

Senate Engrossed

~~wage rates; technical correction~~
(now: labor organizations; fiduciary guidelines; definitions)

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SENATE BILL 1278

AN ACT

AMENDING SECTION 23-1421, ARIZONA REVISED STATUTES; RELATING TO LABOR ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 23-1421, Arizona Revised Statutes, is amended to
3 read:

4 23-1421. Labor organizations; fiduciary guidelines;
5 disclosure; accounting methods; benefit choice;
6 fringe benefit contributions; dues; contracts;
7 applicability; definitions

8 A. Notwithstanding any other law of this state and to the extent
9 allowed under federal law, a labor organization that collects benefit
10 monies or union dues is subject to similar fiduciary guidelines as
11 required by employers or third-party administrators providing benefits to
12 employees in this state, including all of the following:

13 1. The labor organization shall annually disclose to its members
14 and its members' employers all of the following information on one
15 consolidated statement:

16 (a) The labor organization's total revenue and expenditures for
17 each benefit category within this state and on a national level.

18 (b) The price of each unit collected, which is typically listed as
19 an hourly rate for each benefit category based on employee classification.
20 This disclosure shall be provided in a manner that allows a member to
21 determine the amount of benefit monies that have been collected on the
22 member's behalf.

23 (c) The cost of each benefit provided to the member, which is
24 typically listed as a monthly premium cost for insurance products or as
25 another formula for noninsurance benefits. This cost disclosure shall be
26 provided in a manner that is sufficiently detailed to allow a member to
27 determine the true cost of the benefit provided on the member's behalf.

28 (d) A list of any payments that the labor organization makes during
29 the year for each benefit category.

30 (e) A reconciliation and explanation of any differences between any
31 amounts disclosed pursuant to subdivisions (a) and (d) of this paragraph.

32 2. The disclosure required ~~pursuant to~~ BY paragraph 1 of this
33 subsection shall be made each year, not later than sixty days after the
34 end of the labor organization's fiscal year or the fiscal year of the
35 specific benefit trust funds, if different. The disclosure must be signed
36 by an officer of the labor organization under penalty of perjury.

37 3. The disclosure required ~~pursuant to~~ BY paragraph 1 of this
38 subsection must be either:

39 (a) Provided to each member and each member's employer either as a
40 paper mailing or via email.

41 (b) Posted on the labor organization's publicly viewable website
42 each year. If a labor organization posts the disclosure on a publicly
43 viewable website pursuant to this subdivision, the labor organization
44 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 THE employee
19 and 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~~ WHO 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~~ THAT is otherwise
43 obligated to contribute benefit monies for a benefit category as defined
44 in subsection D, paragraph ~~4 or 5~~ 1, SUBDIVISION (d) OR (e) of this
45 section or union dues has no such obligation during any time that the

1 labor organization is in violation of subsection A of this section. A
2 labor organization that is in violation of subsection A of this section
3 for more than thirty days forfeits the labor organization's claim on the
4 benefit monies the member or employer was obligated to contribute for a
5 benefit category as defined in subsection D, paragraph ~~4 or 5~~ 1,
6 SUBDIVISION (d) OR (e) of this section or dues during the time the labor
7 organization was in violation of subsection A of this section. This
8 subsection does not allow a member or employer to halt contributions for a
9 benefit category as defined in subsection D, ~~paragraphs~~ PARAGRAPH 1,
10 ~~through 3~~ SUBDIVISIONS (a) THROUGH (c) of this section, and a labor
11 organization does not forfeit its claim on benefit monies or dues for a
12 benefit category as defined in subsection D, paragraph 1, ~~through 3~~
13 SUBDIVISIONS (a) THROUGH (c) of this section unless in accordance with an
14 election made by the member pursuant to subsection A, paragraph 5 of this
15 section.

16 D. For the purposes of this section: ~~---~~
17 1. "Benefit category" includes any combination of one or more of
18 the following or additional benefit categories but may vary for each labor
19 organization:

- 20 ~~1.~~ (a) Health and welfare.
- 21 ~~2.~~ (b) Pension.
- 22 ~~3.~~ (c) Vacation, sick or holiday.
- 23 ~~4.~~ (d) Training.
- 24 ~~5.~~ (e) Other.

25 2. "LABOR ORGANIZATION":

26 (a) INCLUDES ANY RECOGNIZED LABOR ORGANIZATION AS DEFINED IN
27 SECTION 23-1301 AND ANY TAFT-HARTLEY ACT TRUST BENEFIT PLAN THAT IS
28 JOINTLY OPERATED BY A LABOR ORGANIZATION.

29 (b) DOES NOT INCLUDE AN EMPLOYER-SPONSORED BENEFIT PLAN THAT IS NOT
30 MANAGED BY A LABOR ORGANIZATION.