

# LEGAL SERVICES

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## MEMORANDUM

February 10, 2009

**SUBJECT:** Sectional summary (HB 37; Work Order No. 26-LS0203\A)

**TO:** Representative Carl Gatto  
Attn: Dirk Craft

**FROM:** Dan Wayne   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1** adds, to AS 23.10,

**Sec. 23.10.441** -- a declaration that it is the policy of the state that a person's right to work is not subject to undue restraint or coercion, including restriction of any kind by a labor organization;

**Sec 23.10.443** -- a proposal that

- would prohibit labor organizations from requiring that a person, as a condition of hire or continued employment, join, not join, or quit membership in a labor organization, or pay dues or other money to the labor organization or any other person, or be referred, recommended, approved, or cleared for work through a labor organization;
- union dues, fees, assessments or other union charges may be deducted from an employee's pay only if the employee has authorized it in a writing the employee is free to revoke at any time;
- prior agreements, understandings or practices contrary to the law proposed in Section 1 of the bill are void, and a strike or other action by a labor organization for the purpose of inducing an

employer to enter into an agreement that is contrary to the law proposed in Section 1 of the bill would be a violation of law; and

- a person, including a labor organization, may not coerce another person's decision to join or not join a labor organization, or try to injure their employment prospects because they support or fail to support a labor organization.

Sec. 23.10.445, a proposal that would make a knowing violation of the provisions in Section 1 of the bill a crime, require the attorney general to investigate criminal complaints, and give an employee injured by the violation or attempted violation the right to injunctive relief, civil damages, or both.

Sec. 23.10.447 -- a proposal that the provisions in AS 23.10.441 - 23.10.449 would not apply to certain employers and employees, and that if one of those provisions conflicts legally with federal law in a particular situation the provision does not apply to the extent of the conflict.

Sec. 23.10.449 -- proposes a definition of "labor organization" as that term is used in AS 23.10.441 - 23.10.449.

**Section 2** would repeal AS 23.40.225, which reads:

**Sec. 23.40.225. Exemption based on religious convictions.**

Notwithstanding the provisions of AS 23.40.220, a collective bargaining settlement reached, or agreement entered into, under AS 23.40.210 that incorporates union security provisions, including but not limited to a union shop or agency shop provision or agreement, shall safeguard the rights of nonassociation of employees having bona fide religious convictions based on tenets or teachings of a church or religious body of which an employee is a member. Upon submission of proper proof of religious conviction to the labor relations agency, the agency shall declare the employee exempt from becoming a member of a labor organization or employee association. The employee shall pay an amount of money equivalent to regular union or association dues, initiation fees, and assessments to the union or association. Nonpayment of this money subjects the employee to the same penalty as if it were nonpayment of dues. The receiving union or association shall contribute an equivalent amount of money to a charity of its choice not affiliated with a religious, labor, or employee organization. The union or association shall submit proof of contribution to the labor relations agency.

and reenact it to read:

**Sec. 23.40.225. Prohibition against union shop or agency shop provisions in collective bargaining agreements.** A public employer that enters into a collective bargaining agreement under AS 23.40.200 shall comply with AS 23.10.441 - 23.10.449.

**Section 3** would repeal AS 23.40.110(b), a statute allowing public employers to enter into exclusive representation agreements with labor organizations that make it a condition of employment for public employees to either join the labor organization and pay dues, or to not join the organization and, in lieu of membership dues, pay a fee for the services provided by the organization.

**Section 4** would limit applicability of the Act to prospective agreements related to collective bargaining.

**Section 5** would give the Act an immediate effective date.

DCW:plm  
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