

House Engrossed Senate Bill

labor organizations; fiduciary guidelines; disclosure

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1268

AN ACT

AMENDING TITLE 23, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; RELATING TO LABOR RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 8, Arizona Revised Statutes, is
3 amended by adding article 7, to read:

4 ARTICLE 7. LABOR ORGANIZATIONS

5 23-1421. Labor organizations; fiduciary guidelines;
6 disclosure; accounting methods; benefit choice;
7 fringe benefit contributions; dues; contracts;
8 applicability; definition

9 A. NOTWITHSTANDING ANY OTHER LAW OF THIS STATE AND TO THE EXTENT
10 ALLOWED UNDER FEDERAL LAW, A LABOR ORGANIZATION THAT COLLECTS BENEFIT
11 MONIES OR UNION DUES IS SUBJECT TO SIMILAR FIDUCIARY GUIDELINES AS
12 REQUIRED BY EMPLOYERS OR THIRD-PARTY ADMINISTRATORS PROVIDING BENEFITS TO
13 EMPLOYEES IN THIS STATE, INCLUDING ALL OF THE FOLLOWING:

14 1. THE LABOR ORGANIZATION SHALL ANNUALLY DISCLOSE TO ITS MEMBERS
15 AND ITS MEMBERS' EMPLOYERS ALL OF THE FOLLOWING INFORMATION ON ONE
16 CONSOLIDATED STATEMENT:

17 (a) THE LABOR ORGANIZATION'S TOTAL REVENUE AND EXPENDITURES FOR
18 EACH BENEFIT CATEGORY WITHIN THIS STATE AND ON A NATIONAL LEVEL.

19 (b) THE PRICE OF EACH UNIT COLLECTED, WHICH IS TYPICALLY LISTED AS
20 AN HOURLY RATE FOR EACH BENEFIT CATEGORY BASED ON EMPLOYEE CLASSIFICATION.
21 THIS DISCLOSURE SHALL BE PROVIDED IN A MANNER THAT ALLOWS A MEMBER TO
22 DETERMINE THE AMOUNT OF BENEFIT MONIES THAT HAVE BEEN COLLECTED ON THE
23 MEMBER'S BEHALF.

24 (c) THE COST OF EACH BENEFIT PROVIDED TO THE MEMBER, WHICH IS
25 TYPICALLY LISTED AS A MONTHLY PREMIUM COST FOR INSURANCE PRODUCTS OR AS
26 ANOTHER FORMULA FOR NONINSURANCE BENEFITS. THIS COST DISCLOSURE SHALL BE
27 PROVIDED IN A MANNER THAT IS SUFFICIENTLY DETAILED TO ALLOW A MEMBER TO
28 DETERMINE THE TRUE COST OF THE BENEFIT PROVIDED ON THE MEMBER'S BEHALF.

29 (d) A LIST OF ANY PAYMENTS THAT THE LABOR ORGANIZATION MAKES DURING
30 THE YEAR FOR EACH BENEFIT CATEGORY.

31 (e) A RECONCILIATION AND EXPLANATION OF ANY DIFFERENCES BETWEEN ANY
32 AMOUNTS DISCLOSED PURSUANT TO SUBDIVISIONS (a) AND (d) OF THIS PARAGRAPH.

33 2. THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH 1 OF THIS
34 SUBSECTION SHALL BE MADE EACH YEAR, NOT LATER THAN SIXTY DAYS AFTER THE
35 END OF THE LABOR ORGANIZATION'S FISCAL YEAR OR THE FISCAL YEAR OF THE
36 SPECIFIC BENEFIT TRUST FUNDS, IF DIFFERENT. THE DISCLOSURE MUST BE SIGNED
37 BY AN OFFICER OF THE LABOR ORGANIZATION UNDER PENALTY OF PERJURY.

38 3. THE DISCLOSURE REQUIRED PURSUANT TO PARAGRAPH 1 OF THIS
39 SUBSECTION MUST BE EITHER:

40 (a) PROVIDED TO EACH MEMBER AND EACH MEMBER'S EMPLOYER EITHER AS A
41 PAPER MAILING OR VIA EMAIL.

42 (b) POSTED ON THE LABOR ORGANIZATION'S PUBLICLY VIEWABLE WEBSITE
43 EACH YEAR. IF A LABOR ORGANIZATION POSTS THE DISCLOSURE ON A PUBLICLY
44 VIEWABLE WEBSITE PURSUANT TO THIS SUBDIVISION, THE LABOR ORGANIZATION
45 SHALL BOTH:

1 (i) PROVIDE INSTRUCTIONS TO ITS MEMBERS ON HOW TO ACCESS THE
2 DISCLOSURE.

3 (ii) MAINTAIN THE PRIOR YEARS' DISCLOSURES ON THE SAME WEBSITE.

4 4. A LABOR ORGANIZATION BENEFIT PLAN MUST USE GENERALLY ACCEPTED
5 ACCOUNTING PRINCIPLES TO ACCOUNT FOR BENEFIT FUNDS IN A SIMILAR METHOD AS
6 REQUIRED BY AN EMPLOYER BENEFIT PLAN.

7 5. A MEMBER OF A LABOR ORGANIZATION MAY OBTAIN HEALTH AND WELFARE,
8 PENSION, VACATION, SICK OR HOLIDAY BENEFITS OF THE MEMBER'S CHOOSING
9 INSTEAD OF THE BENEFITS OFFERED BY THE LABOR ORGANIZATION. THE MEMBER HAS
10 THE ULTIMATE DISCRETION REGARDING WHICH BENEFITS THE MEMBER CHOOSES. IF
11 THE MEMBER CHOOSES:

12 (a) TO OBTAIN BENEFITS FROM THE MEMBER'S EMPLOYER, THE EMPLOYER MAY
13 WITHHOLD PAYMENT TO THE LABOR ORGANIZATION FOR THE HOURLY FRINGE CHARGE
14 FOR THOSE BENEFITS.

15 (b) TO OBTAIN BENEFITS FROM A PERSON OUTSIDE OF THE EMPLOYMENT
16 RELATIONSHIP, THE EMPLOYER SHALL WITHHOLD PAYMENT TO THE LABOR
17 ORGANIZATION FOR THAT PARTICULAR FRINGE BENEFIT CATEGORY AND FORWARD THE
18 MONIES TO THE EMPLOYEE OR BENEFIT PROVIDER, AS AGREED TO BY EMPLOYEE AND
19 EMPLOYER.

20 6. ANY FRINGE BENEFIT CONTRIBUTIONS THAT A UNION RECEIVES AND THAT
21 ARE IN EXCESS OF THE COSTS THAT THE UNION INCURS WITH RESPECT TO THAT
22 FRINGE BENEFIT MUST EITHER BE REFUNDED TO THE EMPLOYEE OR DEPOSITED INTO A
23 DEFINED CONTRIBUTION PLAN ON THE EMPLOYEE'S BEHALF WITHIN SEVENTY-FIVE
24 DAYS AFTER THE END OF THE YEAR.

25 7. A LABOR ORGANIZATION MAY NOT ACCEPT DUES OR BENEFITS
26 CONTRIBUTIONS FOR EMPLOYEES THAT HAVE NOT VOLUNTARILY JOINED THE LABOR
27 ORGANIZATION. ANY RESIDENT OF THIS STATE HAS STANDING IN A COURT OF THIS
28 STATE AGAINST THE LABOR ORGANIZATION FOR MONIES THAT ARE PAID TO A LABOR
29 ORGANIZATION ON BEHALF OF THE RESIDENT WITHOUT THE RESIDENT'S CONSENT.

30 8. AN INDIVIDUAL MAY NOT BE CONSIDERED TO BE A MEMBER OF A LABOR
31 ORGANIZATION, OR HAVE ANY UNION DUES OR UNION BENEFITS WITHHELD FROM THE
32 INDIVIDUAL OR THE INDIVIDUAL'S EMPLOYER, WITHOUT THE INDIVIDUAL'S
33 AFFIRMATIVE WRITTEN CONSENT. AN EMPLOYEE OR AN EMPLOYER MAY NOT PAY ANY
34 PENALTY OR FEE RELATED TO THE EMPLOYEE'S ABSTENTION OR RESIGNATION FROM
35 LABOR ORGANIZATION MEMBERSHIP.

36 B. THIS SECTION APPLIES TO ANY LABOR ORGANIZATION THAT IS
37 COLLECTING BENEFIT MONIES OR UNION DUES ON BEHALF OF A RESIDENT OF THIS
38 STATE OR AN EMPLOYER THAT IS DOMICILED WITHIN THIS STATE. THIS SECTION
39 DOES NOT APPLY TO LABOR ORGANIZATIONS FOR EMPLOYEES WORKING FOR THE STATE,
40 A POLITICAL SUBDIVISION OF THE STATE OR FEDERAL GOVERNMENTS.

41 C. NOTWITHSTANDING ANY OTHER LAW OF THIS STATE AND TO THE EXTENT
42 ALLOWED UNDER FEDERAL LAW, ANY MEMBER OR EMPLOYER WHO IS OTHERWISE
43 OBLIGATED TO CONTRIBUTE BENEFIT MONIES FOR A BENEFIT CATEGORY AS DEFINED
44 IN SUBSECTION D, PARAGRAPH 4 OR 5 OF THIS SECTION OR UNION DUES HAS NO
45 SUCH OBLIGATION DURING ANY TIME THAT THE LABOR ORGANIZATION IS IN

1 VIOLATION OF SUBSECTION A OF THIS SECTION. A LABOR ORGANIZATION THAT IS IN
2 VIOLATION OF SUBSECTION A OF THIS SECTION FOR MORE THAN THIRTY DAYS
3 FORFEITS THE LABOR ORGANIZATION'S CLAIM ON THE BENEFIT MONIES THE MEMBER
4 OR EMPLOYER WAS OBLIGATED TO CONTRIBUTE FOR A BENEFIT CATEGORY AS DEFINED
5 IN SUBSECTION D, PARAGRAPH 4 OR 5 OF THIS SECTION OR DUES DURING THE TIME
6 THE LABOR ORGANIZATION WAS IN VIOLATION OF SUBSECTION A OF THIS
7 SECTION. THIS SUBSECTION DOES NOT ALLOW A MEMBER OR EMPLOYER TO HALT
8 CONTRIBUTIONS FOR A BENEFIT CATEGORY AS DEFINED IN SUBSECTION D,
9 PARAGRAPHS 1 THROUGH 3 OF THIS SECTION, AND A LABOR ORGANIZATION DOES NOT
10 FORFEIT ITS CLAIM ON BENEFIT MONIES OR DUES FOR A BENEFIT CATEGORY AS
11 DEFINED IN SUBSECTION D, PARAGRAPH 1 THROUGH 3 OF THIS SECTION UNLESS IN
12 ACCORDANCE WITH AN ELECTION MADE BY THE MEMBER PURSUANT TO SUBSECTION A,
13 PARAGRAPH 5 OF THIS SECTION.

14 D. FOR THE PURPOSES OF THIS SECTION, "BENEFIT CATEGORY" INCLUDES
15 ANY COMBINATION OF ONE OR MORE OF THE FOLLOWING OR ADDITIONAL BENEFIT
16 CATEGORIES BUT MAY VARY FOR EACH LABOR ORGANIZATION:

- 17 1. HEALTH AND WELFARE.
- 18 2. PENSION.
- 19 3. VACATION, SICK OR HOLIDAY.
- 20 4. TRAINING.
- 21 5. OTHER.

22 Sec. 2. Severability

23 If a provision of this act or its application to any person or
24 circumstance is held invalid, the invalidity does not affect other
25 provisions or applications of the act that can be given effect without the
26 invalid provision or application, and to this end the provisions of this
27 act are severable.