

HOUSE BILL NO. 37

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE GATTO

Introduced: 1/20/09

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the relationship between employees and labor organizations;**
2 **prohibiting collective bargaining contracts that require employees to join a labor or**
3 **employee organization; extending the policy and limitations set out in this Act to public**
4 **employers and public employees subject to the Public Employment Relations Act; and**
5 **providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 23.10 is amended by adding new sections to article 7 to read:

8 **Sec. 23.10.441. Declaration of policy.** It is the policy of the state, in order to
9 maximize individual freedom of choice in the pursuit of employment and to encourage
10 an employment climate that is conducive to economic growth, that the right to work is
11 not subject to undue restraint or coercion. The right to work may not be infringed or
12 restricted in any way based on membership in, affiliation with, or financial support of
13 a labor organization or based on an individual's refusal to join, affiliate with, or

1 support in any way a labor organization.

2 **Sec. 23.10.443. Freedom of choice guaranteed.** (a) A person may not be
3 required as a condition of employment or of the continuation of employment to

4 (1) resign from or refrain from voluntary

5 (A) membership in a labor organization;

6 (B) affiliation with a labor organization;

7 (C) financial support of a labor organization;

8 (2) become or remain a member of a labor organization;

9 (3) pay dues, fees, assessments, or other charges of any kind to a labor
10 organization;

11 (4) pay to a charity or other third party, in lieu of payments to a labor
12 organization, dues, fees, assessments, or charges of any kind in an amount equivalent
13 to, or that is a pro rata portion of, the dues, fees, assessments, or other charges paid to
14 a labor organization;

15 (5) be referred, recommended, approved, or cleared for hiring or for
16 continued employment by or through a labor organization.

17 (b) An employer may deduct dues, fees, assessments, or other charges for a
18 labor organization from the compensation of an employee only if the employee has
19 authorized the deduction by filing a signed, written authorization for the deductions
20 with the employer. An employee may revoke an authorization filed under this
21 subsection at any time by giving written notice of the revocation to the employer.

22 (c) An agreement, understanding, or practice, whether written or oral, implied
23 or expressed, between a labor organization and an employer that violates the rights of
24 employees guaranteed by this section is void. A strike, picket, boycott, or other action
25 by a labor organization for the purpose of inducing or attempting to induce an
26 employer to enter into an agreement that is contrary to this section is a violation of this
27 section.

28 (d) A person, a labor organization, or an officer, agent, or member of a labor
29 organization may not

30 (1) compel or attempt to compel by means of a threat, intimidation, or
31 other coercion an employee to join, affiliate with, or financially support a labor

1 organization or to refrain from doing so; or

2 (2) cause or attempt to cause an employee to be denied employment or
3 discharged from employment by inducing or attempting to induce another person to
4 refuse to work with the employee because the employee supports or fails to support a
5 labor organization.

6 **Sec. 23.10.445. Criminal and civil penalties.** (a) A person who knowingly
7 violates a provision of AS 23.10.441 - 23.10.449 is guilty of a class B misdemeanor.
8 In this subsection, "knowingly" has the meaning given in AS 11.81.900.

9 (b) An employee who is injured as a result of a violation or threatened
10 violation of AS 23.10.441 - 23.10.449 is entitled to injunctive relief, damages, or both,
11 against a person who violates AS 23.10.441 - 23.10.449 to prevent or redress a
12 violation of those sections. A court may award costs and reasonable attorney fees
13 allowed under the Alaska Rules of Civil Procedure to a party entitled to injunctive
14 relief or damages.

15 (c) The attorney general shall investigate complaints of a violation of
16 AS 23.10.441 - 23.10.449 and shall prosecute persons who have violated
17 AS 23.10.441 - 23.10.449.

18 **Sec. 23.10.447. Relationship to federal law.** (a) The provisions of
19 AS 23.10.441 - 23.10.449 do not apply to

20 (1) federal employers and employees, including employers and
21 employees who are covered by the federal Railway Labor Act (45 U.S.C. 151 - 188);
22 or

23 (2) employers who operate within a federal enclave that is not subject
24 to state sovereignty.

25 (b) If a provision of AS 23.10.441 - 23.10.449 is preempted by or conflicts
26 with federal law in a particular situation, the provision does not apply to the extent of
27 the preemption or conflict.

28 **Sec. 23.10.449. Definition for AS 23.10.441 - 23.10.449.** In AS 23.10.441 -
29 23.10.449, "labor organization" means an organization of any kind, an agency, an
30 employee representation committee, or a union that exists at least partly for the
31 purpose of dealing with employers concerning wages, hours, and other terms and

1 conditions of employment.

2 * **Sec. 2.** AS 23.40.225 is repealed and reenacted to read:

3 **Sec. 23.40.225. Prohibition against union shop or agency shop provisions**
 4 **in collective bargaining agreements.** A public employer that enters into a collective
 5 bargaining agreement under AS 23.40.210 or an agreement entered into after
 6 arbitration under AS 23.40.200 shall comply with AS 23.10.441 - 23.10.449.

7 * **Sec. 3.** AS 23.40.110(b) is repealed.

8 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 9 read:

10 **APPLICABILITY.** This Act applies to

11 (1) a collective bargaining agreement or contract, or an agreement affecting
 12 parties to a collective bargaining agreement entered into under AS 23.40.070 - 23.40.260
 13 (Public Employment Relations Act) entered into because of an arbitration under
 14 AS 23.40.200, that is entered into on or after the effective date of this Act;

15 (2) an agreement, entered into on or after the effective date of this Act to
 16 renew or extend a collective bargaining agreement or contract; and

17 (3) an agreement entered into on or after the effective date of this Act that
 18 affects parties to a collective bargaining agreement entered into under AS 23.40.070 -
 19 23.40.260 (Public Employment Relations Act) because of an arbitration under AS 23.40.200.

20 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).