

HOUSE BILL NO. 1722

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WIEMANN.

5121H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 105, RSMo, by adding thereto six new sections relating to public employee labor organizations, with penalty provisions.

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

Section A. Chapter 105, RSMo, is amended by adding thereto six new sections, to be known as sections 105.550, 105.560, 105.570, 105.580, 105.590, and 1, to read as follows:

105.550. For purposes of sections 105.550 to 105.590, the following words and phrases mean:

(1) "Bargaining unit", a group of employees represented by an exclusive representative;

(2) "Board", the state board of mediation;

(3) "Employee association", an organization representing employees of a public body. An employee association shall include organizations representing employees of public bodies whether or not those employees are included in section 105.510;

(4) "Exclusive representative", an employee association that has been designated or selected to be the only representative of employees of a public body for purposes of collective bargaining, whether or not collective bargaining is conducted under sections 105.500 to 105.530;

(5) "Labor agreement", any document arising from discussions or negotiations between a public body and an employee association concerning the conditions of employment. A labor agreement shall include, but not be limited to, a collective bargaining agreement, a meet and confer agreement, a memorandum of understanding, and a salary

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.

17 schedule. A labor agreement shall not include any document resulting from grievance,
18 mediation, or arbitration proceedings;

19 (6) "Public body", the state of Missouri; any officer, agency, department, bureau,
20 division, board, or commission of the state; or any other political subdivision of or within
21 the state including school boards;

22 (7) "Searchable format", a text format in which text can be searched and
23 recognized by commonly available software.

105.560. 1. On the first Tuesday after the first Monday in November of even-
2 numbered years, an election shall be conducted to certify the exclusive representative of
3 a bargaining unit represented by an exclusive representative. Such election shall be
4 conducted by the board or any other entity designated by the board.

5 2. The board shall assess and collect a fee from each employee association
6 participating in an election conducted under this section for the purpose of paying for such
7 election as follows:

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

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

12 (3) For a bargaining unit of two hundred fifty-one to five hundred members, a fee
13 of five hundred dollars;

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

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

18 (6) For a bargaining unit of more than three thousand members, a fee of two
19 thousand dollars.

20 3. Elections shall be conducted by secret ballot. The board shall determine whether
21 each election shall be conducted in-person, by mail, by telephone, by internet-based
22 systems, or by any other means determined by the board to be fair and reliable. The board
23 shall permit members to cast ballots for a period of at least seven days.

24 4. The board shall permit an employee association that is not the exclusive
25 representative of a bargaining unit to seek election as the exclusive representative.

26 5. The employee association serving as the exclusive representative at the time of
27 election shall not be required to seek re-election.

28 6. Each member of a bargaining unit shall have the option of voting for one of the
29 following:

30 (1) The employee association serving as the exclusive representative at the time of
31 the election, in the event such association seeks reelection;

32 (2) Any employee association not serving as the exclusive representative at the time
33 of the election if such association seeks to represent the bargaining unit; or

34 (3) Voting not to be represented by an exclusive representative.

35 7. If an employee association seeking election receives votes from a majority of the
36 members of a bargaining unit in favor of certification, then the board shall certify that
37 employee association as the exclusive representative. If no employee association receives
38 votes in favor of certification from a majority of members of a bargaining unit, then the
39 board shall decertify the employee association serving as the exclusive representative at the
40 time of the election. If an exclusive representative is decertified under this section, the
41 affected employees shall not be included in a substantially similar bargaining unit for
42 twelve months from the date of decertification.

105.570. 1. A meeting concerning a labor agreement between a public body or its
2 agent and an employee association or its agent shall be considered a "public meeting" as
3 that term is defined in section 610.010 and shall not be closed under section 610.021. This
4 applies whether or not such meeting is conducted under sections 105.500 to 105.530.

5 2. Any document presented by a public body during a meeting concerning a labor
6 agreement, or that the public body receives from an employee association, shall be
7 considered a "public record" as that term is defined in section 610.010 and shall not be
8 closed under section 610.021.

9 3. This section shall not apply to any part of a meeting during which a public body
10 or its agent is planning or adopting the strategy or position to be taken during the course
11 of a collective bargaining session.

105.580. 1. Every employee association that represents employees in a meeting
2 concerning a labor agreement and collects moneys from an employee it represents shall,
3 no later than ninety days following the formation of the employee association, or for
4 existing employee associations no later than November 27, 2016, adopt a constitution and
5 bylaws and file a copy thereof with the board, together with a report, signed by its
6 president and secretary or corresponding principal officers, containing the following
7 information:

8 (1) The name of the employee association, its mailing address, and any other
9 address at which it maintains its principal place of business;

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

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

- 13 **(4) The regular dues or fees or other periodic payments required to remain a**
14 **member of the reporting employee association; and**
- 15 **(5) Detailed statements, or references to specific provisions of documents filed**
16 **under this subsection that contain such statements, showing the provisions made and**
17 **procedures followed with respect to each of the following:**
- 18 **(a) Qualifications for or restrictions on membership;**
19 **(b) Levying of assessments;**
20 **(c) Participation in insurance or other benefit plans;**
21 **(d) Authorization for disbursement of funds of the employee association;**
22 **(e) Audit of financial transactions of the employee association;**
23 **(f) The calling of regular and special meetings;**
24 **(g) The selection of officers and stewards and of any representatives to other bodies**
25 **composed of employee associations' representatives, with a specific statement of the**
26 **manner in which each officer was elected, appointed, or otherwise selected;**
27 **(h) Discipline or removal of officers or agents for breaches of their trust;**
28 **(i) Imposition of fines, suspensions, and expulsions of members, including the**
29 **grounds for such action and any provision made for notice, hearing, judgment on the**
30 **evidence, and appeal procedures;**
31 **(j) Authorization for bargaining demands;**
32 **(k) Ratification of contract terms;**
33 **(l) Authorization for strikes; and**
34 **(m) Issuance of work permits.**

35
36 **Any change in the information required by this subsection shall be reported to the board**
37 **at the time the reporting employee association files with the board the annual report**
38 **required by subsection 2 of this section.**

39 **2. Any employee association that represents employees in a meeting concerning a**
40 **labor agreement and collects moneys from an employee it represents shall annually file a**
41 **report with the board containing the following information relating to the employee**
42 **association's financial condition and operations for the preceding fiscal year:**

- 43 **(1) All assets at the beginning and end of the fiscal year, including a schedule**
44 **disclosing on separate lines the totals for:**
- 45 **(a) Cash;**
46 **(b) Accounts receivable, including a detailed schedule that discloses:**
47 **a. The name of the entity or individual's name;**
48 **b. The total amount receivable from that entity or individual;**

- 49 **c. Any amounts that are ninety to one hundred eighty days past due;**
50 **d. Any amounts that are over one hundred eighty days past due; and**
51 **e. Any amounts that have been liquidated;**
52 **(c) Loans receivable, including a detailed schedule that discloses:**
53 **a. The name of the person or entity receiving the loan;**
54 **b. The purpose for the loan;**
55 **c. The security received for the loan;**
56 **d. The terms of repayment;**
57 **e. The amount of loans outstanding from the person or entity at the start of the**
58 **period;**
59 **f. The amount of loans made to the person or entity during the period;**
60 **g. The amount of cash repayments made during the period;**
61 **h. The amounts of repayments made by means other than cash; and**
62 **i. The amount of loans outstanding for each person or entity at the end of the**
63 **reporting period;**
64 **(d) U.S. Treasury securities;**
65 **(e) Investments, including a detailed schedule that discloses:**
66 **a. The name and amount of each marketable security that has a book value of five**
67 **thousand dollars or more and that exceeds five percent of the total of all marketable**
68 **securities; and**
69 **b. The name and amount of each other investment that has a book value of five**
70 **thousand dollars or more and that exceeds five percent of the total of all other investments;**
71 **(f) Fixed assets, including a detailed schedule that discloses:**
72 **a. Location, cost, book value, and value of land;**
73 **b. Location, cost, total depreciation or amount expensed, book value, and value of**
74 **buildings;**
75 **c. Cost, total depreciation or amount expensed, book value, and value of**
76 **automobiles and other vehicles;**
77 **d. Cost, total depreciation or amount expensed, book value, and value of office**
78 **furniture and equipment; and**
79 **e. Cost, total depreciation or amount expensed, book value, and value of other fixed**
80 **assets; and**
81 **(g) Other assets, including a detailed schedule that discloses the description and**
82 **value of the asset;**
83 **(2) All liabilities at the beginning and end of the fiscal year, including a schedule**
84 **disclosing on separate lines the totals for:**

- 85 **(a) Accounts payable, including a detailed schedule that discloses:**
86 **a. The name of the entity or individual;**
87 **b. The total amount payable;**
88 **c. Amounts that are ninety to one hundred eighty days past due;**
89 **d. Amounts that are more than one hundred eighty days past due; and**
90 **e. Liquidated amounts;**
91 **(b) Loans payable, including a detailed schedule that discloses on separate lines for**
92 **each loan:**
93 **a. The source of loans payable at any time during the reporting period;**
94 **b. Amount owed at the beginning of the reporting period;**
95 **c. Loans obtained during the reporting period;**
96 **d. Cash repayments made during the reporting period;**
97 **e. Repayments made by other than cash during the reporting period; and**
98 **f. Total owed at the end of the reporting period;**
99 **(c) Mortgages payable, including a detailed schedule that discloses on separate**
100 **lines:**
101 **a. The source of mortgages payable at any time during the reporting period for**
102 **each mortgage;**
103 **b. Amount owed at the beginning of the reporting period for each mortgage;**
104 **c. Mortgages obtained during the reporting period;**
105 **d. Cash repayments made during the reporting period;**
106 **e. Repayments made by other than cash during the reporting period; and**
107 **f. Total owed at the end of the reporting period for each mortgage; and**
108 **(d) Other liabilities, and additionally a separate detailed schedule that discloses on**
109 **separate lines a description of each individual liability and the amount owed at the end of**
110 **the reporting period;**
111 **(3) Receipts of any kind and the sources thereof, including a schedule disclosing on**
112 **separate lines the totals for:**
113 **(a) Dues and agency fees, and additionally a separate, detailed schedule that**
114 **discloses on separate lines any amounts received from employers through a checkoff**
115 **arrangement, and dues transmitted to the organization by a parent body or other affiliate;**
116 **(b) Per capita tax, and additionally a separate, detailed schedule that discloses on**
117 **separate lines:**
118 **a. Per capita tax portion of dues received directly by the reporting labor**
119 **organization from members of affiliates;**

- 120 **b. Per capita tax received from subordinates, either directly or through**
121 **intermediaries; and**
- 122 **c. The per capita tax portion of dues received through a checkoff arrangement**
123 **whereby local dues are remitted directly to an intermediate or parent body by employers;**
- 124 **(c) Fees, fines, assessments, and work permits;**
125 **(d) Sale of supplies;**
126 **(e) Interest;**
127 **(f) Dividends;**
128 **(g) Rents;**
129 **(h) Sale of investments and fixed assets, including a detailed schedule that discloses:**
- 130 **a. A description of the investment, including the address if the investment is land**
131 **or buildings;**
- 132 **b. Cost of the investment;**
133 **c. Book value of the investment;**
134 **d. Gross sales price; and**
135 **e. Amount obtained;**
136 **(i) Loans obtained;**
137 **(j) Repayments of loans made;**
138 **(k) Receipts on behalf of affiliates for transmittal to them; and**
139 **(l) Receipts on behalf of members for disbursement on their behalf;**
- 140 **(4) The salary, cost of fringe benefits, allowances, and other direct or indirect**
141 **disbursements made to each officer and support staff of the bargaining representative, as**
142 **well as all contributions to state or national affiliates and any official or employee thereof;**
- 143 **(5) All income received or the value of services furnished to an employee association**
144 **by either a parent affiliated employee association or by any other employee association on**
145 **behalf of the employee association;**
- 146 **(6) Direct and indirect loans made to any officer, public employee, or member,**
147 **totaling more than two hundred fifty dollars during the fiscal year, together with a**
148 **statement of the purpose, security, if any, and arrangements for repayment;**
- 149 **(7) Direct and indirect loans to any sole proprietorship, partnership, or**
150 **corporation, together with a statement of the purpose, security, if any, and arrangements**
151 **for repayment;**
- 152 **(8) For purchases of investments and fixed assets a detailed schedule that discloses:**
- 153 **(a) A description of the investment, including the address if the investment is land**
154 **or buildings;**
- 155 **(b) Cost of the investment;**

- 156 (c) Book value of the investment;
- 157 (d) Gross sales price; and
- 158 (e) Amount paid;
- 159 (9) An itemization schedule that discloses the name and address, purpose, date,
- 160 amount, and type or classification of the total amount spent by the employee association
- 161 for:
- 162 (a) Contract negotiation and administration;
- 163 (b) Organizing activities;
- 164 (c) Litigation, specifying the matters and cases involved;
- 165 (d) Public relations activities;
- 166 (e) Political activities;
- 167 (f) Activities attempting to influence the passage or defeat of federal, state, or local
- 168 legislation or the content or enforcement of federal, state, or local regulations or policies;
- 169 (g) Voter education and issue advocacy activities;
- 170 (h) Training activities for each officer of the local bargaining representative or
- 171 union support staff;
- 172 (i) Conference, convention, and travel activities engaged in by the employee
- 173 association; and
- 174 (j) Union administration;
- 175 (10) The percentage of the employee association's total expenditures that were spent
- 176 for each of the activities described in paragraphs (a) to (j) of subdivision (9) of this
- 177 subsection;
- 178 (11) The names, addresses, and activities of any law firms, public relations firms,
- 179 or lobbyists whose services are used by the employee association for any activity described
- 180 in paragraphs (a) to (j) of subdivision (9) of this subsection;
- 181 (12) A list of political candidates, political organizations, charitable organizations,
- 182 non-profit organizations, and community organizations to which the employee association
- 183 contributed financial or in-kind assistance and the dollar amount of such assistance;
- 184 (13) The name and address of any political action committees with which the
- 185 employee association is affiliated or to whom it provides contributions, the total amount
- 186 of contributions to such committees, the candidates or causes to which such committees
- 187 provided any financial assistance, and the amount provided to each such candidate or
- 188 cause; and
- 189 (14) Other disbursements made by the employee association including the purposes
- 190 thereof, all in such categories as the board may prescribe.

191 **3. The reports required by subsections 1 and 2 of this section shall be prepared by**
192 **an auditing organization, independent of the employee association, using generally**
193 **accepted auditing standards and generally accepted accounting principles that shall ensure**
194 **the accuracy and veracity of the information provided by the employee association.**

195 **4. An employee association shall file the annual report required by subsection 2 of**
196 **this section no later than ninety days after the end of its fiscal year. Any employee**
197 **association required to file a report under this section that fails to file the report within**
198 **ninety days after the end of its fiscal year shall be fined one hundred dollars per day for**
199 **such failure to file. A civil fine recovered under this section shall be submitted to the state**
200 **treasurer for deposit in the general fund of this state.**

201 **5. The board shall make each report filed under this section publicly available in**
202 **a searchable electronic format. The board shall develop a system for electronically filing**
203 **all reports required by this section. Employee associations shall use this system for filing**
204 **all reports required by this section. The board shall compile and make available on its**
205 **website the raw data from all reports that are filed under this section and shall make that**
206 **data searchable on the board's website. The board may publish any information and data**
207 **that it obtains pursuant to the provisions of this section. The board may use the**
208 **information and data for statistical and research purposes, and compile and publish such**
209 **studies, analyses, reports, and surveys based thereon as it may deem appropriate.**

210 **6. The employee association shall make its filing available to every employee it**
211 **represents. If such employee association fails to make its filings available to its employees,**
212 **any such employee shall have a cause of action against the employee association for**
213 **enforcement of this subsection. The court in such action may, in its discretion, in addition**
214 **to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to**
215 **be paid by the employee association, and costs of the action.**

216 **7. Every employee association required to file any report under this section shall**
217 **maintain records on the matters required to be reported that will provide in sufficient**
218 **detail the necessary basic information and data from which the documents filed with the**
219 **board may be verified, explained, or clarified for a period of not less than five years after**
220 **the filing of the documents based on the information that they contain. This shall include,**
221 **but not be limited to, vouchers, worksheets, receipts, and applicable resolutions.**

222 **8. In the event that an employee association fails to comply with any of the**
223 **provisions of this section:**

224 **(1) Such employee association shall refund all moneys collected from employees for**
225 **the period covered by the report;**

226 **(2) If the employee association represents employees as the exclusive representative,**
227 **such representative shall be immediately decertified as the exclusive representative; and**

228 **(3) Any labor agreements between the employee association and a public body shall**
229 **be immediately rescinded and invalidated.**

230 **9. In the event that any person or employee association violates or attempts to**
231 **violate the provisions of this section, the board may bring a civil action for such relief as**
232 **may be appropriate in any court of competent jurisdiction.**

233 **10. The board may, in its discretion, conduct an investigation if it deems it**
234 **necessary in order to determine whether any person has violated or has attempted to**
235 **violate any provision of this section. In connection with such investigation, the board may**
236 **enter such places and inspect such records and accounts and question such persons as it**
237 **may deem necessary to determine the facts relative to such investigation. The board may**
238 **report to interested persons or officials concerning the facts required to be shown in any**
239 **report required by this section and concerning the reasons for failure or refusal to file such**
240 **a report or any other matter that it deems to be appropriate as a result of such an**
241 **investigation.**

242 **11. The board shall have authority to promulgate rules and regulations as are**
243 **necessary to enforce and implement the sections of 105.550 to 105.590. Any rule or portion**
244 **of a rule, as that term is defined in section 536.010, that is created under the authority**
245 **delegated in this section shall become effective only if it complies with and is subject to all**
246 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**
247 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**
248 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
249 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**
250 **any rule proposed or adopted after August 28, 2016, shall be invalid and void.**

105.590. The term of any labor agreement, provision of a labor agreement, or
2 **extension of a labor agreement entered into after the effective date of this act shall not**
3 **exceed a period of two years.**

Section 1. If any provision of sections 105.550 to 105.590 or the application thereof
2 **to anyone or to any circumstance is held invalid, the remainder of those sections and the**
3 **application of such provisions to others or other circumstances shall not be affected**
4 **thereby.**

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