

1993 SENATE BILL 459

September 29, 1993 - Introduced by Senators FARROW and HUELSMAN; cosponsored by Representatives VERGERONT, WALKER, LAZICH, LEHMAN, KROSNICKI, VRAKAS, SILBAUGH, BRANDEMUEHL, JOHNSRUD, URBAN, OWENS, SERATTI and LADWIG. Referred to Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs.

1 AN ACT to repeal 111.06 (1) (c) 2 to 4, 111.70 (1) (f) and (n), 111.81
2 (9), (12m) and (16) and 111.85; to renumber 111.04 and 111.82; to
3 renumber and amend 111.06 (1) (c) 1 and 111.70 (2); to amend 111.06
4 (1) (e) and (i), 111.39 (6), 111.70 (3) (a) 3 and 6, 111.70 (7m) (c)
5 1. a. and 111.84 (1) (c) and (f); and to create 111.02 (9m), 111.04
6 (2) to (6), 111.06 (1) (m) and (2) (n), 111.70 (2) (b) to (e), 111.70
7 (3) (a) 8 and (b) 7, 111.82 (2) to (5) and 111.84 (1) (g) and (2) (g)
8 of the statutes, relating to discrimination or denial of employment on
9 the basis of membership in, affiliation with or financial support of a
10 labor organization.

Analysis by the Legislative Reference Bureau

This bill creates a state "right to work" law. Under the bill, no person may be deprived of the right to work for any private or public employer in this state because of membership in, affiliation with, expulsion from or refusal to join any labor union. No person may refuse or deny employment to any person because of membership in, affiliation with, or resignation or withdrawal from, a labor union or because of refusal to join or affiliate with a labor union. No person may enter into any written or oral agreement to exclude from employment with any employer any member of a labor union or any person who does not belong to, or who refuses to join, or resign or withdraw from, a labor union. No person, either directly or indirectly, or as a prerequisite to or a condition of employment, may require any person to pay dues, charges, fees, contributions, fines or assessments to any labor union.

The bill also creates 2 new unfair labor practices. The bill makes it illegal for an employer to discriminate in regard to hiring, tenure or other terms or conditions of employment against an employe for failure to provide financial support to a labor union; and the bill makes it illegal for an employe, group of employes or labor union to interfere with,

restrain or coerce an employe for failure to provide financial support to a labor union.

Under current law, in private employment, an employer may enter into an "all-union" (union shop) agreement whereby any or all of the employes in a collective bargaining unit are required to be members of a single labor union, provided the employes in the unit, by majority vote at an election held by the national labor relations board or the Wisconsin employment relations commission, designate that union as their exclusive representative, or the employes, by majority vote in a separate referendum conducted by the employment relations commission, vote to authorize the agreement. Currently, in local government employment, the employer and a labor union representing local government employes may enter into a "fair-share" (agency shop) agreement, whereby any or all of the employes in a collective bargaining unit are required to pay their proportionate share of the cost of the collective bargaining and contract administration. The agreement may be terminated if a majority of the employes in the unit, in a referendum conducted by the employment relations commission, do not support continuation of the agreement. Currently, in state employment, the employes in a collective bargaining unit may vote to have the state and a labor union representing the employes enter into a fair-share or "maintenance of membership" agreement. Under a fair-share agreement, any or all of the employes in a collective bargaining unit are required to pay their proportionate share of the cost of collective bargaining and contract administration. Under a maintenance of membership agreement, union members and all employes in a collective bargaining unit who are hired after the effective date of the agreement are required to pay this cost. A fair-share agreement must be supported by at least two-thirds of the employes in the unit voting in the referendum to be effective, while a maintenance of membership agreement must be supported by at least a majority of the employes in the unit voting in the referendum to be effective. The bill deletes all provisions for all-union, fair-share and maintenance of membership agreements.

In addition, the bill provides that any employe may terminate a dues checkoff agreement under which union dues are withheld by the employer from an employe's pay upon at least 30 days' notice to the employer. Currently, the required notice extends in some cases to a period as long as a year, and does not apply if there is an all-union, fair-share or maintenance of membership agreement applicable to the employe in effect.

The bill applies to any current collective bargaining agreement containing inconsistent provisions upon the renewal, modification or extension of the agreement. The bill does not apply to employers or employes covered by the federal railway labor act.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly,

do enact as follows:

- 1 SECTION 1. 111.02 (9m) of the statutes is created to read:
2 111.02 (9m) "Labor organization" means any employe organization in
3 which employes participate and which exists for the purpose, in whole or

1 in part, of engaging in collective bargaining with any employer concerning
2 grievances, labor disputes, wages, hours or conditions of employment.

3 SECTION 2. 111.04 of the statutes is renumbered 111.04 (1).

4 SECTION 3. 111.04 (2) to (6) of the statutes are created to read:

5 111.04 (2) No person may be deprived of the right to work for any
6 employer because of membership in, affiliation with, withdrawal or expul-
7 sion from, or refusal to join, any labor organization. Any contract which
8 contravenes this subsection is void.

9 (3) No person may refuse or deny employment with any employer to any
10 person because of membership in, affiliation with, or resignation or
11 withdrawal from, a labor organization, or because of refusal to join or
12 affiliate with a labor organization.

13 (4) No person may enter into any written or oral agreement to exclude
14 from employment with any employer any member of a labor organization, or
15 any person who does not belong to, or who refuses to join, or resign or
16 withdraw from, a labor organization.

17 (5) No person, either directly or indirectly, or as a prerequisite to
18 or a condition of employment with any employer, may require any person to
19 pay dues, charges, fees, contributions, fines or assessments to any labor
20 organization.

21 (6) Subsections (2) to (5) do not apply to employers or employes
22 covered by the federal railway labor act (45 USC 151 et. seq.).

23 SECTION 4. 111.06 (1) (c) 1 of the statutes is renumbered 111.06 (1)
24 (c) and amended to read:

25 111.06 (1) (c) To encourage or discourage membership in any labor
26 organization, employe agency, committee, association or representation
27 plan by discrimination in regard to hiring, tenure or other terms or
28 conditions of employment. ~~An employer is not prohibited from entering~~

1 ~~into an all-union agreement with the voluntarily recognized representative~~
2 ~~of the employes in a collective bargaining unit, where at least a majority~~
3 ~~of such employes voting have voted affirmatively, by secret ballot, in~~
4 ~~favor of such all-union agreement in a referendum conducted by the~~
5 ~~commission, except that where the bargaining representative has been~~
6 ~~certified by either the commission or the national labor relations board~~
7 ~~as the result of a representation election, no referendum is required to~~
8 ~~authorize the entry into such an all-union agreement. Such authorization~~
9 ~~of an all-union agreement shall be deemed to continue thereafter, subject~~
10 ~~to the right of either party to the all-union agreement to petition the~~
11 ~~commission to conduct a new referendum on the subject. Upon receipt of~~
12 ~~such petition, the commission shall determine whether there is reasonable~~
13 ~~ground to believe that the employes concerned have changed their attitude~~
14 ~~toward the all-union agreement and upon so finding the commission shall~~
15 ~~conduct a referendum. If the continuance of the all-union agreement is~~
16 ~~supported on any such referendum by a vote at least equal to that provided~~
17 ~~in this subdivision for its initial authorization, it may be continued in~~
18 ~~force thereafter, subject to the right to petition for a further vote by~~
19 ~~the procedure set forth in this subdivision. If the continuance of the~~
20 ~~all-union agreement is not thus supported on any such referendum, it is~~
21 ~~deemed terminated at the termination of the contract of which it is then a~~
22 ~~part or at the end of one year from the date of the announcement by the~~
23 ~~commission of the result of the referendum, whichever is earlier. The~~
24 ~~commission shall declare any all-union agreement terminated whenever it~~
25 ~~finds that the labor organization involved has unreasonably refused to~~
26 ~~receive as a member any employe of such employer, and each such all-union~~
27 ~~agreement shall be made subject to this duty of the commission. Any~~
28 ~~person interested may come before the commission as provided in s. 111.07~~

1 ~~and ask the performance of this duty. Any all-union agreement in effect~~
2 ~~on October 4, 1975, made in accordance with the law in effect at the time~~
3 ~~it is made is valid.~~

4 SECTION 5. 111.06 (1) (c) 2 to 4 of the statutes are repealed.

5 SECTION 6. 111.06 (1) (e) and (i) of the statutes are amended to
6 read:

7 111.06 (1) (e) To bargain collectively with the representatives of
8 less than a majority of ~~his~~ the employer's employees in a collective bar-
9 gaining unit, or to enter into an all-union agreement ~~except in the manner~~
10 ~~provided in par. (e).~~

11 (i) To deduct labor organization dues or assessments from an
12 employe's earnings, unless the employer has been presented with an indi-
13 vidual order therefor, signed by the employe personally, and terminable at
14 ~~the end of any year of its life~~ by the employe giving at least ~~thirty~~ 30
15 days' written notice of ~~such~~ termination to the employer.

16 SECTION 7. 111.06 (1) (m) and (2) (n) of the statutes are created to
17 read:

18 111.06 (1) (m) To discriminate in regard to hiring, tenure or other
19 terms and conditions of employment against an employe for failure to pro-
20 vide financial support to a labor organization.

21 (2) (n) To interfere with, restrain or coerce an employe for failure
22 to provide financial support to a labor organization.

23 SECTION 8. 111.39 (6) of the statutes is amended to read:

24 111.39 (6) If an order issued under sub. (4) is unenforceable against
25 any labor organization in which membership is a privilege, the an employer
26 with whom the labor organization has an enforceable all-union shop agree-
27 ment shall not be held accountable under this chapter when if the employer

1 is not responsible for the discrimination, the unfair honesty testing or
2 the unfair genetic testing.

3 SECTION 9. 111.70 (1) (f) and (n) of the statutes are repealed.

4 SECTION 10. 111.70 (2) of the statutes is renumbered 111.70 (2) (a)
5 and amended to read:

6 111.70 (2) (a) Municipal employes shall have the right of
7 self-organization, and the right to form, join or assist labor
8 organizations, to bargain collectively through representatives of their
9 own choosing, and to engage in lawful, concerted activities for the pur-
10 pose of collective bargaining or other mutual aid or protection, and such
11 employes shall have the right to refrain from any and all such activities
12 ~~except that employes may be required to pay dues in the manner provided in~~
13 ~~a fair-share agreement. Such fair-share agreement shall be subject to the~~
14 ~~right of the municipal employer or a labor organization to petition the~~
15 ~~commission to conduct a referendum. Such petition must be supported by~~
16 ~~proof that at least 30% of the employes in the collective bargaining unit~~
17 ~~desire that the fair-share agreement be terminated. Upon so finding, the~~
18 ~~commission shall conduct a referendum. If the continuation of the agree-~~
19 ~~ment is not supported by at least the majority of the eligible employes,~~
20 ~~it shall be deemed terminated. The commission shall declare any fair-~~
21 ~~share agreement suspended upon such conditions and for such time as the~~
22 ~~commission decides whenever it finds that the labor organization involved~~
23 ~~has refused on the basis of race, color, sexual orientation, creed or sex~~
24 ~~to receive as a member any employe of the municipal employer in the bar-~~
25 ~~gaining unit involved, and such agreement shall be made subject to this~~
26 ~~duty of the commission. Any of the parties to such agreement or any~~
27 ~~municipal employe covered thereby may come before the commission, as pro-~~
28 ~~vided in s. 111.07, and ask the performance of this duty.~~

1 SECTION 11. 111.70 (2) (b) to (e) of the statutes are created to
2 read:

3 111.70 (2) (b) No person may be deprived of the right to work for any
4 municipal employer because of membership in, affiliation with, withdrawal
5 or expulsion from, or refusal to join, any labor organization. Any con-
6 tract which contravenes this paragraph is void.

7 (c) No person may refuse or deny employment with any municipal
8 employer to any person because of membership in, affiliation with, or
9 resignation or withdrawal from, a labor organization, or because of
10 refusal to join or affiliate with a labor organization.

11 (d) No person may enter into any written or oral agreement to exclude
12 from employment with any municipal employer any member of a labor
13 organization, or any person who does not belong to, or who refuses to
14 join, or resign or withdraw from, a labor organization.

15 (e) No person, either directly or indirectly, or as a prerequisite to
16 or a condition of employment with any municipal employer, may require any
17 person to pay dues, charges, fees, contributions, fines or assessments to
18 any labor organization.

19 SECTION 12. 111.70 (3) (a) 3 and 6 of the statutes are amended to
20 read:

21 111.70 (3) (a) 3. To encourage or discourage a membership in any
22 labor organization by discrimination in regard to hiring, tenure, or other
23 terms or conditions of employment; ~~but the prohibition shall not apply to~~
24 ~~a fair-share agreement.~~

25 6. To deduct labor organization dues from an employe's or
26 supervisor's earnings, unless the municipal employer has been presented
27 with an individual order therefor, signed by the municipal employe
28 personally, and terminable by ~~at least the end of any year of its life or~~

1 earlier by the municipal employe giving at least 30 days' written notice
2 of such termination to the municipal employer and to the representative
3 organization, ~~except where there is a fair share agreement in effect.~~

4 SECTION 13. 111.70 (3) (a) 8 and (b) 7 of the statutes are created to
5 read:

6 111.70 (3) (a) 8. To discriminate in regard to hiring, tenure or
7 other terms and conditions of employment against a municipal employe for
8 failure to provide financial support to a labor organization.

9 (b) 7. To interfere with, restrain or coerce a municipal employe for
10 failure to provide financial support to a labor organization.

11 SECTION 14. 111.70 (7m) (c) 1. a. of the statutes is amended to
12 read:

13 111.70 (7m) (c) 1. a. Any labor organization which violates sub. (4)
14 (L) shall be penalized by the suspension of any dues ~~check-off~~ checkoff
15 ~~agreement and fair share agreement~~ between the municipal employer and such
16 labor organization for a period of one year. At the end of the period of
17 suspension, any such agreement shall be reinstated unless the labor orga-
18 nization is no longer authorized to represent the municipal employes cov-
19 ered by such dues ~~check-off or fair share~~ checkoff agreement or the
20 agreement is no longer in effect.

21 SECTION 15. 111.81 (9), (12m) and (16) of the statutes are repealed.

22 SECTION 16. 111.82 of the statutes is renumbered 111.82 (1).

23 SECTION 17. 111.82 (2) to (5) of the statutes are created to read:

24 111.82 (2) No person may be deprived of the right to work for the
25 employer because of membership in, affiliation with, withdrawal or expul-
26 sion from, or refusal to join, any labor organization. Any contract which
27 contravenes this subsection is void.

1 (3) No person may refuse or deny employment with the employer to any
2 person because of membership in, affiliation with, or resignation or
3 withdrawal from, a labor organization, or because of refusal to join or
4 affiliate with a labor organization.

5 (4) No person may enter into any written or oral agreement to exclude
6 from employment with the employer any member of a labor organization, or
7 any person who does not belong to, or who refuses to join, or resign or
8 withdraw from, a labor organization.

9 (5) No person, either directly or indirectly, or as a prerequisite to
10 or a condition of employment with the employer, may require any person to
11 pay dues, charges, fees, contributions, fines or assessments to any labor
12 organization.

13 SECTION 18. 111.84 (1) (c) and (f) of the statutes are amended to
14 read:

15 111.84 (1) (c) To encourage or discourage membership in any labor
16 organization by discrimination in regard to hiring, tenure or other terms
17 or conditions of employment. ~~This paragraph does not apply to fair-share
18 or maintenance of membership agreements.~~

19 (f) To deduct labor organization dues from an employe's earnings,
20 unless the employer has been presented with an individual order therefor,
21 signed by the employe personally, and terminable by at least ~~the end of
22 any year of its life or earlier by the employe giving at least 30 but not
23 more than 120 days'~~ written notice of such termination to the employer and
24 to the representative labor organization, ~~except if there is a fair-share
25 or maintenance of membership agreement in effect.~~ The employer shall give
26 notice to the labor organization of receipt of such notice of termination.

27 SECTION 19. 111.84 (1) (g) and (2) (g) of the statutes are created to
28 read:

1 111.84 (1) (g) To discriminate in regard to hiring, tenure or other
2 terms and conditions of employment against an employe for failure to pro-
3 vide financial support to a labor organization.

4 (2) (g) To interfere with, restrain or coerce an employe for failure
5 to provide financial support to a labor organization.

6 SECTION 20. 111.85 of the statutes is repealed.

7 SECTION 21. INITIAL APPLICABILITY. This act first applies to a
8 collective bargaining agreement containing provisions inconsistent with
9 this act upon renewal, modification or extension of the agreement.

10

(End)