

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 806

98TH GENERAL ASSEMBLY

Reported from the Committee on General Laws and Pensions, March 3, 2016, with recommendation that the Senate Committee Substitute do pass.

4148S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

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

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 105.560 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 which 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 schedule. A labor agreement shall not include any document resulting

20 from grievance, mediation, or arbitration proceedings;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 election.

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

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

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

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

41 7. If an employee association seeking election receives votes
42 from a majority of the members of a bargaining unit in favor of
43 certification, then the board shall certify that employee association as
44 the exclusive representative. If no employee association receives votes
45 in favor of certification from a majority of members of a bargaining
46 unit, then the board shall decertify the employee association serving as
47 the exclusive representative at the time of the election. If an exclusive
48 representative is decertified under this section, the affected employees
49 shall not be included in a substantially similar bargaining unit for
50 twelve months from the date of decertification.

105.570. 1. A meeting concerning a labor agreement between a
2 public body or its agent and an employee association or its agent shall
3 be considered a "public meeting" as that term is defined in section
4 610.010 and shall not be closed pursuant to section 610.021. This
5 applies whether or not such meeting is conducted under sections
6 105.500 to 105.530.

7 2. Any document presented by a public body during a meeting
8 concerning a labor agreement, or that the public body receives from an
9 employee association, shall be considered a "public record" as that term
10 is defined in section 610.010 and shall not be closed pursuant to section
11 610.021.

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

105.580. 1. Every employee association that represents
2 employees in a meeting concerning a labor agreement and collects

3 money from an employee it represents shall, no later than ninety days
4 following the formation of the employee association, or for existing
5 employee associations, no later than November 27, 2016, adopt a
6 constitution and bylaws and shall file a copy thereof with the board,
7 together with a report, signed by its president and secretary or
8 corresponding principal officers, containing the following information:

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

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

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

16 (4) The regular dues or fees or other periodic payments required
17 to remain a member of the reporting employee association; and

18 (5) Detailed statements, or references to specific provisions of
19 documents filed under this subsection which contain such statements,
20 showing the provisions made and procedures followed with respect to
21 each of the following:

22 (a) Qualifications for or restrictions on membership;

23 (b) Levying of assessments;

24 (c) Participation in insurance or other benefit plans;

25 (d) Authorization for disbursement of funds of the employee
26 association;

27 (e) Audit of financial transactions of the employee association;

28 (f) The calling of regular and special meetings;

29 (g) The selection of officers and stewards and of any
30 representatives to other bodies composed of employee associations'
31 representatives, with a specific statement of the manner in which each
32 officer was elected, appointed, or otherwise selected;

33 (h) Discipline or removal of officers or agents for breaches of
34 their trust;

35 (i) Imposition of fines, suspensions, and expulsions of members,
36 including the grounds for such action and any provision made for
37 notice, hearing, judgment on the evidence, and appeal procedures;

38 (j) Authorization for bargaining demands;

39 (k) Ratification of contract terms;

40 (l) Authorization for strikes; and

41 (m) Issuance of work permits.

42 Any change in the information required by this subsection shall be
43 reported to the board at the time the reporting employee association
44 files with the board the annual report required by subsection two of
45 this section.

46 2. Any employee association that represents employees in a
47 meeting concerning a labor agreement and collects money from an
48 employee it represents shall annually file a report with the board
49 containing the following information relating to the employee
50 association's financial condition and operations for the preceding fiscal
51 year:

52 (1) All assets at the beginning and end of the fiscal year,
53 including a schedule disclosing on separate lines the totals for:

54 (a) Cash;

55 (b) Accounts receivable, including a detailed schedule which
56 discloses:

57 a. The name of the entity or individual's name;

58 b. The total amount receivable from that entity or individual;

59 c. Any amounts that are ninety to one hundred eighty days past
60 due;

61 d. Any amounts that are over one hundred eighty days past due;
62 and

63 e. Any amounts that have been liquidated;

64 (c) Loans receivable, including a detailed schedule which
65 discloses:

66 a. The name of the person or entity receiving the loan;

67 b. The purpose for the loan;

68 c. The security received for the loan;

69 d. The terms of repayment;

70 e. The amount of loans outstanding from the person or entity at
71 the start of the period;

72 f. The amount of loans made to the person or entity during the
73 period;

74 g. The amount of cash repayments made during the period;

75 h. The amounts of repayments made by means other than cash;

76 and

- 77 i. The amount of loans outstanding for each person or entity at
78 the end of the reporting period;
- 79 (d) U.S. Treasury securities;
- 80 (e) Investments, including a detailed schedule which discloses:
81 a. The name and amount of each marketable security which has
82 a book value of five thousand dollars or more and which exceeds five
83 percent of the total of all marketable securities;
- 84 b. The name and amount of each other investment which has a
85 book value of five thousand dollars or more and which exceeds five
86 percent of the total of all other investments;
- 87 (f) Fixed assets, including a detailed schedule which discloses:
88 a. Location, cost, book value, and value of land;
- 89 b. Location, cost, total depreciation or amount expended, book
90 value, and value of buildings;
- 91 c. Cost, total depreciation or amount expended, book value, and
92 value of automobiles and other vehicles;
- 93 d. Cost, total depreciation or amount expended, book value, and
94 value of office furniture and equipment;
- 95 e. Cost, total depreciation or amount expended, book value, and
96 value of other fixed assets;
- 97 (g) Other assets; including a detailed schedule which discloses
98 the description and value of the asset;
- 99 (2) All liabilities at the beginning and end of the fiscal year,
100 including a schedule disclosing on separate lines the totals for:
- 101 (a) Accounts payable, including a detailed schedule which
102 discloses:
- 103 a. The name of the entity or individual;
- 104 b. The total amount payable;
- 105 c. Amounts that are ninety to one hundred eighty days past due;
- 106 d. Amounts that are more than one hundred eighty days past
107 due; and
- 108 e. Liquidated amounts;
- 109 (b) Loans payable, including a detailed schedule which discloses
110 on separate lines for each loan:
- 111 a. The source of loans payable at any time during the reporting
112 period;
- 113 b. Amount owed at the beginning of the reporting period;

- 114 c. Loans obtained during the reporting period;
- 115 d. Cash repayments made during the reporting period;
- 116 e. Repayments made by other than cash during the reporting
117 period; and
- 118 f. Total owed at the end of the reporting period;
- 119 (c) Mortgages payable, including a detailed schedule which
120 discloses on separate lines:
- 121 a. The source of mortgages payable at any time during the
122 reporting period for each mortgage;
- 123 b. Amount owed at the beginning of the reporting period for each
124 mortgage;
- 125 c. Mortgages obtained during the reporting period;
- 126 d. Cash repayments made during the reporting period;
- 127 e. Repayments made by other than cash during the reporting
128 period; and
- 129 f. Total owed at the end of the reporting period for each
130 mortgage; and
- 131 (d) Other liabilities, and additionally a separate detailed
132 schedule which discloses on separate lines a description of each
133 individual liability and the amount owed at the end of the reporting
134 period;
- 135 (3) Receipts of any kind and the sources thereof, including a
136 schedule disclosing on separate lines the totals for:
- 137 (a) Dues and agency fees, and additionally a separate, detailed
138 schedule which discloses on separate lines any amounts received from
139 employers through a checkoff arrangement, and dues transmitted to the
140 organization by a parent body or other affiliate;
- 141 (b) Per capita tax, and additionally a separate, detailed schedule
142 which discloses on separate lines:
- 143 a. Per capita tax portion of dues received directly by the
144 reporting labor organization from members of affiliates;
- 145 b. Per capita tax received from subordinates, either directly or
146 through intermediaries, and
- 147 c. The per capita tax portion of dues received through a checkoff
148 arrangement whereby local dues are remitted directly to an
149 intermediate or parent body by employers;
- 150 (c) Fees, fines, assessments, and work permits;

- 151 **(d) Sale of supplies;**
152 **(e) Interest;**
153 **(f) Dividends;**
154 **(g) Rents;**
155 **(h) Sale of investments and fixed assets, including a detailed**
156 **schedule which discloses:**
157 **a. A description of the investment, including the address if the**
158 **investment is land or buildings;**
159 **b. Cost of the investment;**
160 **c. Book value of the investment;**
161 **d. Gross sales price; and**
162 **e. Amount obtained;**
163 **(i) Loans obtained;**
164 **(j) Repayments of loans made;**
165 **(k) Receipts on behalf of affiliates for transmittal to them; and**
166 **(l) Receipts on behalf of members for disbursement on their**
167 **behalf;**
168 **(4) The salary, cost of fringe benefits, allowances and other**
169 **direct or indirect disbursements made to each officer and support staff**
170 **of the bargaining representative, as well as all contributions to state or**
171 **national affiliates and any official or employee thereof;**
172 **(5) All income received or the value of services furnished to an**
173 **employee association by either a parent affiliated employee association**
174 **or by any other employee association on behalf of the employee**
175 **association;**
176 **(6) Direct and indirect loans made to any officer, public**
177 **employee, or member, totaling more than two hundred fifty dollars**
178 **during the fiscal year, together with a statement of the purpose,**
179 **security, if any, and arrangements for repayment;**
180 **(7) Direct and indirect loans to any sole proprietorship,**
181 **partnership, or corporation, together with a statement of the purpose,**
182 **security, if any, and arrangements for repayment;**
183 **(8) For purchases of investments and fixed assets a detailed**
184 **schedule which discloses:**
185 **(a) A description of the investment, including the address if the**
186 **investment is land or buildings;**
187 **(b) Cost of the investment;**

- 188 **(c) Book value of the investment;**
189 **(d) Gross sales price; and**
190 **(e) Amount paid;**
191 **(9) An itemization schedule that discloses the name and address,**
192 **purpose, date, amount, and type or classification of the total amount**
193 **spent by the employee association for:**
194 **(a) Contract negotiation and administration;**
195 **(b) Organizing activities;**
196 **(c) Litigation, specifying the matters and cases involved;**
197 **(d) Public relations activities;**
198 **(e) Political activities;**
199 **(f) Activities attempting to influence the passage or defeat of**
200 **federal, state or local legislation or the content or enforcement of**
201 **federal, state, or local regulations or policies;**
202 **(g) Voter education and issue advocacy activities;**
203 **(h) Training activities for each officer of the local bargaining**
204 **representative or union support staff;**
205 **(i) Conference, convention, and travel activities engaged in by**
206 **the employee association; and**
207 **(j) Union administration;**
208 **(10) The percentage of the employee association's total**
209 **expenditures that were spent for each of the activities described in**
210 **paragraphs (a) to (j) of subdivision (9) of this subsection;**
211 **(11) The names, addresses, and activities of any law firms, public**
212 **relations firms, or lobbyists whose services are used by the employee**
213 **association for any activity described in paragraphs (a) to (j) of**
214 **subdivision (9) of this subsection;**
215 **(12) A list of political candidates, political organizations,**
216 **charitable organizations, non-profit organizations and community**
217 **organizations to which the employee association contributed financial**
218 **or in-kind assistance and the dollar amount of such assistance;**
219 **(13) The name and address of any political action committees**
220 **with which the employee association is affiliated or to whom it**
221 **provides contributions, the total amount of contributions to such**
222 **committees, the candidates or causes to which such committees**
223 **provided any financial assistance, and the amount provided to each**
224 **such candidate or cause; and**

225 **(14) Other disbursements made by the employee association**
226 **including the purposes thereof, all in such categories as the board may**
227 **prescribe.**

228 **3. The reports required by subsections 1 and 2 of this section**
229 **shall be prepared by an auditing organization, independent of the**
230 **employee association, using generally accepted auditing standards, and**
231 **generally accepted accounting principles, which shall ensure the**
232 **accuracy and veracity of the information provided by the employee**
233 **association.**

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

242 **5. The board shall make each report filed under this section**
243 **publicly available in a searchable electronic format. The board shall**
244 **develop a system for electronically filing all reports required by this**
245 **section. Employee associations shall use this system for filing all**
246 **reports required by this section. The board shall compile and make**
247 **available on its website the raw data from all reports that are filed**
248 **under this section, and shall make that data searchable on the board's**
249 **website. The board may publish any information and data which it**
250 **obtains pursuant to the provisions of this section. The board may use**
251 **the information and data for statistical and research purposes, and**
252 **compile and publish such studies, analyses, reports, and surveys based**
253 **thereon as it may deem appropriate.**

254 **6. The employee association shall make its filing available to**
255 **every employee it represents. If such employee association fails to**
256 **make its filings available to its employees, any such employee shall**
257 **have a cause of action against the employee association for**
258 **enforcement of this subsection. The court in such action may, in its**
259 **discretion, in addition to any judgment awarded to the plaintiff or**
260 **plaintiffs, allow a reasonable attorney's fee to be paid by the defendant,**
261 **and costs of the action.**

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

270 8. In the event that an employee association fails to comply with
271 any of the provisions of this section:

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

274 (2) If the employee association represents employees as the
275 exclusive representative, such representative shall be immediately
276 decertified as the exclusive representative; and

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

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

283 10. The board may, in its discretion, conduct an investigation
284 when it deems it necessary in order to determine whether any person
285 has violated or has attempted to violate any provision of this section.
286 In connection with such investigation, the board may enter such places
287 and inspect such records and accounts and question such persons as it
288 may deem necessary to determine the facts relative to such
289 investigation. The board may report to interested persons or officials
290 concerning the facts required to be shown in any report required by
291 this section and concerning the reasons for failure or refusal to file
292 such a report or any other matter which it deems to be appropriate as
293 a result of such an investigation.

294 11. The board shall have authority to promulgate rules and
295 regulations as are necessary to enforce and implement the sections of
296 105.550 to 105.590. Any rule or portion of a rule, as that term is defined
297 in section 536.010 that is created under the authority delegated in this
298 section shall become effective only if it complies with and is subject to

299 all of the provisions of chapter 536, and, if applicable, section
300 536.028. This section and chapter 536 are nonseverable and if any of
301 the powers vested with the general assembly pursuant to chapter 536,
302 to review, to delay the effective date, or to disapprove and annul a rule
303 are subsequently held unconstitutional, then the grant of rulemaking
304 authority and any rule proposed or adopted after August 28, 2016, shall
305 be invalid and void.

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

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

✓

Bill

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