

SENATE BILL NO. 728

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

4140S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 105.505, RSMo, and to enact in lieu thereof one new section relating to the authorization of the deduction of moneys from the paychecks of public employees for the benefit of public labor organizations, with penalty provisions.

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

Section A. Section 105.505, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 105.505,
3 to read as follows:

105.505. 1. **This section shall be known as the**
2 **"Public Employee Janus Rights Act".**
3 2. Pursuant to federal law enunciated by the United
4 States Supreme Court in *Janus v. American Federation of*
5 *State, County and Municipal Employees, Council 31*, 138 S.Ct.
6 **2448 (2018)**, no sum shall be withheld from the earnings of
7 any public employee for the purpose of paying any portion of
8 dues, agency shop fees, or any other fees paid by members of
9 a labor organization or public employees who are nonmembers
10 except [upon the annual] **with the informed** written or
11 electronic authorization of the member or nonmember **received**
12 **by the public body. The public body shall require clear and**
13 **compelling evidence that such authorization has been freely**
14 **given by a public employee. Submission of the form**
15 **described in subsection 3 of this section shall constitute**
16 **clear and compelling evidence that authorization has been**
17 **freely given.**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 [2.] 3. The authorization referred to in subsection 2
19 of this section shall be made on the following form, the
20 sole purpose of which is the documentation of such
21 authorization. The form's title shall read, in at least
22 twenty-four point bold type, "Consent for Withholding Union
23 Dues/Fees", and shall state in at least fourteen-point bold
24 type, the following specific text:

25 "I (print name), member of (bargaining unit)
26 authorize the amount of \$..... to be
27 withheld from my monthly earnings and allocated
28 to (union) as a portion of my succeeding dues,
29 agency shop fees, or other fee payments. I
30 understand that under federal and state law I am
31 not obligated to sign this authorization. I
32 understand that my signature below is completely
33 voluntary and cannot in any way affect my
34 employment. I understand that as a public
35 employee, I have a First Amendment right to
36 refrain from joining or paying dues or fees to a
37 labor union. I understand that by signing this
38 form I am hereby waiving my right to refrain
39 from membership and dues payment to (union). I
40 understand that I may revoke this authorization
41 at any time by providing notice to (public
42 body)."

43 4. No labor organization shall use or obtain any
44 portion of dues, agency shop fees, or any other fees paid by
45 members of the labor organization or public employees who
46 are nonmembers to make contributions, as defined in section
47 130.011, or expenditures, as defined in section 130.011,
48 except with the informed written or electronic authorization
49 of such member or nonmember received [within the previous

50 twelve months] by the public body. The public body,
 51 pursuant to federal law enunciated by the United States
 52 Supreme Court in *Janus v. American Federation of State,*
 53 *County and Municipal Employees, Council 31,* 138 S.Ct. 2448
 54 (2018), shall require clear and compelling evidence that
 55 such authorization has been freely given by a public
 56 employee. Submission of the form described in subsection 5
 57 of this section shall constitute clear and compelling
 58 evidence that authorization has been freely given.

59 [3.] 5. The authorization referred to in subsection 4
 60 of this section shall be made on the following form, the
 61 sole purpose of which is the documentation of such
 62 authorization. The form's title shall read, in at least
 63 twenty-four point bold type, "Consent for Political Use of
 64 Dues/Fees", and shall state in at least fourteen-point bold
 65 type, the following specific text:

66 "I (print name), member of (bargaining unit),
 67 authorize (union) to use the following amounts
 68 of each of my dues or agency shop fee payments
 69 for the following political purposes:

- 70 The amount of \$..... from each of my
- 71 dues or agency shop fee payments as a
- 72 political contribution or expenditure.
- 73 The amount of \$..... from each of my
- 74 dues or agency shop fee payments as a
- 75 political contribution to a continuing
- 76 committee formed by (union).

77 Check applicable box.

78 I understand that under federal and state law I
 79 am not obligated to sign this authorization. I
 80 understand that my signature below is completely

81 voluntary and cannot in any way affect my
82 employment. I understand that as a public
83 employee, I have a First Amendment right,
84 enunciated by the United States Supreme Court in
85 *Janus v. American Federation of State, County*
86 *and Municipal Employees, Council 31*, 138 S. Ct.
87 2448 (2018), to refrain from supporting a
88 union. I understand that by signing this form I
89 am hereby waiving my right to refrain from
90 supporting the political activities of (union).
91 I understand that I may revoke this
92 authorization at any time by providing notice to
93 (public body)."

94 6. Public employees who do not authorize contributions
95 or expenditures under [subsection 2 of] this section shall
96 not have their dues, agency shop fees, or other fees
97 increased in lieu of payments for contributions or
98 expenditures.

99 [4.] 7. The requirements of this section shall not be
100 waived by any member or nonmember of a labor organization,
101 and waiver of the requirements shall not be made a condition
102 of employment or continued employment.

103 [5.] 8. Signing or refraining from signing any
104 authorization [described] under [subsection 1 or 2 of] this
105 section shall not be made a condition of employment or
106 continued employment.

107 [6.] 9. A labor organization shall maintain financial
108 records substantially similar to and no less comprehensive
109 than the records that are required to be maintained in
110 accordance with 29 U.S.C. Section 431(b), or any successor
111 statute.

112 [7.] 10. Every labor organization shall provide the
113 records required under subsection [6] 9 of this section in a
114 searchable electronic format to every public employee it
115 represents. If any labor organization fails to make such
116 records available to the public employees represented by
117 such organization, any such public employee shall have a
118 cause of action against the labor organization for
119 enforcement of this subsection. The court in such action
120 may, in its discretion, in addition to any judgment awarded
121 to the plaintiff or plaintiffs, require reasonable
122 attorney's fees and court costs to be paid by the labor
123 organization.

124 [8.] 11. Every labor organization required to prepare
125 any record under this section shall maintain such records
126 and any additional data or summary by which the records may
127 be verified, explained, or clarified for a period of not
128 less than five years immediately following the preparation
129 of such record.

130 [9.] 12. For purposes of this section, the term
131 "agency shop" shall mean an arrangement that requires a
132 public employee, as a condition of employment or continued
133 employment, either to join a recognized labor organization
134 or to pay such organization a service fee.

135 **13. Any authorization submitted under this section by**
136 **a public employee may be revoked by such public employee at**
137 **any time, with such revocation to take effect at the**
138 **beginning of any succeeding pay period.**

139 **14. The department shall assess a fine of no more than**
140 **five hundred dollars per violation to any public body that**
141 **fails to comply with the provisions of this section.**

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