

State of New Mexico
Senate

FIFTY-FIFTH LEGISLATURE
FIRST SESSION

March 16, 2021

SENATE FLOOR AMENDMENT number _____ to HOUSE JUDICIARY COMMITTEE
SUBSTITUTE FOR HOUSE LABOR,
VETERANS' AND MILITARY
AFFAIRS COMMITTEE
SUBSTITUTE FOR HOUSE BILL
20, as amended

Amendment sponsored by Senator Cliff R. Pirtle

1. On page 1, line 13, after "PENALTIES", insert "; PROVIDING FOR VOLUNTARY MEMBERSHIP IN LABOR ORGANIZATIONS".

2. On page 1, line 16, strike "This" and insert in lieu thereof "Sections 1 through 14 of this".

3. On page 23, before line 1, insert the following new sections:

"SECTION 15. [NEW MATERIAL] MANDATORY MEMBERSHIP AND FEES PROHIBITED.--A person shall not be required, as a condition of hiring, promotion or continued employment, to:

A. become or remain a member of a labor organization; or

B. pay dues, fees, assessments or other charges to a labor organization or to a charity or other third party, in lieu of payment to a labor organization.

SECTION 16. [NEW MATERIAL] ORGANIZATION APPROVAL PROHIBITED.--An employer shall not require a person to be recommended or approved by or to be cleared through a labor organization as a condition of hiring, promotion or continued employment.

SECTION 17. [NEW MATERIAL] CERTAIN AGREEMENTS ILLEGAL.--An

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agreement, understanding or practice, written or oral, implied or expressed, between an employer and a labor organization that is in violation of Section 15 of this 2021 act is unlawful.

SECTION 18. [NEW MATERIAL] DEFINITION.--As used in Sections 15 through 17 of this 2021 act, "labor organization" means a union, organization, agency or employee representation committee that exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work or other conditions of employment.

SECTION 19. [NEW MATERIAL] INVESTIGATION.--The attorney general and district attorneys shall investigate complaints of violations of Section 15 of this 2021 act and shall prosecute a person suspected of violating that section.

SECTION 20. [NEW MATERIAL] ENFORCEMENT.--If, as a result of investigation, the attorney general or a district attorney has good cause to believe that a person is violating or will violate a provision of Section 15 of this 2021 act, the attorney general or district attorney may bring an action for injunctive or other appropriate relief in the district court for the county in which the violation is occurring or will occur or in the district court for Santa Fe county.

SECTION 21. [NEW MATERIAL] PENALTY.--A person who violates a provision of Section 15 of this 2021 act is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for a definite term not to exceed ninety days or both.

SECTION 22. [NEW MATERIAL] REMEDIES.--

A. A person injured or threatened with injury as a result of a violation or threatened violation of the provisions of Section 15 of this 2021 act shall be entitled to injunctive relief against

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any and all violators or persons threatening the violation.

B. A person injured as a result of a violation or threatened violation of the provisions of Section 15 of this 2021 act may recover any and all damages, including costs and reasonable attorney fees, of any character resulting from the violation or threatened violation.

C. Remedies pursuant to this section shall be independent of and in addition to any other penalty or remedy prescribed in Sections 15 through 22 of this 2021 act.

SECTION 23. [NEW MATERIAL] EXCEPTIONS.--The provisions of Sections 15 through 22 of this 2021 act shall not apply to employers and employees covered by the federal Railway Labor Act; federal employers and employees; employers and employees on exclusive federal enclaves; or where they would otherwise conflict with, or be preempted by, federal law.

SECTION 24. Section 10-7E-5 NMSA 1978 (being Laws 2003, Chapter 4, Section 5 and Laws 2003, Chapter 5, Section 5, as amended) is amended to read:

"10-7E-5. RIGHTS OF PUBLIC EMPLOYEES.--

A. Public employees, other than management employees and confidential employees, may form, join or assist a labor organization for the purpose of collective bargaining through representatives chosen by public employees without interference, restraint or coercion and shall have the right to refuse those activities.

B. Public employees have the right to engage in other concerted activities for mutual aid or benefit. This right shall not be construed as modifying the prohibition on strikes set forth in Section 10-7E-21 NMSA 1978.

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C. A public employer shall not require a public employee, as a condition of hiring, promotion or continued employment, to become or remain a member of a labor organization or to pay dues, fees, assessments or other charges to a labor organization or to a charity or other third party, in lieu of payment to a labor organization."

SECTION 25. Section 10-7E-19 NMSA 1978 (being Laws 2003, Chapter 4, Section 19 and Laws 2003, Chapter 5, Section 19, as amended) is amended to read:

"10-7E-19. PUBLIC EMPLOYERS--PROHIBITED PRACTICES.--A public employer or [~~his~~] the public employer's representative shall not:

A. discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership or nonmembership in a labor organization;

B. interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act;

C. dominate or interfere in the formation, existence or administration of a labor organization;

D. discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization;

E. discharge or otherwise discriminate against a public employee because [~~he~~] the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization;

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F. refuse to bargain collectively in good faith with the exclusive representative;

G. refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule; or

H. refuse or fail to comply with a collective bargaining agreement."".

4. Renumber the succeeding sections accordingly.

5. On page 23, line 2, strike "the Healthy Workplaces Act" and insert in lieu thereof "this act".

Cliff R. Pirtle

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____