

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1465
93RD GENERAL ASSEMBLY

Reported from the Committee on Workforce Development and Workplace Safety April 11, 2006 with recommendation that House Committee Substitute for House Bill No. 1465 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

4437L.02C

AN ACT

To amend chapter 295, RSMo, by adding thereto twenty-six new sections relating to labor organizations, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 295, RSMo, is amended by adding thereto twenty-six new sections,
2 to be known as sections 295.400, 295.402, 295.404, 295.406, 295.408, 295.410, 295.412,
3 295.414, 295.416, 295.418, 295.420, 295.422, 295.424, 295.426, 295.428, 295.430, 295.432,
4 295.434, 295.436, 295.438, 295.440, 295.442, 295.444, 295.446, 295.448, and 295.450, to read
5 as follows:

295.400. As used in sections 295.400 to 295.450 the following terms shall mean:

- 2 **(1) "Agency", every governmental subdivision, every district, every public and**
3 **quasi-public corporation, every public agency and public service corporation, and every**
4 **town, city, county, city and county and municipal corporation, whether incorporated or**
5 **not and whether chartered or not, of this state;**
6 **(2) "Circuit court", any circuit court of this state;**
7 **(3) "Department", the department of labor and industrial relations created under**
8 **chapter 286, RSMo;**
9 **(4) "Employee", any individual employed by an agency, except where the term is**
10 **used in reference to an individual employed by a labor organization, and includes any**
11 **individual whose work has ceased because of any unfair labor practice or because of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 exclusion or expulsion from a labor organization in any manner or for any reason
13 inconsistent with the requirements of sections 295.400 to 295.450;

14 (5) "Employer", any employer or any group or association of employers which is
15 an employer within the meaning of any law of this state or of the United States, but does
16 not include the United States or any corporation wholly owned by the United States;

17 (6) "Labor organization", an organization in which employees participate, and
18 which exists for the purpose, in whole or in part, of dealing with an agency concerning
19 grievances or conditions of employment;

20 (7) "Member" or "member in good standing", when used in reference to a labor
21 organization, includes any person who has fulfilled the requirements for membership in
22 such organization, and who neither has voluntarily withdrawn from membership nor has
23 been expelled or suspended from membership after appropriate proceedings consistent
24 with lawful provisions of the constitution and bylaws of such organization;

25 (8) "Officer", any constitutional officer, any person authorized to perform the
26 functions of president, vice president, secretary, treasurer, or other executive functions of
27 a labor organization, and any member of its executive board or similar governing body;

28 (9) "Officer, agent, shop steward, or other representative", when used with respect
29 to a labor organization, includes elected officials and key administrative personnel,
30 whether elected or appointed, such as business agents, heads of departments or major
31 units, and organizers who exercise substantial independent authority, but does not include
32 salaried nonsupervisory professional staff, stenographic, and service personnel;

33 (10) "Person", one or more individuals, labor organizations, or agencies;

34 (11) "Secret ballot", the expression by ballot, voting machine, or otherwise, but in
35 no event by proxy, of a choice with respect to any election or vote taken upon any matter,
36 which is cast in such a manner that the person expressing such choice cannot be identified
37 with the choice expressed;

38 (12) "Trust in which a labor organization is interested", a trust or other fund or
39 organization:

40 (a) Which was created or established by a labor organization, or one or more of the
41 trustees or one or more members of the governing body of which is selected or appointed
42 by a labor organization; and

43 (b) A primary purpose of which is to provide benefits for the members of such
44 labor organization or their beneficiaries;

45 (13) "Trusteeship", any receivership, trusteeship, or other method of supervision
46 or control whereby a labor organization suspends the autonomy otherwise available to a
47 subordinate body under its constitution or bylaws.

295.402. 1. (1) Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments or opinions; and to express at meetings of the labor organization his or her views, upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings. Provided, however, that nothing in this subdivision shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his or her refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(3) The rates of dues and initiation fees payable by members of any labor organization in effect on the date of enactment of sections 295.400 to 295.450 shall not be increased, and no general or special assessment shall be levied upon such members, except:

(a) In the case of a local labor organization:

a. By majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question; or

b. By majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

(b) In the case of a labor organization other than a local labor organization:

a. By majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than thirty days' written notice to the principal office of each local or constituent labor organization entitled to such notice; or

b. By majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot; or

c. By majority vote of the members of the executive board or similar governing body of such labor organization, under express authority contained in the constitution and bylaws of such labor organization. Provided, however, that such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

36 **(4) No labor organization shall limit the right of any member thereof to institute**
37 **an action in any court, or in a proceeding before any administrative agency, irrespective**
38 **of whether the labor organization or its officers are named as defendants or respondents**
39 **in such action or proceeding, or the right of any member of a labor organization to appear**
40 **as a witness in any judicial, administrative, or legislative proceeding, or to petition any**
41 **legislature or to communicate with any legislator. Provided, however, that any such**
42 **member may be required to exhaust reasonable hearing procedures, but not to exceed a**
43 **four-month lapse of time, within such organization, before instituting legal or**
44 **administrative proceedings against such organizations or any officer thereof. In addition,**
45 **no interested employer shall directly or indirectly finance, encourage, or participate in,**
46 **except as a party, any such action, proceeding, appearance, or petition.**

47 **2. Any provision of the constitution and bylaws of any labor organization that is**
48 **inconsistent with the provisions of this section shall be of no force or effect.**

295.404. 1. Any person whose rights secured by the provisions of sections 295.400
2 **to 295.450 have been infringed by any violation of sections 295.400 to 295.450 may bring**
3 **a civil action in the circuit court for such relief, including injunctions, as may be**
4 **appropriate.**

5 **2. Any such action against a labor organization shall be brought in the circuit court**
6 **where the alleged violation occurred, or where the labor organization maintains its**
7 **principal office.**

295.406. Nothing contained in sections 295.400 to 295.450 shall limit the rights and
2 **remedies of any member of a labor organization under any law or before any court or**
3 **other tribunal, or under the constitution and bylaws of any labor organization.**

295.408. 1. In the case of a local labor organization, it shall be the duty of the
2 **secretary or corresponding principal officer of each labor organization to forward a copy**
3 **of each collective bargaining agreement made by such labor organization with any agency**
4 **to any employee who requests such a copy and whose rights as such employee are directly**
5 **affected by such agreement.**

6 **2. In the case of a labor organization other than a local labor organization, it shall**
7 **be the duty of the secretary or corresponding principal officer of each labor organization**
8 **to forward a copy of any collective bargaining agreement made by such labor organization**
9 **with any agency to each constituent unit which has members directly affected by such**
10 **agreement; and such officer shall maintain at the principal office of the labor organization**
11 **of which he or she is an officer copies of any such agreement made or received by such**
12 **labor organization, which copies shall be available for inspection by any member or by any**
13 **employee whose rights are affected by such agreement.**

14 **3. The provisions of section 295.428 shall be applicable in the enforcement of this**
15 **section.**

295.410. 1. Every labor organization shall inform its members concerning the
2 **provisions of sections 295.400 to 295.450.**

3 **2. The provisions of section 295.428 shall be applicable in the enforcement of this**
4 **section.**

295.412. 1. Every labor organization shall adopt a constitution and bylaws and
2 **shall file a copy thereof with the department, together with a report, signed by its president**
3 **and secretary or corresponding principal officers, containing the following information:**

4 **(1) The name of the labor organization, its mailing address, and any other address**
5 **at which it maintains its principal office or at which it keeps the records referred to under**
6 **sections 295.412 to 295.432;**

7 **(2) The name and title of each of its officers;**

8 **(3) The initiation fee or fees required from a new or transferred member and fees**
9 **for work permits required by the reporting labor organization;**

10 **(4) The regular dues or fees or other periodic payments required to remain a**
11 **member of the reporting labor organization; and**

12 **(5) Detailed statements, or references to specific provisions of documents filed**
13 **under this subsection which contain such statements showing the provisions made and**
14 **procedures followed with respect to each of the following:**

15 **(a) Qualifications for, or restrictions on, membership;**

16 **(b) Levying of assessments;**

17 **(c) Participating in insurance or other benefit plans;**

18 **(d) Authorization for disbursement of funds of the labor organization;**

19 **(e) Audit of financial transactions of the labor organization;**

20 **(f) The calling of regular and special meetings;**

21 **(g) The selection of officers and stewards and of any representatives to other bodies**
22 **composed of labor organization's representatives with a specific statement of the manner**
23 **in which each officer was elected, appointed, or otherwise selected;**

24 **(h) Discipline or removal of officers or agents for breaches of their trust;**

25 **(i) Imposition of fines, suspensions, and expulsions of members, including the**
26 **grounds for such action and any provision made for notice, hearing, judgment on the**
27 **evidence, and appeal procedures;**

28 **(j) Authorization for bargaining demands;**

29 **(k) Ratification of contract terms;**

30 **(l) Authorization for strikes; and**

31 **(m) Issuance of work permits.**

32

33 **Any change in the information required by this subsection shall be reported to the**
34 **department at the time the reporting labor organization files with the department the**
35 **annual financial report required by subsection 2 of this section.**

36 **2. Every labor organization shall file annually with the department within ninety**
37 **days of the end of its fiscal year, a financial report signed by its president and treasurer or**
38 **corresponding principal officers containing the following information in such detail as may**
39 **be necessary to disclose accurately its financial condition and operations for its preceding**
40 **fiscal year:**

41 **(1) Assets and liabilities at the beginning and end of the fiscal year;**

42 **(2) Receipts of any kind and the sources thereof;**

43 **(3) Salary, allowances, and other direct or indirect disbursements, including**
44 **reimbursed expenses, to each officer and also to each employee who, during such fiscal**
45 **year, received more than ten thousand dollars in the aggregate from such labor**
46 **organization and any other labor organization affiliated with it or with which it is**
47 **affiliated, or which is affiliated with the same parent body;**

48 **(4) Direct and indirect loans made to any officer, employee, or member, which**
49 **aggregated more than two hundred fifty dollars during the fiscal year, together with a**
50 **statement of the purpose, security, if any, and arrangements for repayment;**

51 **(5) Direct and indirect loans to any business enterprise, together with a statement**
52 **of the purpose, security, if any, and arrangements for repayment; and**

53 **(6) Other disbursements made by it including the purposes thereof, all in such**
54 **categories as the department may prescribe.**

55 **3. Every labor organization required to submit a report under sections 295.412 to**
56 **295.432 shall make available the information required to be contained in such report to all**
57 **of its members, and every such labor organization and its officers shall be under a duty**
58 **enforceable at the suit of any member of such organization in the circuit court where the**
59 **labor organization maintains its principal office or in any court of competent jurisdiction**
60 **to permit such member for just cause to examine any books, records, and accounts**
61 **necessary to verify such report.**

295.414. 1. Every officer of a labor organization and every employee of a labor
2 **organization, other than an employee performing exclusively clerical or custodial services,**
3 **shall file with the department within ninety days of the end of its fiscal year, a signed**
4 **report listing and describing for his or her preceding fiscal year:**

5 (1) Any stock, bond, security, or other interest, legal or equitable, which he or she
6 or his or her spouse or minor child directly or indirectly held in, and any income or any
7 other benefit with monetary value, including reimbursed expenses, which he or she or his
8 or her spouse or minor child directly or indirectly derived from, any business any part of
9 which consists of buying from, selling or leasing to, or otherwise dealing with, an agency
10 whose employees such labor organization represents or is actively seeking to represent;

11 (2) Any stock, bond, security, or other interest, legal or equitable, which he or she
12 or his or her spouse or minor child directly or indirectly held in, and any income or any
13 other benefit with monetary value, including reimbursed expenses, which he or she or his
14 or her spouse or minor child directly or indirectly derived from, a business any part of
15 which consists of buying from, or selling or leasing directly or indirectly to, or otherwise
16 dealing with such labor organization;

17 (3) Any direct or indirect business transaction or arrangement between him or her
18 or his or her spouse or minor child and any agency whose employees his organization
19 represents or is actively seeking to represent, except work performed and payments and
20 benefits received as a bona fide employee of such agency and except purchases and sales
21 of goods or services in the regular course of business at prices generally available to any
22 employee of such agency; and

23 (4) Any payment of money or other thing of value, including reimbursed expenses,
24 which he or she or his or her spouse or minor child received directly or indirectly from any
25 person who acts as a labor relations consultant to an employer.

26 2. The provisions of subdivisions (1) to (4) of subsection 1 of this section shall not
27 be construed to require any such officer or employee to report his or her bona fide
28 investments in securities traded on a securities exchange registered as a national securities
29 exchange under the Securities Exchange Act of 1934, in shares in an investment company
30 registered under the Investment Company Act or in securities of a public utility holding
31 company registered under the Public Utility Holding Company Act of 1935, or to report
32 any income derived therefrom.

295.416. Nothing contained in sections 295.400 to 295.450 shall be construed to
2 require an attorney who is a member in good standing of the bar of any state, to include
3 in any report required to be filed under the provisions of sections 295.400 to 295.450 any
4 information which was lawfully communicated to such attorney by any of his or her clients
5 in the course of a legitimate attorney-client relationship.

295.418. 1. The contents of the reports and documents filed with the department
2 under sections 295.412, 295.414, and 295.430 shall be public information, and the
3 department may publish any information and data which it obtains under the provisions

4 of sections 295.412 to 295.432. The department may use the information and data for
5 statistical and research purposes, and compile and publish such studies, analyses, reports,
6 and surveys based thereon as it may deem appropriate.

7 2. The department shall by regulation make reasonable provision for the inspection
8 and examination, on the request of any person, of the information and data contained in
9 any report or other document filed with it under sections 295.412, 295.414, and 295.430.

10 3. The department shall by regulation provide for the furnishing of copies of
11 reports or other documents filed with the department under sections 295.412 to 295.432,
12 upon a charge based upon the cost of the service.

13 4. No person shall be required to furnish to the department any information
14 included in a report filed by such person with the United States Secretary of Labor under
15 29 U.S.C. 431 to 29 U.S.C. 441 if such report is furnished to the department under 29
16 U.S.C. 435(c).

295.420. Every person required to file any report under sections 295.412 to 295.432
2 shall maintain records on the matters required to be reported which will provide in
3 sufficient detail the necessary basic information and data from which the documents filed
4 with the department may be verified, explained or clarified, and checked for accuracy and
5 completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions,
6 and shall keep such records available for examination for a period of not less than five
7 years after the filing of the documents based on the information which they contain.

295.422. 1. Each labor organization shall file the initial report required under
2 subsection 1 of section 295.412 within ninety days after the date on which it first becomes
3 subject to sections 295.400 to 295.450.

4 2. Each person required to file a report under subsection 2 of section 295.412,
5 section 295.414, or section 295.430 shall file such report within ninety days after the end
6 of each of its fiscal years; except that where such person is subject to subsection 2 of section
7 295.412, section 295.414, or section 295.430, as the case may be, for only a portion of such
8 a fiscal year, because the date of enactment of sections 295.400 to 295.450 occurs during
9 such person's fiscal year or such person becomes subject to sections 295.400 to 295.450
10 during its fiscal year, such person may consider that portion as the entire fiscal year in
11 making such report.

295.424. 1. The department shall have authority to issue, amend, and rescind rules
2 prescribing the form and publication of reports required to be filed under sections 295.412
3 to 295.432 and such other reasonable rules, including rules prescribing reports concerning
4 trusts in which a labor organization is interested, as the department may find necessary
5 to prevent the circumvention or evasion of such reporting requirements.

6 2. The department shall prescribe by general rule simplified reports for labor
7 organizations for whom the department finds that by virtue of their size a detailed report
8 would be unduly burdensome, but the department may revoke such provision for
9 simplified forms of any labor organization if the department determines, after such
10 investigation as the department deems proper and due notice and opportunity for a
11 hearing, that the purposes of this section would be served thereby.

12 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
13 that is created under the authority delegated in this section shall become effective only if
14 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
15 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
16 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
17 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
18 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
19 adopted after August 28, 2006, shall be invalid and void.

295.426. 1. Any person who willfully violates sections 295.412 to 295.432 shall be
2 fined not more than ten thousand dollars or imprisoned for not more than one year, or
3 both.

4 2. Any person who makes a false statement or representation of a material fact,
5 knowing it to be false, or who knowingly fails to disclose a material fact, in any document,
6 report, or other information required under the provisions of sections 295.412 to 295.432
7 shall be fined not more than ten thousand dollars or imprisoned for not more than one
8 year, or both.

9 3. Any person who willfully makes a false entry in or willfully conceals, withholds,
10 or destroys any books, records, reports, or statements required to be kept by any provision
11 of sections 295.412 to 295.432 shall be fined not more than ten thousand dollars or
12 imprisoned for not more than one year, or both.

13 4. Each individual required to sign reports under section 295.412 shall be
14 personally responsible for the filing of such reports and for any statement contained
15 therein which he or she knows to be false.

295.428. 1. Whenever it shall appear that any person has violated or is about to
2 violate any of the provisions of sections 295.412 to 295.432, the department may bring a
3 civil action for such relief, including injunctions, as may be appropriate.

4 2. Any such action may be brought in the circuit court where the alleged violation
5 occurred or where the labor organization maintains its principal office.

295.430. Each surety company which issues any bond required by sections 295.400
2 to 295.450 shall file annually with the department, with respect to each fiscal year during

3 which any such bond was in force, a report, in such form and detail as the department may
4 prescribe by regulation, filed by the president and treasurer or corresponding principal
5 officers of the surety company, describing its bond experience under sections 295.400 to
6 295.450, including information as to the premiums received, total claims paid, amounts
7 recovered by way of subrogation, administrative and legal expenses and such related data
8 and information as the department shall determine to be necessary in the public interest
9 and to carry out the policy of sections 295.400 to 295.450.

295.432. The provisions of sections 295.412 to 295.432 shall not apply to any labor
2 organization required to file annual or semiannual disclosure reports under the federal
3 Labor Management Reporting and Disclosure Act.

295.434. 1. The officers, agents, shop stewards, and other representatives of a labor
2 organization occupy positions of trust in relation to such organization and its members as
3 a group. It is, therefore, the duty of each such person, taking into account the special
4 problems and functions of a labor organization, to hold its money and property solely for
5 the benefit of the organization and its members and to manage, invest, and expend the
6 same in accordance with its constitution and bylaws and any resolutions of the governing
7 bodies adopted thereunder, to refrain from dealing with such organization as an adverse
8 party or in behalf of an adverse party in any matter connected with such person's duties
9 and from holding or acquiring any pecuniary or personal interest which conflicts with the
10 interests of such organization, and to account to the organization for any profit received
11 by him or her in whatever capacity in connection with transactions conducted by him or
12 her or under his or her direction on behalf of the organization. A general exculpatory
13 provision in the constitution and bylaws of such a labor organization or a general
14 exculpatory resolution of a governing body purporting to relieve any such person of
15 liability for breach of the duties declared by this section shall be void as against public
16 policy.

2. When any officer, agent, shop steward, or representative of any labor
18 organization is alleged to have violated the duties declared in subsection 1 of this section
19 and the labor organization or its governing board or officers refuse or fail to sue or recover
20 damages or secure an accounting or other appropriate relief within a reasonable time after
21 being requested to do so by any member of the labor organization, such member may sue
22 such officer, agent, shop steward, or representative in the circuit court where the labor
23 organization maintains its principal office or in any court of competent jurisdiction to
24 recover damages or secure an accounting or other appropriate relief for the benefit of the
25 labor organization. No such proceeding shall be brought except upon leave of the court
26 obtained upon verified application and for good cause shown which application may be

27 made ex parte. The trial judge may allot a reasonable part of the recovery in any action
28 under this subsection to pay the fees of counsel prosecuting the suit at the instance of the
29 member of the labor organization and to compensate such member for any expenses
30 necessarily paid or incurred by him in connection with the litigation.

31 3. Any person who embezzles, steals, or unlawfully and willfully abstracts or
32 converts to his or her own use, or the use of another, any of the moneys, funds, securities,
33 property, or other assets of a labor organization of which he or she is an officer, or by
34 which he or she is employed, directly or indirectly, shall be fined not more than ten
35 thousand dollars or imprisoned for not more than five years, or both.

295.436. 1. Every officer, agent, shop steward, or other representative or employee
2 of any labor organization, other than a labor organization whose property and annual
3 financial receipts do not exceed five thousand dollars in value, or of a trust in which a labor
4 organization is interested, who handles funds or other property thereof shall be bonded to
5 provide protection against loss by reason of acts of fraud or dishonesty on his or her part
6 directly or through connivance with others.

7 2. The bond of each such person shall be fixed at the beginning of the
8 organization's fiscal year and shall be in an amount not less than ten per centum of the
9 funds handled by him or her and his or her predecessor or predecessors, if any, during the
10 preceding fiscal year, but in no case more than five hundred thousand dollars.

11 3. If the labor organization or the trust in which a labor organization is interested
12 does not have a preceding fiscal year, the amount of the bond shall be, in the case of a local
13 labor organization, not less than one thousand dollars, and in the case of any other labor
14 organization or of a trust in which a labor organization is interested, not less than ten
15 thousand dollars.

16 4. Such bonds shall be individual or schedule in form, and shall have a corporate
17 surety company as surety thereon. Any person who is not covered by such bonds shall not
18 be permitted to receive, handle, disburse, or otherwise exercise custody or control of the
19 funds or other property of a labor organization or of a trust in which a labor organization
20 is interested. No such labor organization or any officer, agent, shop steward, or other
21 representative of a labor organization has any direct or indirect interest.

22 5. Such surety company shall be a corporate surety, licensed to do business in the
23 state, as an acceptable surety on bonds. Provided, however, that when in the opinion of the
24 department a labor organization has made other bonding arrangements which would
25 provide the protection required by this section at a comparable cost or less, the department
26 may exempt such labor organization from placing a bond through a surety company
27 holding such grant of authority.

28 **6. Any person who willfully violates this section shall be fined not more than ten**
29 **thousand dollars or imprisoned for not more than one year, or both.**

295.438. 1. No labor organization shall make directly or indirectly any loan or
2 **loans to any officer or employee of such organization which results in a total indebtedness**
3 **on the part of such officer or employee to the labor organization in excess of two thousand**
4 **dollars.**

5 **2. No labor organization or agency shall directly or indirectly pay the fine of any**
6 **officer or employee convicted of any willful violation of sections 295.400 to 295.450.**

7 **3. Any person who willfully violates this section shall be fined not more than five**
8 **thousand dollars or imprisoned for not more than one year, or both.**

295.440. 1. No person who has been convicted of, or served any part of a prison
2 **term resulting from his or her conviction of robbery, bribery, extortion, embezzlement,**
3 **grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with**
4 **intent to kill, assault which inflicts grievous bodily injury, or a violation of sections 295.412**
5 **to 295.440, any felony involving abuse or misuse of such person's position or employment**
6 **in a labor organization or employee benefit plan to seek or obtain an illegal gain at the**
7 **expense of the members of the labor organization or the beneficiaries of the employee**
8 **benefit plan, or conspiracy to commit any such crimes or attempt to commit any such**
9 **crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be**
10 **permitted to serve:**

11 **(1) As a consultant or adviser to any labor organization;**

12 **(2) As an officer, director, trustee, member of any executive board or similar**
13 **governing body, business agent, manager, organizer, employee, or representative in any**
14 **capacity of any labor organization;**

15 **(3) As a labor relations consultant or adviser to any person, employer, or agency,**
16 **or as an officer, director, agent, or representative of any group or association of employers**
17 **dealing with any labor organization, or in a position having specific collective bargaining**
18 **authority or direct responsibility in the area of labor management relations in any**
19 **corporation or association;**

20 **(4) In a position which entitles its occupant to a share of the proceeds of, or as an**
21 **officer or representative of, any entity whose activities are in whole or substantial part**
22 **devoted to providing goods or services to any labor organization; or**

23 **(5) In any capacity, other than in his or her capacity as a member of such labor**
24 **organization, that involves decision making authority concerning, or decision making**
25 **authority over, or custody of, or control of the moneys, funds, assets, or property of any**
26 **labor organization, subject to the provisions in subsection 2 of this section.**

27 **2. During the period of thirteen years after a conviction as determined in subsection**
28 **1 of this section, or after the end of such imprisonment, whichever is later, no person shall**
29 **serve in any capacity referred to in subdivisions (1) to (5) of subsection 1 of this section**
30 **unless:**

31 **(1) The sentencing court on the motion of the person convicted sets a lesser period**
32 **of at least three years after such conviction or after the end of such imprisonment,**
33 **whichever is later; or**

34 **(2) Prior to the end of such period, in the case of a person so convicted or**
35 **imprisoned, his or her citizenship rights, having been revoked as a result of such**
36 **conviction, have been fully restored; or**

37 **(3) The offense is an offense in this state, and the sentencing judge or, if the offense**
38 **is a federal offense or an offense in another state, the circuit court in the county in which**
39 **the individual resides, under any state sentencing guidelines and policy guidance,**
40 **determines that such person's service in any capacity referred to in subdivisions (1) to (5)**
41 **of subsection 1 of this section would not be contrary to the purposes of sections 295.400 to**
42 **295.450. Prior to making any such determination, the court shall hold a hearing and shall**
43 **give notice of such proceeding by certified mail to the department and to state, county, and**
44 **federal prosecuting officials in the jurisdiction or jurisdictions in which such person was**
45 **convicted. The court's determination in any such proceeding shall be final.**

46 **3. Any person who willfully violates this section shall be fined not more than ten**
47 **thousand dollars or imprisoned for not more than five years, or both.**

48 **4. For the purpose of this section:**

49 **(1) A person shall be deemed to have been convicted and under the disability of**
50 **conviction from the date of the judgment of the trial court, regardless of whether that**
51 **judgment remains under appeal;**

52 **(2) A period of parole shall not be considered as part of a period of imprisonment.**

53 **5. Whenever any person, by operation of this section, has been barred from office**
54 **or other position in a labor organization as a result of a conviction, and has filed an appeal**
55 **of that conviction, the following provisions shall apply:**

56 **(1) Any salary which would be otherwise due such person by virtue of such office**
57 **or position, shall be placed in escrow by the individual agency or organization responsible**
58 **for payment of such salary;**

59 **(2) Payment of such salary into escrow shall continue for the duration of the appeal**
60 **or for the period of time during which such salary would be otherwise due, whichever time**
61 **period is shorter;**

62 (3) Upon the final reversal of such person's conviction on appeal, the amounts in
63 escrow shall be paid to such person; and

64 (4) Upon the final sustaining of such person's conviction on appeal, the amounts
65 in escrow shall be returned to the individual agency or organization responsible for
66 payments of those amounts; and

67 (5) Upon final reversal of such person's conviction, such person shall no longer be
68 barred by this section from assuming any position from which such person was previously
69 barred.

 295.442. 1. The department shall have power when the department believes it
2 necessary in order to determine whether any person has violated or is about to violate any
3 provision of sections 295.400 to 295.450, to make an investigation and in connection
4 therewith the department may enter such places and inspect such records and accounts
5 and question such persons as it may deem necessary to enable him or her to determine the
6 facts relative thereto.

7 2. The department may report to interested persons or officials concerning the facts
8 required to be shown in any report required by sections 295.400 to 295.450 and concerning
9 the reasons for failure or refusal to file such a report or any other matter which he or she
10 deems to be appropriate as a result of such an investigation.

11 3. For the purpose of any investigation provided for in sections 295.400 to 295.450,
12 the provisions in chapter 510, RSMo, relating to the attendance of witnesses and the
13 production of books, papers, and documents are hereby made applicable to the
14 jurisdiction, powers, and duties of the department and any officers designated by the
15 department.

 295.444. Except as explicitly provided to the contrary:

2 (1) Nothing in sections 295.400 to 295.450 shall reduce or limit the responsibilities
3 of any labor organization or any officer, agent, shop steward, or other representative of a
4 labor organization, or of any trust in which a labor organization is interested, under any
5 other laws; and

6 (2) Nothing in sections 295.400 to 295.450 shall take away any right or bar any
7 remedy to which members of a labor organization are entitled under such other law.

 295.446. For the purposes of sections 295.400 to 295.450, service of summons,
2 subpoena, or other legal process of a court of the state upon an officer or agent of a labor
3 organization in his or her capacity as such shall constitute service upon the labor
4 organization.

 295.448. It shall be unlawful for any labor organization, or any officer, agent, shop
2 steward, or other representative of a labor organization, or any employee thereof to fine,

3 suspend, expel, or otherwise discipline any of its members for exercising any right to which
4 the member is entitled under the provisions of sections 295.400 to 295.450. The provisions
5 of section 295.404 shall be applicable in the enforcement of this section.

295.450. 1. It shall be unlawful for any person through the use of force or violence,
2 or threat of the use of force or violence, to restrain, coerce, or intimidate, or attempt to
3 restrain, coerce, or intimidate any member of a labor organization for the purpose of
4 interfering with or preventing the exercise of any right to which the member is entitled
5 under the provisions of sections 295.400 to 295.450.

6 2. Any person who willfully violates this section shall be fined not more than one
7 thousand dollars or imprisoned for not more than one year, or both.

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