of the choices receives the majority of votes cast in the election, the board shall conduct
36 a runoff election. The ballot in the runoff election shall contain the two choices on the
37 original ballot that received the most votes. The runoff election shall be conducted in
38 accordance with all other requirements of this section, except that no other labor
39 organization shall intervene as described in subsection 3 of this section.

105.549. 1. The board shall reject any representation petition filed under section
2 105.539 if a representation election was conducted for the appropriate unit that is the
3 subject of the petition during the twelve-month period preceding the filing of the
4 petition.

5 2. No contract or agreement between an exclusive bargaining representative and
6 a public body shall bar the filing of a petition under section 105.539 or the conduct of an
7 election under sections 105.544 to 105.549.

105.554. 1. Public bodies, including their agents or representatives, or any
2 persons acting on their behalf, are prohibited from:

3 (1) Deducting dues, fees, assessments, fines, or contributions from the pay of any
4 public employee on behalf of any labor organization;

5 (2) Increasing a public employee's compensation with the intent that the
6 additional compensation, or a part of it, be used to pay labor organization dues, fees,
7 assessments, fines, or contributions;

8 (3) Providing more personal or contact information of a public employee to a
9 labor organization than the public body is required to disclose under chapter 610 unless

10 the public body receives written authorization from the public employee to disclose
11 additional information;

12 (4) Requiring or coercing public employees to meet, communicate, listen to, or
13 otherwise interact with a labor organization;

14 (5) Distributing communications or membership solicitations on behalf of a
15 labor organization;

16 (6) Permitting a labor organization access to or use of the public body's
17 meetings, events, facilities, communications systems, computer systems, equipment,
18 supplies, or other resources on terms more favorable than extended to any other labor
19 organization, or corporation or foreign corporation as defined in chapter 355, seeking
20 such access or use;

21 (7) Contributing funds to, or expending funds on behalf of, a labor organization;
22 or

23 (8) Providing any form of compensation or paid leave to a public employee,
24 directly or indirectly, for time spent engaged in labor organization activities, except as
25 provided in subsections 2 and 3 of this section.

26 2. A public body may permit a public employee to engage in representational
27 labor organization activities during working hours without loss of compensation or
28 benefits, provided that:

29 (1) The public body and labor organization have executed and are current
30 parties to a contract or agreement allowing the public employee to engage in such
31 activities;

32 (2) The labor organization fully reimburses the public body for the
33 compensation, including wages and benefits, paid or accruing to a public employee
34 for time spent engaged in such activities;

35 (3) No less than once per calendar quarter, the labor organization shall report to
36 the public body the amount of time spent on such activities each day by each public
37 employee engaged in such activities, and the public body shall calculate the pro rata
38 value of the compensation, including wages and benefits, paid or accruing to each public
39 employee for time spent engaged in such activities; and

40 (4) No less than once per calendar quarter, the public body shall provide the
41 labor organization with an invoice for the reimbursement amount calculated under this
42 subsection, and the labor organization shall, within thirty days of receipt of such invoice,
43 remit full payment of the reimbursement to the public body.

44 3. Notwithstanding subsections 1 and 2 of this section:

45 (1) A public body may grant a public employee time off without pay or benefits
46 to engage in labor organization activities, and a labor organization may compensate a
47 public employee for engaging in labor organization activities; and

48 (2) A public employee may use compensated personal leave to engage in labor
49 organization activities, provided that:

50 (a) The leave was personally accrued;

51 (b) The leave was accrued at the same rate by similarly situated public
52 employees of the public body without regard to membership or participation in the
53 labor organization; and

54 (c) The public employee may freely choose how to use the leave.

55 4. This section shall not apply to public safety bodies or public employees of
56 public safety bodies.

57 5. Any public body, public employee, labor organization, or resident as defined
58 in section 143.101 shall be entitled to bring a civil action in any court of competent
59 jurisdiction for injunctive relief against violators of this section and, in addition to the
60 relief provided by this subsection, shall be entitled to recover any and all damages,
61 including reasonable costs and attorney's fees, resulting from such action.

105.560. Upon a petition by a public body after it has been notified by the U.S.
2 Department of Labor that the public body's protective arrangement covering mass
3 transit employees does not meet the requirements of 49 U.S.C. Section 5333(b) and
4 would jeopardize the public body's continued eligibility to receive Federal Transit
5 Administration funding, the board may waive the application of any provision of this
6 chapter to the extent necessary for the public body to comply with the requirements of
7 49 U.S.C. Section 5333(b).

105.565. The department of labor and industrial relations may promulgate all
2 necessary rules and regulations for the administration of this section. Any rule or
3 portion of a rule, as that term is defined in section 536.010, that is created under the
4 authority delegated in this section shall become effective only if it complies with and is
5 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
6 section and chapter 536 are nonseverable and if any of the powers vested with the
7 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
8 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
9 rulemaking authority and any rule proposed or adopted after August 28, 2024, shall be
10 invalid and void.

~~105.533. 1. Every labor organization shall adopt a constitution and
2 bylaws and shall file a copy thereof with the department, together with a~~

3 ~~report, signed by its president and secretary or corresponding principal~~
 4 ~~officers, containing the following information:~~

5 ~~(1) The name of the labor organization, its mailing address, and any~~
 6 ~~other address at which it maintains its principal office or at which it keeps the~~
 7 ~~records referred to in sections 105.533 to 105.555;~~

8 ~~(2) The name and title of each of its officers;~~

9 ~~(3) The initiation fee or fees required from a new or transferred~~
 10 ~~member and fees for work permits required by the reporting labor~~
 11 ~~organization;~~

12 ~~(4) The regular dues or fees or other periodic payments required to~~
 13 ~~remain a member of the labor organization, as well as agency fees or any other~~
 14 ~~fees required for nonmembers, if any; and~~

15 ~~(5) Detailed statements, or references to specific provisions of~~
 16 ~~documents filed under this subsection that contain such statements, showing~~
 17 ~~the provisions made and procedures followed with respect to each of the~~
 18 ~~following:~~

19 ~~(a) Qualifications for or restrictions on membership;~~

20 ~~(b) Levying of assessments;~~

21 ~~(c) Participation in insurance or other benefit plans;~~

22 ~~(d) Authorization for disbursement of funds of the labor organization;~~

23 ~~(e) Audits of financial transactions of the labor organization;~~

24 ~~(f) The calling of regular and special meetings;~~

25 ~~(g) The selection of officers and stewards and of any representatives to~~
 26 ~~other bodies composed of the labor organization's representatives, with a~~
 27 ~~specific statement of the manner in which each officer was elected, appointed,~~
 28 ~~or otherwise selected;~~

29 ~~(h) Discipline or removal of officers or agents for their breaches of~~
 30 ~~trust;~~

31 ~~(i) Imposition of fines, suspensions, and expulsions of members,~~
 32 ~~including the grounds for such actions and any provision made for notice,~~
 33 ~~hearing, judgment on the evidence, and appeal procedures;~~

34 ~~(j) Authorization for bargaining demands;~~

35 ~~(k) Ratification of contract terms; and~~

36 ~~(l) Issuance of work permits.~~

37
 38 ~~Any change in the information required by this subsection shall be reported to~~
 39 ~~the department at the time the reporting labor organization files with the~~
 40 ~~department the annual financial report required by subsection 2 of this section.~~

41 ~~2. Every labor organization shall file annually with the department a~~
 42 ~~financial report signed by its president and treasurer or corresponding principal~~
 43 ~~officers containing the following information in such detail as may be~~
 44 ~~necessary to accurately disclose its financial condition and operations for its~~
 45 ~~preceding fiscal year:~~

46 ~~(1) All assets and liabilities at the beginning and end of the fiscal year;~~

47 ~~(2) Receipts of any kind and the sources thereof;~~

48 ~~(3) Salaries, allowances, and other direct or indirect disbursements,~~
 49 ~~including reimbursed expenses, to each officer and employee who, during such~~

50 fiscal year, received more than ten thousand dollars in the aggregate from such
51 labor organization or any affiliated labor organization;

52 (4) ~~All direct and indirect loans made to any officer, employee, or~~
53 ~~member that aggregated more than two hundred fifty dollars during the fiscal~~
54 ~~year, together with a statement of the purpose, security, if any, and~~
55 ~~arrangements for repayment;~~

56 (5) ~~All direct and indirect loans made to any business enterprise,~~
57 ~~together with a statement of the purpose, security, if any, and arrangements for~~
58 ~~repayment;~~

59 (6) ~~An itemization schedule that discloses the purpose, date, total~~
60 ~~amount, and type or classification of each disbursement made by the labor~~
61 ~~organization for the following services and activities, along with the name and~~
62 ~~address of the entity receiving the expenditure:~~

63 (a) ~~Contract negotiation and administration;~~

64 (b) ~~Organizing activities;~~

65 (c) ~~Litigation;~~

66 (d) ~~Public relations activities;~~

67 (e) ~~Political activities;~~

68 (f) ~~Activities attempting to influence the passage or defeat of federal,~~
69 ~~state, or local legislation or the content or enforcement of federal, state, or~~
70 ~~local regulations or policies;~~

71 (g) ~~Voter education and issue advocacy activities;~~

72 (h) ~~Training activities for each officer of the local bargaining~~
73 ~~representative or labor organization support staff;~~

74 (i) ~~Conference, convention, and travel activities engaged in by the~~
75 ~~labor organization; and~~

76 (j) ~~Labor organization administration;~~

77 (7) ~~The percentage of the labor organization's total expenditures that~~
78 ~~were spent for each of the activities described in paragraphs (a) to (j) of~~
79 ~~subdivision (6) of this subsection;~~

80 (8) ~~The names, addresses, and activities of any law firms, public~~
81 ~~relations firms, or lobbyists whose services are used by the labor organization~~
82 ~~for any activity described in paragraphs (a) to (j) of subdivision (6) of this~~
83 ~~subsection;~~

84 (9) ~~A list of candidates, continuing committees, federal political action~~
85 ~~committees, nonprofit organizations, and community organizations to which~~
86 ~~the labor organization contributed financial or in-kind assistance and the dollar~~
87 ~~amount of such assistance;~~

88 (10) ~~The names and addresses of any continuing committees or federal~~
89 ~~political action committees with which the labor organization is affiliated or to~~
90 ~~which it provides contributions, the total amount of contributions to such~~
91 ~~committees, the candidates or causes to which such committees provided any~~
92 ~~financial assistance, and the amount provided to each such candidate or cause;~~
93 ~~and~~

94 (11) ~~Other disbursements made, including the purposes thereof, all in~~
95 ~~such categories as the department may prescribe.~~

96 3. ~~Every labor organization shall submit the report required by~~
97 ~~subsection 2 of this section in an electronic format that is readily and easily~~

98 ~~accessible and shall make available the information required to be contained in~~
 99 ~~such report to all of its members. Every such labor organization and its~~
 100 ~~officers shall be under a duty enforceable at the suit of any member of such~~
 101 ~~organization in the county where the violation occurred to permit such~~
 102 ~~members for just cause to examine any books, records, and accounts necessary~~
 103 ~~to verify such report. The court in such action may, in its discretion, in~~
 104 ~~addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of~~
 105 ~~the action and a reasonable attorney's fee to be paid by the defendant.~~

106 ~~4. The department shall make each report filed under this section~~
 107 ~~publicly available, online, in an electronic format.~~

108 ~~5. For purposes of this section, the terms "candidate", "continuing~~
 109 ~~committee", and "contribution" shall have the same meanings as in section~~
 110 ~~130.011, and the term "lobbyist" shall have the same meaning as in section~~
 111 ~~105.470.]~~

2 ~~[105.535. 1. Every officer of a labor organization and every employee~~
 3 ~~of a labor organization, other than an employee performing exclusively~~
 4 ~~clerical or custodial services, shall file with the department a signed report~~
 5 ~~listing and describing for his or her preceding fiscal year:~~

6 ~~(1) Any stock, bond, security, or other interest, legal or equitable, that~~
 7 ~~such person or his or her spouse or minor child directly or indirectly held in,~~
 8 ~~and any income or any other benefit with monetary value, including~~
 9 ~~reimbursed expenses, that such person or his or her spouse or minor child~~
 10 ~~derived directly or indirectly from, any public body whose employees such~~
 11 ~~labor organization represents or is actively seeking to represent, except~~
 12 ~~payments and other benefits received as a bona fide employee of such public~~
 13 ~~body;~~

14 ~~(2) Any transaction in which such person or his or her spouse or minor~~
 15 ~~child engaged, directly or indirectly, involving any stock, bond, security, or~~
 16 ~~loan to or from, or other legal or equitable interest in the business of a public~~
 17 ~~body whose employees such labor organization represents or is actively~~
 18 ~~seeking to represent;~~

19 ~~(3) Any stock, bond, security, or other interest, legal or equitable, that~~
 20 ~~such person or his or her spouse or minor child directly or indirectly held in,~~
 21 ~~and any income or any other benefit with monetary value, including~~
 22 ~~reimbursed expenses, that such person or his or her spouse or minor child~~
 23 ~~derived directly or indirectly from, any business a substantial part of which~~
 24 ~~consists of buying from, selling or leasing to, or otherwise dealing with the~~
 25 ~~business of a public body whose employees such labor organization represents~~
 26 ~~or is actively seeking to represent;~~

27 ~~(4) Any stock, bond, security, or other interest, legal or equitable, that~~
 28 ~~such person or his or her spouse or minor child directly or indirectly held in,~~
 29 ~~and any income or any other benefit with monetary value, including~~
 30 ~~reimbursed expenses, that such person or his or her spouse or minor child~~
 31 ~~derived directly or indirectly from, a business any part of which consists of~~
 32 ~~buying from, or selling or leasing directly or indirectly to, or otherwise dealing~~
 with such labor organization;

33 ~~(5) Any direct or indirect business transaction or arrangement between~~
 34 ~~such person or his or her spouse or minor child and any public body whose~~
 35 ~~employees his or her labor organization represents or is actively seeking to~~
 36 ~~represent, except work performed and payments and benefits received as a~~
 37 ~~bona fide employee of such public body and purchases and sales of goods or~~
 38 ~~services in the regular course of business at prices generally available to any~~
 39 ~~employee of such public body; and~~

40 ~~(6) Any payment of money or other thing of value, including~~
 41 ~~reimbursed expenses, that such person or his or her spouse or minor child~~
 42 ~~received directly or indirectly from any public body or any person who acts as~~
 43 ~~a labor relations consultant to any public body.~~

44 ~~2. The provisions of subdivisions (1) to (5) of subsection 1 of this~~
 45 ~~section shall not be construed to require any such officer or employee to report~~
 46 ~~his or her bona fide investments in securities traded on a securities exchange~~
 47 ~~registered as a national securities exchange under the Securities Exchange Act~~
 48 ~~of 1934, in shares in an investment company registered under the Investment~~
 49 ~~Company Act, or in securities of a public utility holding company registered~~
 50 ~~under the Public Utility Holding Company Act of 1935, or to report any~~
 51 ~~income derived therefrom.~~

52 ~~3. Nothing contained in this section shall be construed to require any~~
 53 ~~officer or employee of a labor organization to file a report under subdivision~~
 54 ~~(1) of subsection 1 of this section unless such person or his or her spouse or~~
 55 ~~minor child holds or has held an interest, has received income or any other~~
 56 ~~benefit with monetary value or a loan, or has engaged in a transaction~~
 57 ~~described therein.]~~

2 ~~[105.537. Nothing contained in the provisions of sections 105.533 to~~
 3 ~~105.555 shall be construed to require an attorney who is a member in good~~
 4 ~~standing of the bar of any state to include in any report required to be filed~~
 5 ~~under the provisions of sections 105.533 to 105.555 any information that was~~
 6 ~~lawfully communicated to such attorney by any of his or her clients in the~~
~~course of a legitimate attorney-client relationship.]~~

2 ~~[105.540. 1. The contents of the reports and documents filed with the~~
 3 ~~department under the provisions of sections 105.533 and 105.535 shall be~~
 4 ~~considered a public record, as that term is defined in section 610.010, and shall~~
 5 ~~not be closed under section 610.021. The department may publish any~~
 6 ~~information and data obtained under sections 105.533 and 105.535. The~~
 7 ~~department may use the information and data for statistical and research~~
 8 ~~purposes and compile and publish such studies, analyses, reports, and surveys~~
 9 ~~based thereon as it may deem appropriate.~~

10 ~~2. The department shall, by regulation, make reasonable provision for~~
 11 ~~the inspection and examination, on the request of any person, of the~~
 12 ~~information and data contained in any report or other document filed under~~
 13 ~~section 105.533 or 105.535.~~

14 ~~3. (1) The department shall, by regulation, provide for the furnishing~~
~~of reports or other documents filed with the department under the provisions of~~

15 sections 105.533 to 105.555, upon payment of a charge based upon the cost of
16 the service.

17 (2) The department shall make available without payment of a charge,
18 or require any person to furnish, to such state agency as is designated by law or
19 by the governor of the state in which such person has his or her principal place
20 of business or headquarters, upon request of the governor of such state, copies
21 of any reports and documents filed by such person with the department under
22 the provisions of section 105.533 or 105.535, or of information and data
23 contained therein.

24 (3) All moneys received in payment of such charges fixed by the
25 department under this subsection shall be deposited in the general revenue
26 fund of the state.]

2 [105.545. Every person required to file any report under the provisions
3 of sections 105.533 to 105.555 shall maintain records on the matters required
4 to be reported that will provide in sufficient detail the necessary basic
5 information and data from which the documents filed with the department may
6 be verified, explained or clarified, and checked for accuracy and completeness,
7 and shall include vouchers, worksheets, receipts, and applicable resolutions.
8 Such records shall be kept available for examination for a period of not less
9 than five years after the filing of the documents based on the information that
they contain.]

2 [105.550. 1. Each labor organization shall file the initial report
3 required under subsection 1 of section 105.533 within ninety days after the
4 date on which it first becomes subject to the provisions of sections 105.533 to
105.555.

5 2. Each person required to file a report under the provisions of sections
6 105.533 to 105.555 shall file such report within ninety days after the end of
7 each of its fiscal years, except that where such person is subject for only a
8 portion of such a fiscal year, whether because the date of enactment of the
9 provisions of sections 105.533 to 105.555 occurs during such person's fiscal
10 year or because such person becomes subject to the provisions of sections
11 105.533 to 105.555 during its fiscal year, such person may consider that
12 portion as the entire fiscal year in making such report.]

2 [105.555. 1. Any person who makes a false statement or
3 representation of a material fact, knowing it to be false, or who knowingly
4 fails to disclose a material fact, in any document, report, or other information
5 required under the provisions of sections 105.533 to 105.555 shall be fined not
6 more than ten thousand dollars or imprisoned for not more than one year, or
7 both.

8 2. Any person who knowingly makes a false entry in or knowingly
9 conceals, withholds, or destroys any books, records, reports, or statements
10 required to be kept by any provision of sections 105.533 to 105.555 shall be
11 fined not more than ten thousand dollars or imprisoned for not more than one
year, or both.

12 3. ~~Each person required to sign reports under section 105.533 shall be~~
13 ~~personally responsible for the filing of such reports and for any statement~~
14 ~~contained therein that he or she knows to be false.~~

15 4. ~~Any person who fails to file a report required by sections 105.533 to~~
16 ~~105.555, or files a report late, shall be subject to a fine of one hundred dollars~~
17 ~~for every day the report is late.]~~

2 ~~[105.570. 1. Supervisory public employees shall not be included~~
3 ~~within the same bargaining unit as the public employees they supervise.~~

4 ~~2. The same labor organization shall not represent both~~
5 ~~nonsupervisory and supervisory public employees.~~

6 ~~3. For the purposes of this section, the term "supervisory public~~
7 ~~employee" means anyone with supervisory status, managerial status,~~
8 ~~confidential status, or any other status that would be a conflict of interest~~
~~with the purpose of sections 105.570 to 105.595.]~~

2 ~~[105.575. 1. Any labor organization wishing to represent a bargaining~~
3 ~~unit as an exclusive bargaining representative shall present to the board cards~~
4 ~~containing the signatures of at least thirty percent of the public employees in~~
5 ~~the bargaining unit indicating that they wish to select the labor organization in~~
6 ~~question as their exclusive bargaining representative for the purpose of~~
7 ~~collective bargaining. Voluntary recognition by any public body of a labor~~
8 ~~organization as an exclusive bargaining representative shall be prohibited.~~
9 ~~Recognition as an exclusive bargaining representative may only be obtained~~
10 ~~by a labor organization through an election conducted under this section.~~

11 ~~2. Upon receiving such cards, the board shall request from the public~~
12 ~~body a list of all public employees within the bargaining unit and the public~~
13 ~~body shall provide to the board such list no later than ten business days~~
14 ~~following receipt of such request. The board shall validate the signatures on~~
15 ~~the cards and confirm that at least thirty percent of the public employees in the~~
16 ~~bargaining unit have signed the cards. If the board determines that at least~~
17 ~~thirty percent of the public employees in the bargaining unit have signed valid~~
18 ~~cards, the board shall consult with the public body and the representative of the~~
19 ~~labor organization that has presented the cards, and together they shall select a~~
20 ~~mutually agreeable date for a secret ballot election to take place. The election~~
21 ~~shall be conducted at the public body's place of business or by mail-in ballot,~~
22 ~~in whole or in part, at the discretion of the chairman of the board, and shall be~~
23 ~~set for a date falling no less than four weeks, and no more than eight weeks,~~
24 ~~after the day upon which the board determines the bargaining unit for election~~
25 ~~and has resolved any other bargaining unit issues.~~

26 ~~3. Once an election date has been set, the public body shall issue a~~
27 ~~notice informing all eligible voters of the date, time, and place of the election.~~
28 ~~Such notice shall be distributed to all public employees and shall be posted~~
29 ~~within the public body's place of business.~~

30 ~~4. All public employees shall have the right to freely express their~~
31 ~~opinions about whether the labor organization should be selected as the~~
32 ~~exclusive bargaining representative of the public employees in the bargaining~~
~~unit. However, no employee or representative of the labor organization and no~~

33 ~~public body or representative of the public body shall attempt to threaten,~~
34 ~~intimidate, coerce, or otherwise restrain any eligible voter in the free exercise~~
35 ~~of his or her individual choice to support or oppose the selection of the labor~~
36 ~~organization in question as the exclusive bargaining representative of the~~
37 ~~public employees in the bargaining unit.~~

38 ~~5. Elections shall be conducted by secret ballot, using such procedures~~
39 ~~as the board shall determine are appropriate for ensuring the privacy and~~
40 ~~security of each public employee's vote. Once the poll is closed, the board~~
41 ~~shall oversee the counting of the ballots. One representative of the public~~
42 ~~body's management team and one representative of the labor organization shall~~
43 ~~have the right to be present during the counting of the ballots.~~

44 ~~6. The ballots shall read: "Do you wish to select (labor organization)~~
45 ~~as the exclusive bargaining representative for (description of bargaining unit)~~
46 ~~employed within (description of public body)?" The ballot shall include~~
47 ~~check boxes for marking "yes" or "no" in response to this question.~~

48 ~~7. If more than one labor organization seeks to represent public~~
49 ~~employees in the bargaining unit, and if both labor organizations have~~
50 ~~obtained signatures from at least thirty percent of the public employees in the~~
51 ~~unit stating that they wish to designate the labor organization as their exclusive~~
52 ~~bargaining representative, the ballot shall read: "Do you wish to select (labor~~
53 ~~organization A), (labor organization B), or no labor organization as the~~
54 ~~exclusive bargaining representative for (description of bargaining unit)~~
55 ~~employed within (description of public body)?" The ballot shall include~~
56 ~~check boxes for marking "I wish to select (labor organization A) as my~~
57 ~~exclusive bargaining representative.", "I wish to select (labor organization B)~~
58 ~~as my exclusive bargaining representative.", and "I do not wish to select any~~
59 ~~labor organization as my exclusive bargaining representative."~~

60 ~~8. Any labor organization receiving the votes of more than fifty~~
61 ~~percent of all public employees in the bargaining unit shall be designated and~~
62 ~~recognized by the public body as the exclusive bargaining representative for~~
63 ~~all public employees in the bargaining unit.~~

64 ~~9. Public employees within the bargaining unit shall have the right to~~
65 ~~seek to decertify the labor organization as their exclusive bargaining~~
66 ~~representative at any time. If any public employee within the bargaining~~
67 ~~unit presents to the board cards bearing the signatures of at least thirty percent~~
68 ~~of the public employees within the bargaining unit stating that those public~~
69 ~~employees no longer wish to be represented by the labor organization in~~
70 ~~question, the board shall confirm the signatures on the cards. The board shall~~
71 ~~request from the public body a list of all public employees within the~~
72 ~~bargaining unit and the public body shall provide such list no later than ten~~
73 ~~business days following the receipt of such request.~~

74 ~~10. If the board confirms that at least thirty percent of the public~~
75 ~~employees in the bargaining unit have signed decertification cards, the board~~
76 ~~shall consult with the public body and the designated representative of the~~
77 ~~labor organization to select a date for a decertification election. Such election~~
78 ~~shall take place at least four weeks, but no later than six weeks, after the board~~
79 ~~receives the decertification cards. Notice of such election shall be distributed~~
80 ~~to all public employees within the bargaining unit and posted within the public~~

81 body's place of business. The election shall be conducted at the public body's
82 place of business or by mail in ballot, in whole or in part, at the discretion of
83 the chairman of the board.

84 11. If more than fifty percent of the public employees in the bargaining
85 unit cast votes to terminate the labor organization's representation of the public
86 employees in the bargaining unit, the labor organization shall immediately
87 cease to represent the public employees in the bargaining unit.

88 12. All labor organizations that have previously been certified shall be
89 recertified during the twelve-month period beginning on August 28, 2018,
90 provided that any labor organization that has a labor agreement that expires
91 after August 28, 2020, may be recertified at any time prior to, but in no event
92 later than, August 28, 2020. All subsequent recertification elections shall be
93 held every three years. To meet the recertification requirement, continuation
94 of the labor organization's status as the exclusive bargaining representative
95 shall be favored in a secret ballot election conducted by the board by more
96 than fifty percent of the public employees in the bargaining unit. Public
97 employees shall vote by telephone or online during a two-week period
98 beginning on the anniversary of initial certification, whether such certification
99 occurred prior to, on, or after August 28, 2018. Failure to schedule an election
100 within the prescribed time period on the part of the labor organization shall
101 result in immediate decertification as the exclusive bargaining representative.

102 13. In the event of the decertification of a labor organization as the
103 exclusive bargaining representative of the public employees in any bargaining
104 unit or failure to recertify a labor organization, all terms and conditions of
105 employment existing at the time of decertification or failure to recertify shall
106 remain in place until such time as those terms or conditions of employment are
107 altered by the public body.

108 14. No more than one election shall take place in any bargaining unit
109 within the same twelve-month period. Once an election takes place, the board
110 shall not accept cards from labor organizations or public employees within the
111 bargaining unit seeking another election for one full calendar year after the
112 date of the election.

113 15. The board shall assess and collect a fee from each labor
114 organization participating in an election conducted under this section for the
115 purpose of paying for such election as follows:

116 (1) For a bargaining unit of one to one hundred members, a fee of two
117 hundred dollars;

118 (2) For a bargaining unit of one hundred one to two hundred fifty
119 members, a fee of three hundred fifty dollars;

120 (3) For a bargaining unit of two hundred fifty one to five hundred
121 members, a fee of five hundred dollars;

122 (4) For a bargaining unit of five hundred one to one thousand
123 members, a fee of seven hundred fifty dollars;

124 (5) For a bargaining unit of one thousand one to three thousand
125 members, a fee of one thousand five hundred dollars;

126 (6) For a bargaining unit of more than three thousand members, a fee
127 of two thousand dollars.]

2 ~~[105.580. 1. Within eight weeks after a labor organization is certified~~
3 ~~as the exclusive bargaining representative for the public employees in a~~
4 ~~bargaining unit as described in section 105.575, representatives of the public~~
5 ~~body, designated by the public body, and representatives of the labor~~
6 ~~organization, selected by the labor organization, shall meet and begin~~
7 ~~bargaining for an agreement covering the wages, benefits, and other terms~~
8 ~~and conditions of employment for the public employees within the bargaining~~
9 ~~unit.~~

10 ~~2. No labor organization may refuse to meet with designated~~
11 ~~representatives of any public body or engage in conduct intended to cause the~~
12 ~~removal or replacement of any designated representative by the public body.~~

13 ~~3. The labor organization and the public body shall engage in~~
14 ~~bargaining with each other's designated representatives, but neither side shall~~
15 ~~be required to offer any particular concession or withdraw any particular~~
16 ~~proposal.~~

17 ~~4. The public body shall not pay any labor organization representative~~
18 ~~or employee for time spent participating in collective bargaining or preparing~~
19 ~~for collective bargaining on behalf of a labor organization, except to the extent~~
20 ~~the person in question is an employee of the public body and elects to use~~
21 ~~accrued paid time off that was personally accrued by such person to cover the~~
22 ~~time so spent.~~

23 ~~5. Before any proposed agreement or memorandum of understanding~~
24 ~~is presented to a public body, the labor organization, as a condition of its~~
25 ~~presentation, shall establish that it has been ratified by a majority of its~~
26 ~~members. The public body may approve the entire agreement or any part~~
27 ~~thereof. If the public body rejects any portion of the agreement, the public~~
28 ~~body may return any rejected portion of the agreement to the parties for further~~
29 ~~bargaining, adopt a replacement provision of its own design, or state that no~~
30 ~~provision covering the topic in question shall be adopted. Any tentative~~
31 ~~agreement reached between the parties' representatives shall not be binding on~~
32 ~~the public body or labor organization.~~

33 ~~6. A public body and a labor organization shall not be subject to~~
34 ~~binding mediation, binding interest arbitration, or interest arbitration in the~~
35 ~~event the parties are unable to reach an agreement.~~

36 ~~7. After the first agreement between the public body and the labor~~
37 ~~organization is adopted, bargaining for renewal agreements shall take place~~
38 ~~triennially. Such bargaining shall be completed within thirty days of the end of~~
39 ~~the public body's fiscal year. The parties may elect to bargain noneconomic~~
40 ~~terms for longer periods, but all economic provisions of the agreement shall be~~
41 ~~adopted on a triennial basis only.~~

42 ~~8. The term of any labor agreement, provision of a labor agreement, or~~
43 ~~extension of a labor agreement entered into after August 28, 2018, shall not~~
44 ~~exceed a period of three years. Any modification, extension, renewal, or any~~
45 ~~change whatsoever to a labor agreement in effect as of August 28, 2018, shall~~
~~be considered a new labor agreement for purposes of this section.]~~

2 ~~[105.583. 1. Prior to any tentative agreement being presented to an~~
~~exclusive bargaining representative or a public body for ratification, such~~

3 tentative agreement shall be discussed in detail in a public meeting. Any such
 4 ~~tentative agreement shall be published on the public body's website at least~~
 5 ~~five business days prior to the public meeting. During such public meeting,~~
 6 ~~the public shall be permitted to provide comment on the tentative agreement.~~

7 2. ~~Nothing contained in sections 105.500 to 105.598 shall obligate a~~
 8 ~~public body to enter into a collective bargaining agreement.~~

9 3. ~~For purposes of this section, the term "public meeting" shall have~~
 10 ~~the same meaning as in section 610.010.]~~

2 ~~[105.585. Labor agreements negotiated between a public body and a~~
 3 ~~labor organization may cover wages, benefits, and all other terms and~~
 4 ~~conditions of employment for public employees within the bargaining unit and~~
 5 ~~shall be subject to the following limitations:~~

6 (1) ~~Every labor agreement shall include a provision reserving to the~~
 7 ~~public body the right to hire, promote, assign, direct, transfer, schedule,~~
 8 ~~discipline, and discharge public employees. Every labor agreement shall also~~
 9 ~~include a provision reserving to management the right to make, amend, and~~
 10 ~~rescind reasonable work rules and standard operating procedures;~~

11 (2) ~~Every labor agreement shall expressly prohibit all strikes and~~
 12 ~~picketing of any kind. A strike shall include any refusal to perform services,~~
 13 ~~walkout, sick out, sit in, or any other form of interference with the operations~~
 14 ~~of any public body. Every labor agreement shall include a provision~~
 15 ~~acknowledging that any public employee who engages in any strike or~~
 16 ~~concerted refusal to work, or who pickets over any personnel matter, shall be~~
 17 ~~subject to immediate termination of employment;~~

18 (3) ~~Every labor agreement shall include a provision extending the duty~~
 19 ~~of fair representation by the labor organization to public employees in a~~
 20 ~~bargaining unit;~~

21 (4) ~~Every labor agreement shall expressly prohibit labor organization~~
 22 ~~representatives and public employees from accepting paid time, other than~~
 23 ~~unused paid time off that was accrued by such public employees, by a public~~
 24 ~~body for the purposes of conducting labor organization related activities~~
 25 ~~concerning collective bargaining, including, but not limited to, negotiations,~~
 26 ~~bargaining meetings, meet and confer sessions, and any other collective~~
 27 ~~bargaining related activity, provided that every labor agreement may allow for~~
 28 ~~paid time off for the purposes of grievance handling, advisory committees,~~
 29 ~~establishing a work calendar, and internal and external communication;~~

30 (5) ~~Every labor agreement shall inform public employees of their right~~
 31 ~~to refrain from engaging in and supporting labor organization activity as well~~
 32 ~~as their right to oppose labor organization activity; and~~

33 (6) ~~Every labor agreement shall include a provision stating that in the~~
 34 ~~event of a budget shortfall, the public body shall have the right to require the~~
 35 ~~modification of the economic terms of any labor agreement. Every labor~~
 36 ~~agreement shall also state that if the public body deems it necessary to modify,~~
 37 ~~upon good cause, the economic terms of any labor agreement, the public body~~
 38 ~~shall so notify the labor organization and shall provide a period of thirty days~~
 39 ~~during which the public body and the labor organization shall bargain over any~~
 40 ~~necessary adjustments to the economic terms of the agreement. The labor~~

40 agreement shall state that if, at the end of the thirty-day period, the parties have
 41 been unable to agree upon modifications that meet the public body's
 42 requirements, the public body shall have the right, upon good cause, to
 43 make necessary adjustments on its own authority.]

2 [105.590. The secretary or corresponding principal officer of each
 3 labor organization shall forward a complete copy of each agreement made by
 4 such labor organization with any public body to any public employee who
 5 requests such a copy and whose rights as such public employee are directly
 affected by such agreement.]

2 [105.595. Whenever it shall appear that any labor organization or
 3 representative of any labor organization or any public body or representative
 4 of a public body has violated or is about to violate any of the provisions of
 5 sections 105.570 to 105.590, the department, a public body, or any citizen of
 6 the state of Missouri may bring a civil action for such relief, including
 7 injunctive relief, as may be appropriate. Any such action may be brought in
 8 the county where the violation occurred, or is about to occur, and damages and
 9 attorney's fees shall be awarded for the enforcement of the provisions of
 sections 105.570 to 105.590.]

2 [105.598. The board may promulgate rules necessary to implement the
 3 provisions of sections 105.500 to 105.595. Any rule or portion of a rule, as
 4 that term is defined in section 536.010, that is created under the authority
 5 delegated in this section shall become effective only if it complies with and is
 6 subject to all of the provisions of chapter 536 and, if applicable, section
 7 536.028. This section and chapter 536 are nonseverable and if any of the
 8 powers vested with the general assembly under chapter 536 to review, to delay
 9 the effective date, or to disapprove and annul a rule are subsequently held
 10 unconstitutional, then the grant of rulemaking authority and any rule proposed
 or adopted after August 28, 2018, shall be invalid and void.]

2 [208.850. Title.
 3 Sections 208.850 to 208.871 shall be known as and may be cited as
 "The Quality Home Care Act".]

2 [208.853. Findings and purposes.
 3 The people of the state of Missouri find as follows:
 4 (1) Thousands of Missouri senior citizens and people with disabilities
 5 continue to live independently in their own homes and avoid placement in
 6 institutions such as nursing homes only as the result of the availability of
 7 qualified personal care attendants who assist them with the activities of daily
 8 living.
 9 (2) Many Missouri senior citizens and people with disabilities who
 10 could not otherwise afford personal care assistance services in their own
 11 homes receive the services with assistance provided by the state and federal
 governments under the Missouri consumer directed services program.

12 ~~(3) The United States Supreme Court has mandated that states provide~~
 13 ~~services to persons with disabilities "in community settings rather than in~~
 14 ~~institutions" when remaining in the community is appropriate, consistent with~~
 15 ~~the wishes of the disabled person, and can be reasonably accommodated.~~

16 ~~(4) In home care is not only the choice of most senior citizens and~~
 17 ~~people with disabilities, it is less costly than institutional care such as that~~
 18 ~~provided in nursing homes and thus saves Missouri taxpayers significant~~
 19 ~~amounts of money.~~

20 ~~(5) The consumer directed services program permits the consumers of~~
 21 ~~these highly intimate and personal services to hire, terminate and supervise the~~
 22 ~~individual providing the services, but it does not currently give consumers any~~
 23 ~~role in setting wage rates for personal care attendants.~~

24 ~~(6) Personal care attendants generally receive low wages, minimal or~~
 25 ~~no benefits, little if any training, and have no meaningful input into their terms~~
 26 ~~and conditions of employment and no meaningful means of making~~
 27 ~~suggestions for improvements in the consumer directed services program.~~

28 ~~(7) The continued availability of quality home care services is~~
 29 ~~threatened by a looming shortage of qualified personal care attendants due to~~
 30 ~~the aging population in the state as well as low wages, a lack of benefits, and~~
 31 ~~high rates of occupational injury. These poor working conditions also~~
 32 ~~contribute to high turnover among personal care attendants that impairs the~~
 33 ~~continuity of care.~~

34 ~~(8) The safety of home care services is threatened by both the failure~~
 35 ~~of existing safeguards to protect consumers from potentially abusive~~
 36 ~~attendants and lengthy delays in processing background checks as recently~~
 37 ~~documented by the state auditor.~~

38 ~~(9) The continued availability of quality, safe home care services can~~
 39 ~~be ensured through the creation of the "Missouri Quality Home Care Council"~~
 40 ~~with authority to investigate the quality, safety and availability of home care~~
 41 ~~services, recruit eligible personal care attendants, recommend qualifications~~
 42 ~~for personal care attendants, improve the training of personal care attendants,~~
 43 ~~establish a statewide list of eligible personal care attendants, refer consumers~~
 44 ~~to eligible personal care attendants, engage in collective bargaining with a~~
 45 ~~representative of personal care attendants, and recommend changes in personal~~
 46 ~~care attendants' wages and benefits to the general assembly.]~~

~~[208.856. The Missouri Quality Home Care Council.~~

2 ~~1. Effective January 31, 2009, the Missouri quality home care council~~
 3 ~~is hereby created to ensure the availability and improve the quality of home~~
 4 ~~care services by recruiting, training and stabilizing the personal care attendant~~
 5 ~~workforce. Expenses of the council in carrying out its powers and duties shall~~
 6 ~~be paid from any appropriations for that purpose by the general assembly. The~~
 7 ~~council shall be assigned to the department of health and senior services with~~
 8 ~~supervision by the department extending only to budgeting and reporting as~~
 9 ~~provided by subdivisions (4) and (5) of subsection 6 of section 1 of the~~
 10 ~~Reorganization Act of 1974. Supervision by the department shall not extend~~
 11 ~~to matters relating to policies, regulatory functions or other matters~~
 12 ~~specifically delegated to the council by sections 208.850 to 208.871 and the~~

13 ~~director of the department or any employee of the department, either directly~~
 14 ~~or indirectly, shall not participate or interfere with the activities of the council~~
 15 ~~in any manner not specifically provided by law.~~

16 ~~2. The council shall consist of eleven members appointed by the~~
 17 ~~governor with the advice and consent of the senate as follows:~~

18 ~~(1) Six members shall be current or former recipients of personal care~~
 19 ~~assistance services under the consumer directed services program, or its~~
 20 ~~successor program or programs. Two of the consumer members shall have~~
 21 ~~received services for a period of at least one year, two shall have received~~
 22 ~~services for a period of at least two years, and two shall have received services~~
 23 ~~for a period of at least three years. In order to ensure that at least one of the~~
 24 ~~consumer members has personal knowledge of challenges rural consumers~~
 25 ~~face, at least one of these members shall be a resident of a third class county;~~

26 ~~(2) One member shall be a representative of the Missouri department~~
 27 ~~of health and senior services, or its successor entity;~~

28 ~~(3) Two members shall be representatives of Missouri centers for~~
 29 ~~independent living, or their successor entities;~~

30 ~~(4) One member shall be a representative of the governor's council on~~
 31 ~~disabilities, or its successor entity;~~

32 ~~(5) One member shall be a representative of the governor's advisory~~
 33 ~~council on aging, or its successor entity.~~

34 ~~3. Each member of the council shall serve a term of three years, except~~
 35 ~~the first eleven members who shall serve staggered terms as follows: three~~
 36 ~~recipient members and the department of health and senior services member~~
 37 ~~shall serve one year terms, two recipient members and one centers for~~
 38 ~~independent living member shall serve two year terms, and one recipient~~
 39 ~~member, one centers for independent living member, and the council on~~
 40 ~~disabilities and advisory council on aging members shall serve three year~~
 41 ~~terms. The initial members of the council shall be appointed by the governor~~
 42 ~~by March 1, 2009. If a vacancy occurs, the governor will appoint a~~
 43 ~~replacement for the remainder of the departing member's term. Commission~~
 44 ~~members shall be eligible for reappointment but shall serve no more than two~~
 45 ~~terms. In making appointments, the governor shall consider nominations or~~
 46 ~~recommendations from the agencies or groups represented on the council.~~
 47 ~~Members of the council shall serve without compensation, but shall be~~
 48 ~~reimbursed their actual and necessary expenses. The governor may remove a~~
 49 ~~council member for good cause.]~~

~~[208.859. The powers and duties of the council.~~

2 ~~The council shall have the following powers and duties:~~

3 ~~(1) Assess the size, quality and stability of the home care workforce in~~
 4 ~~Missouri and the ability of the existing workforce to meet the growing and~~
 5 ~~changing needs of both aging and disabled consumers;~~

6 ~~(2) Encourage eligible individuals to serve as personal care attendants;~~

7 ~~(3) Provide training on a voluntary basis, either directly or through~~
 8 ~~contracts, in cooperation with vendors, as defined in subdivision (5) of section~~
 9 ~~208.865, for prospective and current personal care attendants;~~

10 ~~(4) Recommend minimum qualifications for personal care attendants~~
11 ~~to the department of health and senior services;~~

12 ~~(5) Establish and maintain a statewide list of eligible, available~~
13 ~~personal care attendants, in cooperation with vendors, including attendants~~
14 ~~available to provide respite and replacement services. In order to facilitate the~~
15 ~~creation of such a list, all vendors shall provide the council with the list of~~
16 ~~persons eligible to be a personal care attendant which vendors are required to~~
17 ~~maintain under subsection 4 of section 208.906 and subdivision (3) of~~
18 ~~subsection 1 of section 208.918. The council shall ensure that all personal care~~
19 ~~attendants placed on the statewide list are registered with the family care~~
20 ~~safety registry as provided in sections 210.900 to 210.936 and are not listed on~~
21 ~~any of the background check lists in the family care safety registry, absent a~~
22 ~~good cause waiver obtained from the department pursuant to section 192.2495.~~
23 ~~All consumers seeking personal care attendants, whether or not they are~~
24 ~~participants in the consumer directed services program, shall have access to~~
25 ~~the statewide list;~~

26 ~~(6) Provide routine, emergency, respite, and replacement referrals of~~
27 ~~eligible and available personal care attendants to vendors and consumers;~~

28 ~~(7) In cooperation with the Missouri state highway patrol, the~~
29 ~~department of social services' children's division, the department of mental~~
30 ~~health, the department of health and senior services, and vendors and on an on-~~
31 ~~going basis, assess existing mechanisms for preventing abuse and neglect of~~
32 ~~consumers in the home care setting and recommend improvements to those~~
33 ~~agencies and the general assembly. As part of this duty, members and~~
34 ~~employees of the council shall have access to the employee disqualification~~
35 ~~list established in section 192.2490 and the family care safety registry.~~
36 ~~Members and employees of the council shall report to the department of health~~
37 ~~and senior services when they have reasonable cause to believe that a~~
38 ~~consumer has been abused or neglected as defined in section 192.2400, subject~~
39 ~~to the same standards set forth in section 208.912;~~

40 ~~(8) Recommend the wage rate or rates to be paid personal care~~
41 ~~attendants and any economic benefits to be received by personal care~~
42 ~~attendants to the general assembly. The department shall retain its existing~~
43 ~~authority to establish the Medicaid reimbursement rate for personal care~~
44 ~~assistance services under subsection 2 of section 208.903;~~

45 ~~(9) Establish other terms and conditions of employment of personal~~
46 ~~care attendants consistent with consumers' right to hire, fire, train, and~~
47 ~~supervise personal care attendants;~~

48 ~~(10) Cooperate with the department of health and senior services and~~
49 ~~vendors to improve the provision of personal care assistance services;~~

50 ~~(11) In carrying out its powers and duties under sections 208.850 to~~
51 ~~208.871, the council may:~~

52 ~~(a) Make and execute contracts and all other instruments necessary or~~
53 ~~convenient for the performance of its duties or exercise of its powers;~~

54 ~~(b) Issue rules under the Missouri administrative procedures act,~~
55 ~~chapter 536, as necessary for the purposes and policies of sections 208.850 to~~
56 ~~208.871. Any rule or portion of a rule, as that term is defined in section~~
57 ~~536.010, that is created under the authority delegated in this section, shall~~

58 ~~become effective only if it complies with and is subject to all of the provisions~~
 59 ~~of chapter 536 and, if applicable, section 536.028. This section and chapter~~
 60 ~~536 are nonseverable and if any of the powers vested with the general~~
 61 ~~assembly pursuant to chapter 536 to review, to delay the effective date, or to~~
 62 ~~disapprove and annul a rule are subsequently held unconstitutional, then the~~
 63 ~~grant of rulemaking authority and any rule proposed or adopted after August~~
 64 ~~28, 2008, shall be invalid and void;~~

65 ~~(e) Establish offices, employ an executive director and such other staff~~
 66 ~~as is necessary to carry out its functions and fix their compensation, retain~~
 67 ~~contractors as necessary and prescribe their duties and power, incur expenses,~~
 68 ~~and create such liabilities as are reasonable and proper for the administration~~
 69 ~~of sections 208.850 to 208.871;~~

70 ~~(d) Solicit and accept for use any grant of money, services or property~~
 71 ~~from the federal government, the state, or any political subdivision or agency~~
 72 ~~thereof, including federal matching funds under Title XIX of the federal Social~~
 73 ~~Security Act, and do all things necessary to cooperate with the federal~~
 74 ~~government, the state, or any political subdivision or agency thereof in making~~
 75 ~~an application for any grant;~~

76 ~~(e) Keep records and engage in research and the gathering of relevant~~
 77 ~~statistics;~~

78 ~~(f) Acquire, hold, or dispose of personal property or any interest~~
 79 ~~therein, and contract for, lease, or otherwise provide facilities for the activities~~
 80 ~~conducted under this measure;~~

81 ~~(g) Sue and be sued in its own name;~~

82 ~~(h) Delegate to the appropriate persons the power to execute contracts~~
 83 ~~and other instruments on its behalf and delegate any of its powers and duties if~~
 84 ~~consistent with the purposes of sections 208.850 to 208.871; and~~

85 ~~(i) Do other acts necessary or convenient to execute the powers~~
 86 ~~expressly granted to it.]~~

2 ~~[208.862. 1. Consumers shall retain the right to hire, fire, supervise,~~
 3 ~~and train personal care attendants.~~

4 ~~2. Vendors shall continue to perform the functions provided in sections~~
 5 ~~208.900 to 208.930. In addition to having a philosophy that promotes the~~
 6 ~~consumer's ability to live independently in the most integrated setting or the~~
 7 ~~maximum community inclusion of persons with physical disabilities, as~~
 8 ~~required by subsection 1 of section 208.918, vendors shall provide to~~
 9 ~~consumers advocacy, independent living skills training, peer counseling, and~~
 10 ~~information and referral services, as those terms are used in subsection 3 of~~
 11 ~~section 178.656.~~

12 ~~3. The council shall be a public body as that term is defined in section~~
 13 ~~105.500, and personal care attendants shall be employees of the council solely~~
 14 ~~for purposes of sections 105.500 to 105.598.~~

15 ~~4. The sole bargaining unit of personal care attendants, as that term is~~
 16 ~~defined in section 105.500, shall be a statewide unit. Personal care attendants~~
 17 ~~who are related to or members of the family of the consumer to whom they~~
 18 ~~provide services shall not for that reason be excluded from the unit. The state~~
~~board of mediation shall conduct an election, by mail ballot, to determine~~

19 whether an organization shall be designated the exclusive bargaining
 20 representative as defined in section 105.500 for the statewide unit of
 21 personal care attendants under section 105.525 upon a showing that ten
 22 percent of the personal care attendants in said unit want to be represented by a
 23 representative. The Missouri office of administration shall represent the
 24 council in any collective bargaining with a representative of personal care
 25 attendants. Upon completion of bargaining, any agreements shall be reduced
 26 to writing and presented to the council for adoption, modification or rejection.

27 5. The state of Missouri and all vendors shall cooperate in the
 28 implementation of any agreements reached by the council and any
 29 representative of personal care attendants, including making any payroll
 30 deductions authorized by the agreements which can lawfully be made pursuant
 31 to agreements entered into under sections 105.500 to 105.598 as currently
 32 construed by the Missouri appellate courts.

33 6. Personal care attendants shall not have the right to strike and breach
 34 of this prohibition will result in disqualification from participation in the
 35 consumer directed services program.

36 7. Personal care attendants shall not be considered employees of the
 37 state of Missouri or any vendor for any purpose.

38 8. (1) The provisions of sections 105.500 to 105.598 shall apply to all
 39 personal care attendants, organizations elected as the exclusive bargaining
 40 representative of the bargaining unit of personal care attendants under this
 41 section, and all officers and employees of such organizations. For purposes of
 42 this subsection, organizations elected as the exclusive bargaining
 43 representative of a bargaining unit under this section shall be considered a
 44 labor organization, as that term is defined in section 105.500.

45 (2) If an organization is not recertified or is decertified as the exclusive
 46 bargaining representative of a bargaining unit of personal care attendants
 47 under section 105.575, any subsequent certification of an organization as
 48 exclusive bargaining representative of a bargaining unit of personal care
 49 attendants shall be conducted according to the provisions of section 105.575,
 50 notwithstanding subsection 4 of this section to the contrary.]

[208.865. Definitions.

2 As used in sections 208.850 to 208.871:

3 (1) "Consumer" means a person receiving personal care assistance
 4 services from a personal care attendant as defined in subdivision (4) of this
 5 section;

6 (2) "Council" means the Missouri quality home care council;

7 (3) "Department" means the Missouri department of health and senior
 8 services;

9 (4) "Personal care attendant" means a person, other than a consumer's
 10 spouse, providing consumer directed personal care assistance services as
 11 defined in subdivisions (2) and (5) of section 208.900 under sections 208.900
 12 to 208.927, similar consumer directed personal care assistance services under
 13 section 208.930, and similar consumer directed personal care assistance
 14 services through a program operated pursuant to a waiver obtained under

15 ~~Section 1915(e) of the federal Social Security Act or similar consumer-~~
16 ~~directed services under the successor to any of said programs;~~
17 ~~(5) "Vendor" is defined in subdivision (10) of section 208.900 and in~~
18 ~~subsection 2 of section 208.862.]~~

~~[208.868. Federal approval and funding.~~

2 ~~The council and the state of Missouri shall take all actions reasonably~~
3 ~~necessary to obtain any approval from the United States needed to implement~~
4 ~~any part of sections 208.850 to 208.871 and to ensure continued federal~~
5 ~~funding of any program governed by sections 208.850 to 208.871.]~~

~~[208.871. Severability.~~

2 ~~If any section, subsection, subdivision, paragraph, sentence, or clause~~
3 ~~of sections 208.850 to 208.871 is held to be invalid or unconstitutional, such~~
4 ~~decision shall not affect any remaining portion, section, or part thereof which~~
5 ~~can be given effect without the invalid provision.]~~

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