

SENATE BILL 1032

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 44; Title 8, Chapter 50 and Title 8, Chapter 23, relative to the function and operation of state employee associations or unions.

WHEREAS, a vital and productive work place is important for all state employees; and

WHEREAS, labor negotiations with state offices, impact the state and all of its citizens;

and

WHEREAS, Tennessee's employees have the right to organize; however, this right cannot detract from or inhibit the state and its various agencies from proceeding forward with its business; and

WHEREAS, the use of official "administrative leave" must be appropriately limited so that it does not have a detrimental impact on the state's boards and agencies; and

WHEREAS, work stoppages and strikes must be strictly prohibited because they are not protected by the NLRA and they endanger the entire operation of the state and its ability to deliver necessary services to the people; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-23-204 (b), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(b)

(1) Any employee of this state who engages or participates in a work stoppage or who authorizes or encourages a work stoppage commits gross misconduct, shall immediately and permanently forfeit the right to have deductions from compensation authorized in this section, and may be subject to immediate termination of employment. The commissioner of finance and

administration is authorized and required to cease and discontinue deducting membership dues under this section for an organization or association, if the commissioner determines that ten percent (10%) or more of the members of the organization or association in a single work location or facility have engaged in a work stoppage of any kind after June 19, 1981. If the organization or association has members at more than one (1) work location or facility, upon the determination that the members of an organization have engaged in a work stoppage, the commissioner shall cancel and revoke the deduction of membership dues for the members of the organization employed at the work location or facility where the work stoppage has occurred.

SECTION 2. Tennessee Code Annotated, Section 8-23-204(b), is amended by adding the following as a new subdivision thereto:

(4) A violation of subdivision (b)(1) shall be subject to a penalty of one thousand dollars (\$1,000) per day per violation.

SECTION 3. Tennessee Code Annotated, Section 8-44-201, is amended by adding the following language as a new subsection (e):

(e) Notwithstanding any other law to the contrary, all correspondence either written or electronic, all memorandums, documents, files, working papers, and any other information or documentation retained by any state department or agency in relation to a labor negotiation shall be considered a public document that must be produced upon written request within three (3) days of the date the request is received.

SECTION 4. Tennessee Code Annotated, Section 8-44-201, is amended by adding the following language as a new subsection (f):

(f) All labor negotiations between representatives of public employee unions or associations and representatives of the state shall be recorded and transcripts of the

proceeding shall be available on the state's web site within twenty-four (24) hours of the date and time that the meeting ends, and such transcripts shall remain online for a minimum of thirty (30) days.

SECTION 5. Tennessee Code Annotated, Section 8-50-109, is amended by deleting such section in its entirety and substituting instead the following:

(a) The chief elected officer of any employee association that has qualified for payroll deductions for association dues in accordance with § 8-23-204, shall, upon application to the employee's department head, be allowed up to twelve (12) months leave of absence without pay to perform the responsibilities and duties of such person's office, assuming that the leave request does not interfere with operation of that department. This subsection (a) shall not apply to a chief elected officer of any employee association who is under the executive grade pay plan or the doctor and dentist pay plan. At the option of such person, the person may be paid for any accrued annual leave or any accrued annual leave may be carried forward to such time as the person returns to such person's position in state government. In the event the person elects to be paid for annual leave, the period of time for the leave of absence without pay shall be accordingly reduced.

(b) At the end of the period of leave, any person who has taken such leave shall be entitled to return to the person's former position at the same place of employment in the same class or rank in the division or department which such person held prior to taking such leave.

(c) Any leave granted under this section shall not diminish any employee rights, including accrued but unused leave, longevity or those arising from longevity, or time in grade.

(d) Such person shall not be entitled during the period of such leave to the benefits that person is otherwise entitled to, including, but not limited to, insurance and retirement.

SECTION 6. Tennessee Code Annotated, Section 8-50-110, is amended by deleting such section in its entirety and substituting instead the following:

(a) Subject to the limitations established in this section, an officer or an employee who belongs to any employee association that is qualified for payroll deduction for association dues as set forth in § 8-23-204 shall be entitled to use one (1) day of the employee's accrued annual leave pursuant to part 8 of this chapter each year to attend a statewide meeting, conference, or convention of the association, so long as this leave does not disrupt the office's operation. The total number of officers or employees entitled to such annual leave shall not exceed two percent (2%) of the total number of employees who are members of the association according to the latest certification of the chief administrative officer made to the commissioner of finance and administration as required by § 8-23-204. Each such association may determine the method of allocating such leave among its members and shall, not more than thirty (30) nor less than fifteen (15) days prior to the date such leave is to be taken, certify to the commissioner of human resources the names of each person and that person's alternates who have been selected by the association as being entitled to such annual leave to attend the statewide meeting, conference, or convention.

(b) The first ten percent (10%) of the employees of any work unit shall be granted such absence from work with pay based upon accrued annual leave. More than ten percent (10%) of the employees of any work unit may be granted such absence from work with pay at the discretion of the head of the department or agency.

SECTION 7. This act shall take effect upon becoming law, the public welfare requiring it.