

HB 474-FN – AS AMENDED BY THE HOUSE

15 Feb 2011... 0218h

15 Feb 2011... 0313h

2011 SESSION

11-0609

06/01

HOUSE BILL 474-FN

AN ACT relative to freedom of choice on whether to join a labor union and eliminating the duty of a public employee labor organization to represent employees who elect not to join or to pay dues or fees to the employee organization.

SPONSORS: Rep. W. Smith, Rock 18; Rep. Baldasaro, Rock 3; Rep. Seidel, Hills 20; Rep. Lauer-Rago, Merr 2; Rep. Holden, Hills 4; Rep. Brosseau, Graf 6; Rep. Summers, Hills 26; Sen. Forsythe, Dist 4

COMMITTEE: Labor, Industrial and Rehabilitative Services

AMENDED ANALYSIS

This bill prohibits collective bargaining agreements that require employees to join a labor union.

This bill also provides that no public employee labor organization shall be required to represent employees who elect not to join or to pay dues or fees to the employee organization.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to freedom of choice on whether to join a labor union and eliminating the duty of a public employee labor organization to represent employees who elect not to join or to pay dues or fees to the employee organization.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Name of Act. It is the intent of the general court that this act be known as “The Franklin A. Partin Jr. Right to Work Act.”

2 New Paragraph; Obligation to Bargain. Amend RSA 273-A:3 by inserting after paragraph IV the following new paragraph:

V. The employee organization certified by the board as the exclusive representative of the bargaining unit shall not be required to represent employees who elect not to join the employee organization. A collective bargaining agreement reached under this chapter shall apply only to public employees in the bargaining unit who are members of the employee organization.

3 New Paragraph; Obligation to Bargain. Amend RSA 273-A:3 by inserting after paragraph IV the following new paragraph:

V. The employee organization certified by the board as the exclusive representative of the bargaining unit shall not be required to represent employees who elect not to join or to pay dues or fees to the employee organization. A collective bargaining agreement reached under this chapter shall apply only to public employees in the bargaining unit who are members of, or who elect to pay dues or fees to, the employee organization.

4 New Chapter; Right to Work Act. Amend RSA by inserting after chapter 273-C the following new chapter:

CHAPTER 273-D

RIGHT TO WORK ACT

273-D:1 Short Title. This act may be cited as the “Right to Work Act.”

273-D:2 Declaration of Public Policy. It is hereby declared to be the public policy of this state in order to maximize individual freedom of choice in the pursuit of employment and to encourage an employment climate conducive to economic growth, that all persons shall have, and shall be protected in the exercise of, the right freely, and without fear of penalty or reprisal, to form, join, or assist labor organizations, or to refrain from any such activity.

273-D:3 Definitions. In this chapter:

I. "Employer" means any individual, corporation, association, organization, or entity that employs one or more persons. The term includes, but is not limited to, the state of New Hampshire and its agencies, every district, board, commission, instrumentality, or other unit whose governing body exercises similar governmental powers. The term "employer" includes, but is not limited to, employers of agricultural labor.

II. "Labor organization" means any organization of any kind, or agency or employee representation committee or plan, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of work, or other conditions of employment.

273-D:4 Freedom of Choice Guaranteed, Discrimination Prohibited. No person shall be required, as a condition of employment or continuation of employment:

I. To resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

II. To become or remain a member of a labor organization;

III. To pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;

IV. To pay any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges of a labor organization; or

V. To be recommended, approved, referred, or cleared by or through a labor organization.

273-D:5 Voluntary Deductions Protected. It shall be unlawful for any employer to deduct from the wages, earnings, or compensation of any employee any dues, fees, assessments, or other charges, to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such

revocation 30 days in advance of its effective date. Every employer who receives such an authorization from an employee shall have a duty to promptly notify that employee in writing that the employee may revoke an authorization at any time by giving the employer 30 days written notice.

273-D:6 Agreements in Violation, and Actions to Induce Such Agreements, Declared Illegal. Any agreement, understanding or practice, written or oral, implied or expressed, between any labor organization and employer which violates the rights of employees as guaranteed by the provisions of this chapter is hereby declared to be unlawful, null and void, and of no legal effect. Any strike, picketing, boycott, or other action, by a labor organization for the sole purpose of inducing or attempting to induce an employer to enter into any agreement prohibited under this chapter is hereby declared to be for an illegal purpose and is a violation of the provisions of this chapter.

273-D:7 Notice to be Posted. It shall be the duty of every employer to post and keep continuously displayed the following notice at such a place or places in the business, establishment, or premises where it may be readily seen by all employees, and it shall be the further duty of every employer to furnish a copy of such notice to each employee at the time the employee is hired:

EMPLOYEES FREEDOM OF CHOICE

Under the law of the state of New Hampshire, employees are protected in the exercise of their free choice to join or refrain from joining labor unions, and it is unlawful for an employer and a labor union to enter into a contract or agreement requiring them to pay dues, fees, or charges of any kind to a labor union as a condition of obtaining or keeping a job. Under this law, an employer may not discharge or otherwise discriminate against an employee because of joining or refusing to join a labor union, or to pay dues, or other charges to a labor union.

273-D:8 Coercion and Intimidation Prohibited. It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or the employee's parents, spouse, children, grandchildren, or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to property, to compel or attempt to compel such employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or otherwise forfeit any rights as guaranteed by provisions of this chapter. It shall also be unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employees.

273-D:9 Penalties. Any person, employer, labor organization, agent, or representative of an employer or labor organization, who directly or indirectly imposes upon any person any requirement prohibited by this chapter shall be guilty of a misdemeanor, and, notwithstanding RSA 651:2, shall be subject for each offense to a fine not exceeding \$1,000, or to imprisonment not exceeding 90 days, or both.

273-D:10 Civil Remedies. Any person harmed as a result of any violation or threatened violation of the provisions of this chapter shall be entitled to injunctive relief against any and all violators or persons threatening violation, and may also recover any or all damages of any character, including costs and reasonable attorney fees, resulting from such violation or threatened violation, cognizable at common law. Such remedies shall be independent of, and in addition to, the penalties and remedies prescribed in other provisions of this chapter.

273-D:11 Duty to Investigate. It shall be the duty of the attorney general and of each county attorney, to investigate any complaints of violation of this chapter, and to prosecute all persons violating any of its provisions, and to use all means at their command to insure effective enforcement of the provisions of this chapter.

273-D:12 Existing Contracts. The provisions of this chapter shall apply to all contracts entered into on or after the effective date of this chapter and shall not apply to existing contracts, but shall apply to any renewal or extensions of such existing contracts.

273-D:13 Exceptions. The provisions of this chapter shall not apply:

- I. To employers and employees covered by the federal Railway Labor Act.
- II. To federal employers and employees.
- III. To employers and employees on exclusive federal enclaves.
- IV. Where they would otherwise conflict with, or be preempted by, federal law.

273-D:14 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

4 Effective Date. This act shall take effect January 1, 2012.

LBAO

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01/20/11

HB 474-FN - FISCAL NOTE

AN ACT relative to freedom of choice on whether to join a labor union and eliminating the duty of a public employee labor organization to represent employees who elect not to join or to pay dues or fees to the employee organization.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.