

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1413
99TH GENERAL ASSEMBLY

4637S.14T

2018

AN ACT

To repeal sections 105.500, 105.520, 105.525, 105.530, and 208.862, RSMo, and to enact in lieu thereof twenty-one new sections relating to public labor organizations, with penalty provisions.

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

Section A. Sections 105.500, 105.520, 105.525, 105.530, and 208.862, RSMo, are
2 repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 105.500,
3 105.503, 105.505, 105.525, 105.530, 105.533, 105.535, 105.537, 105.540, 105.545, 105.550,
4 105.555, 105.570, 105.575, 105.580, 105.583, 105.585, 105.590, 105.595, 105.598, and 208.862,
5 to read as follows:

105.500. **For purposes of sections 105.500 to 105.598**, unless the context otherwise
2 requires, the following words and phrases mean:

- 3 (1) [~~"Appropriate unit" means~~] **"Bargaining unit"**, a unit of **public** employees at any
4 plant or installation or in a craft or in a function of a public body [~~which~~] **that** establishes a clear
5 and identifiable community of interest among the **public** employees concerned;
- 6 (2) **"Board"**, **the state board of mediation established under section 295.030;**
- 7 (3) **"Department"**, **the department of labor and industrial relations established**
8 **under section 286.010;**
- 9 (4) **"Exclusive bargaining representative"** [~~means~~], an organization [~~which~~] **that** has been
10 designated or selected, **as provided in section 105.575**, by a majority of **the public** employees

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.

11 in ~~[an appropriate]~~ **a bargaining** unit as the representative of such **public** employees in such unit
12 for purposes of collective bargaining;

13 **(5) "Labor organization", any organization, agency, or public employee**
14 **representation committee or plan, in which public employees participate and that exists for**
15 **the purpose, in whole or in part, of dealing with a public body or public bodies concerning**
16 **collective bargaining, grievances, labor disputes, wages, rates of pay, hours of employment,**
17 **or conditions of work;**

18 ~~[(3)]~~ **(6) "Public body" [means], the state of Missouri, or any officer, agency, department,**
19 **bureau, division, board or commission of the state, or any other political subdivision or special**
20 **district of or within the state. "Public body" shall not include the department of**
21 **corrections;**

22 **(7) "Public employee", any person employed by a public body;**

23 **(8) "Public safety labor organization", a labor organization wholly or primarily**
24 **representing persons trained or authorized by law or rule to render emergency medical**
25 **assistance or treatment, including, but not limited to, firefighters, ambulance attendants,**
26 **attendant drivers, emergency medical technicians, emergency medical technician**
27 **paramedics, dispatchers, registered nurses and physicians, and persons who are vested**
28 **with the power of arrest for criminal code violations including, but not limited to police**
29 **officers, sheriffs, and deputy sheriffs.**

105.503. 1. Except as provided in subsection 2 of this section, the provisions of
2 **sections 105.500 to 105.598 shall apply to all employees of a public body, all labor**
3 **organizations, and all labor agreements between such a labor organization and a public**
4 **body, whether collective bargaining rights are granted to such entities in section 105.510**
5 **or by judicial decision.**

6 **2. The provisions of sections 105.500 to 105.598 shall not apply to:**

7 **(1) Public safety labor organizations and all employees of a public body who are**
8 **members of a public safety labor organization;**

9 **(2) The department of corrections and all employees of the department of**
10 **corrections;**

11 **(3) Members of a labor organization who are not employed by a public body; and**

12 **(4) Any labor agreement between a labor organization and an employer that is not**
13 **a public body.**

14 **3. Nothing in sections 105.500 to 105.598 shall be construed to interfere with the**
15 **rights and obligations that are specified in title 29 of the United States Code, provided that**
16 **in the case of a conflict with title 29 of the United States Code, the provisions of title 29 of**
17 **the United States Code shall prevail.**

2 **105.505. 1. No sum shall be withheld from the earnings of any public employee for**
3 **the purpose of paying any portion of dues, agency shop fees, or any other fees paid by**
4 **members of a labor organization or public employees who are nonmembers except upon**
5 **the annual written or electronic authorization of the member or nonmember.**

6 **2. No labor organization shall use or obtain any portion of dues, agency shop fees,**
7 **or any other fees paid by members of the labor organization or public employees who are**
8 **nonmembers to make contributions, as defined in section 130.011, or expenditures, as**
9 **defined in section 130.011, except with the informed, written or electronic authorization**
10 **of such member or nonmember received within the previous twelve months.**

11 **3. Public employees who do not authorize contributions or expenditures under**
12 **subsection 2 of this section shall not have their dues, agency shop fees, or other fees**
13 **increased in lieu of payments for contributions or expenditures.**

14 **4. The requirements of this section shall not be waived by any member or**
15 **nonmember of a labor organization, and waiver of the requirements shall not be made a**
16 **condition of employment or continued employment.**

17 **5. Signing or refraining from signing any authorization described under subsection**
18 **1 or 2 of this section shall not be made a condition of employment or continued**
19 **employment.**

20 **6. A labor organization shall maintain financial records substantially similar to and**
21 **no less comprehensive than the records that are required to be maintained in accordance**
22 **with 29 U.S.C. Section 431(b), or any successor statute.**

23 **7. Every labor organization shall provide the records required under subsection**
24 **6 of this section in a searchable electronic format to every public employee it represents.**
25 **If any labor organization fails to make such records available to the public employees**
26 **represented by such organization, any such public employee shall have a cause of action**
27 **against the labor organization for enforcement of this subsection. The court in such action**
28 **may, in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs,**
29 **require reasonable attorney's fees and court costs to be paid by the labor organization.**

30 **8. Every labor organization required to prepare any record under this section shall**
31 **maintain such records and any additional data or summary by which the records may be**
32 **verified, explained, or clarified for a period of not less than five years immediately**
33 **following the preparation of such record.**

34 **9. For purposes of this section, the term "agency shop" shall mean an arrangement**
35 **that requires a public employee, as a condition of employment or continued employment,**
either to join a recognized labor organization or to pay such organization a service fee.

105.525. Issues with respect to appropriateness of bargaining units and majority
2 representative status, **as determined under section 105.575**, shall be resolved by the [state]
3 board [~~of mediation~~]. In the event that the appropriate administrative body or any of the
4 bargaining units shall be aggrieved by the decision of the [state] board [~~of mediation~~], an appeal
5 may be had to the circuit court of the county where the administrative body is located or in the
6 circuit court of Cole County. [~~The state board of mediation shall use the services of the state~~
7 ~~hearing officer in all contested cases.~~]

105.530. Nothing contained in sections 105.500 to [~~105.530~~] **105.598** shall be construed
2 as granting a right to **public** employees covered in sections 105.500 to [~~105.530~~] **105.598** to
3 strike.

105.533. 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 in**
6 **sections 105.533 to 105.555;**

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 labor organization, as well as agency fees or any other fees required for**
12 **nonmembers, if any; and**

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

16 (a) **Qualifications for or restrictions on membership;**

17 (b) **Levy of assessments;**

18 (c) **Participation in insurance or other benefit plans;**

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

20 (e) **Audits of financial transactions of the labor organization;**

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

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

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

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

29 (j) Authorization for bargaining demands;

30 (k) Ratification of contract terms; and

31 (l) 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 a financial
37 report signed by its president and treasurer or corresponding principal officers containing
38 the following information in such detail as may be necessary to accurately disclose its
39 financial condition and operations for its preceding fiscal year:

40 (1) All assets and liabilities at the beginning and end of the fiscal year;

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

42 (3) Salaries, allowances, and other direct or indirect disbursements, including
43 reimbursed expenses, to each officer and employee who, during such fiscal year, received
44 more than ten thousand dollars in the aggregate from such labor organization or any
45 affiliated labor organization;

46 (4) All direct and indirect loans made to any officer, employee, or member that
47 aggregated more than two hundred fifty dollars during the fiscal year, together with a
48 statement of the purpose, security, if any, and arrangements for repayment;

49 (5) All direct and indirect loans made to any business enterprise, together with a
50 statement of the purpose, security, if any, and arrangements for repayment;

51 (6) An itemization schedule that discloses the purpose, date, total amount, and type
52 or classification of each disbursement made by the labor organization for the following
53 services and activities, along with the name and address of the entity receiving the
54 expenditure:

55 (a) Contract negotiation and administration;

56 (b) Organizing activities;

57 (c) Litigation;

58 (d) Public relations activities;

59 (e) Political activities;

60 (f) Activities attempting to influence the passage or defeat of federal, state, or local
61 legislation or the content or enforcement of federal, state, or local regulations or policies;

- 62 (g) Voter education and issue advocacy activities;
- 63 (h) Training activities for each officer of the local bargaining representative or
64 labor organization support staff;
- 65 (i) Conference, convention, and travel activities engaged in by the labor
66 organization; and
- 67 (j) Labor organization administration;
- 68 (7) The percentage of the labor organization's total expenditures that were spent
69 for each of the activities described in paragraphs (a) to (j) of subdivision (6) of this
70 subsection;
- 71 (8) The names, addresses, and activities of any law firms, public relations firms, or
72 lobbyists whose services are used by the labor organization for any activity described in
73 paragraphs (a) to (j) of subdivision (6) of this subsection;
- 74 (9) A list of candidates, continuing committees, federal political action committees,
75 nonprofit organizations, and community organizations to which the labor organization
76 contributed financial or in-kind assistance and the dollar amount of such assistance;
- 77 (10) The names and addresses of any continuing committees or federal political
78 action committees with which the labor organization is affiliated or to which it provides
79 contributions, the total amount of contributions to such committees, the candidates or
80 causes to which such committees provided any financial assistance, and the amount
81 provided to each such candidate or cause; and
- 82 (11) Other disbursements made, including the purposes thereof, all in such
83 categories as the department may prescribe.
- 84 3. Every labor organization shall submit the report required by subsection 2 of this
85 section in an electronic format that is readily and easily accessible and shall make available
86 the information required to be contained in such report to all of its members. Every such
87 labor organization and its officers shall be under a duty enforceable at the suit of any
88 member of such organization in the county where the violation occurred to permit such
89 members for just cause to examine any books, records, and accounts necessary to verify
90 such report. The court in such action may, in its discretion, in addition to any judgment
91 awarded to the plaintiff or plaintiffs, allow costs of the action and a reasonable attorney's
92 fee to be paid by the defendant.
- 93 4. The department shall make each report filed under this section publicly
94 available, online, in an electronic format.
- 95 5. For purposes of this section, the terms "candidate", "continuing committee",
96 and "contribution" shall have the same meanings as in section 130.011, and the term
97 "lobbyist" shall have the same meaning as in section 105.470.

105.535. 1. Every officer of a labor organization and every employee of a labor organization, other than an employee performing exclusively clerical or custodial services, shall file with the department a signed report listing and describing for his or her preceding fiscal year:

(1) Any stock, bond, security, or other interest, legal or equitable, that such person or his or her spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value, including reimbursed expenses, that such person or his or her spouse or minor child derived directly or indirectly from, any public body whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such public body;

(2) Any transaction in which such person or his or her spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of a public body whose employees such labor organization represents or is actively seeking to represent;

(3) Any stock, bond, security, or other interest, legal or equitable, that such person or his or her spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value, including reimbursed expenses, that such person or his or her spouse or minor child derived directly or indirectly from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with the business of a public body whose employees such labor organization represents or is actively seeking to represent;

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

(5) Any direct or indirect business transaction or arrangement between such person or his or her spouse or minor child and any public body whose employees his or her labor organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such public body and purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such public body; and

(6) Any payment of money or other thing of value, including reimbursed expenses, that such person or his or her spouse or minor child received directly or indirectly from any public body or any person who acts as a labor relations consultant to any public body.

37 **2. The provisions of subdivisions (1) to (5) of subsection 1 of this section shall not**
38 **be construed to require any such officer or employee to report his or her bona fide**
39 **investments in securities traded on a securities exchange registered as a national securities**
40 **exchange under the Securities Exchange Act of 1934, in shares in an investment company**
41 **registered under the Investment Company Act, or in securities of a public utility holding**
42 **company registered under the Public Utility Holding Company Act of 1935, or to report**
43 **any income derived therefrom.**

44 **3. Nothing contained in this section shall be construed to require any officer or**
45 **employee of a labor organization to file a report under subdivision (1) of subsection 1 of**
46 **this section unless such person or his or her spouse or minor child holds or has held an**
47 **interest, has received income or any other benefit with monetary value or a loan, or has**
48 **engaged in a transaction described therein.**

105.537. Nothing contained in the provisions of sections 105.533 to 105.555 shall be
2 **construed to require an attorney who is a member in good standing of the bar of any state**
3 **to include in any report required to be filed under the provisions of sections 105.533 to**
4 **105.555 any information that was lawfully communicated to such attorney by any of his**
5 **or her clients in the course of a legitimate attorney-client relationship.**

105.540. 1. The contents of the reports and documents filed with the department
2 **under the provisions of sections 105.533 and 105.535 shall be considered a public record,**
3 **as that term is defined in section 610.010, and shall not be closed under section 610.021.**
4 **The department may publish any information and data obtained under sections 105.533**
5 **and 105.535. The department may use the information and data for statistical and**
6 **research purposes and compile and publish such studies, analyses, reports, and surveys**
7 **based thereon as it may deem appropriate.**

8 **2. The department shall, by regulation, make reasonable provision for the**
9 **inspection and examination, on the request of any person, of the information and data**
10 **contained in any report or other document filed under section 105.533 or 105.535.**

11 **3. (1) The department shall, by regulation, provide for the furnishing of reports**
12 **or other documents filed with the department under the provisions of sections 105.533 to**
13 **105.555, upon payment of a charge based upon the cost of the service.**

14 **(2) The department shall make available without payment of a charge, or require**
15 **any person to furnish, to such state agency as is designated by law or by the governor of**
16 **the state in which such person has his or her principal place of business or headquarters,**
17 **upon request of the governor of such state, copies of any reports and documents filed by**
18 **such person with the department under the provisions of sections 105.533 or 105.535, or**
19 **of information and data contained therein.**

20 (3) All moneys received in payment of such charges fixed by the department under
21 this subsection shall be deposited in the general revenue fund of the state.

105.545. Every person required to file any report under the provisions of sections
2 105.533 to 105.555 shall maintain records on the matters required to be reported that will
3 provide in sufficient detail the necessary basic information and data from which the
4 documents filed with the department may be verified, explained or clarified, and checked
5 for accuracy and completeness, and shall include vouchers, worksheets, receipts, and
6 applicable resolutions. Such records shall be kept available for examination for a period
7 of not less than five years after the filing of the documents based on the information that
8 they contain.

105.550. 1. Each labor organization shall file the initial report required under
2 subsection 1 of section 105.533 within ninety days after the date on which it first becomes
3 subject to the provisions of sections 105.533 to 105.555.

 2. Each person required to file a report under the provisions of sections 105.533 to
5 105.555 shall file such report within ninety days after the end of each of its fiscal years,
6 except that where such person is subject for only a portion of such a fiscal year, whether
7 because the date of enactment of the provisions of sections 105.533 to 105.555 occurs
8 during such person's fiscal year or because such person becomes subject to the provisions
9 of sections 105.533 to 105.555 during its fiscal year, such person may consider that portion
10 as the entire fiscal year in making such report.

105.555. 1. Any person who makes a false statement or representation of a material
2 fact, knowing it to be false, or who knowingly fails to disclose a material fact, in any
3 document, report, or other information required under the provisions of sections 105.533
4 to 105.555 shall be fined not more than ten thousand dollars or imprisoned for not more
5 than one year, or both.

 2. Any person who knowingly makes a false entry in or knowingly conceals,
7 withholds, or destroys any books, records, reports, or statements required to be kept by
8 any provision of sections 105.533 to 105.555 shall be fined not more than ten thousand
9 dollars or imprisoned for not more than one year, or both.

 3. Each person required to sign reports under section 105.533 shall be personally
11 responsible for the filing of such reports and for any statement contained therein that he
12 or she knows to be false.

 4. Any person who fails to file a report required by sections 105.533 to 105.555, or
14 files a report late, shall be subject to a fine of one hundred dollars for every day the report
15 is late.

105.570. 1. Supervisory public employees shall not be included within the same bargaining unit as the public employees they supervise.

2. The same labor organization shall not represent both non-supervisory and supervisory public employees.

3. For the purposes of this section, the term "supervisory public employee" means anyone with supervisory status, managerial status, confidential status, or any other status that would be a conflict of interest with the purpose of sections 105.570 to 105.595.

105.575. 1. Any labor organization wishing to represent a bargaining unit as an exclusive bargaining representative shall present to the board cards containing the signatures of at least thirty percent of the public employees in the bargaining unit indicating that they wish to select the labor organization in question as their exclusive bargaining representative for the purpose of collective bargaining. Voluntary recognition by any public body of a labor organization as an exclusive bargaining representative shall be prohibited. Recognition as an exclusive bargaining representative may only be obtained by a labor organization through an election conducted under this section.

2. Upon receiving such cards, the board shall request from the public body a list of all public employees within the bargaining unit and the public body shall provide to the board such list no later than ten business days following receipt of such request. The board shall validate the signatures on the cards and confirm that at least thirty percent of the public employees in the bargaining unit have signed the cards. If the board determines that at least thirty percent of the public employees in the bargaining unit have signed valid cards, the board shall consult with the public body and the representative of the labor organization that has presented the cards, and together they shall select a mutually agreeable date for a secret ballot election to take place. The election shall be conducted at the public body's place of business or by mail-in ballot, in whole or in part, at the discretion of the chairman of the board, and shall be set for a date falling no less than four weeks, and no more than eight weeks, after the day upon which the board determines the bargaining unit for election and has resolved any other bargaining unit issues.

3. Once an election date has been set, the public body shall issue a notice informing all eligible voters of the date, time, and place of the election. Such notice shall be distributed to all public employees and shall be posted within the public body's place of business.

4. All public employees shall have the right to freely express their opinions about whether the labor organization should be selected as the exclusive bargaining representative of the public employees in the bargaining unit. However, no employee or representative of the labor organization and no public body or representative of the public

30 body shall attempt to threaten, intimidate, coerce, or otherwise restrain any eligible voter
31 in the free exercise of his or her individual choice to support or oppose the selection of the
32 labor organization in question as the exclusive bargaining representative of the public
33 employees in the bargaining unit.

34 5. Elections shall be conducted by secret ballot, using such procedures as the board
35 shall determine are appropriate for ensuring the privacy and security of each public
36 employee's vote. Once the poll is closed, the board shall oversee the counting of the ballots.
37 One representative of the public body's management team and one representative of the
38 labor organization shall have the right to be present during the counting of the ballots.

39 6. The ballots shall read: "Do you wish to select (labor organization) as the
40 exclusive bargaining representative for (description of bargaining unit) employed within
41 (description of public body)?" The ballot shall include check boxes for marking "yes" or
42 "no" in response to this question.

43 7. If more than one labor organization seeks to represent public employees in the
44 bargaining unit, and if both labor organizations have obtained signatures from at least
45 thirty percent of the public employees in the unit stating that they wish to designate the
46 labor organization as their exclusive bargaining representative, the ballot shall read: "Do
47 you wish to select (labor organization A), (labor organization B), or no labor organization
48 as the exclusive bargaining representative for (description of bargaining unit) employed
49 within (description of public body)?" The ballot shall include check boxes for marking
50 "I wish to select (labor organization A) as my exclusive bargaining representative.", "I
51 wish to select (labor organization B) as my exclusive bargaining representative.", and "I
52 do not wish to select any labor organization as my exclusive bargaining representative."

53 8. Any labor organization receiving the votes of more than fifty percent of all public
54 employees in the bargaining unit shall be designated and recognized by the public body as
55 the exclusive bargaining representative for all public employees in the bargaining unit.

56 9. Public employees within the bargaining unit shall have the right to seek to
57 decertify the labor organization as their exclusive bargaining representative at any time.
58 If any public employee within the bargaining unit presents to the board cards bearing the
59 signatures of at least thirty percent of the public employees within the bargaining unit
60 stating that those public employees no longer wish to be represented by the labor
61 organization in question, the board shall confirm the signatures on the cards. The board
62 shall request from the public body a list of all public employees within the bargaining unit
63 and the public body shall provide such list no later than ten business days following the
64 receipt of such request.

65 **10. If the board confirms that at least thirty percent of the public employees in the**
66 **bargaining unit have signed decertification cards, the board shall consult with the public**
67 **body and the designated representative of the labor organization to select a date for a**
68 **decertification election. Such election shall take place at least four weeks, but no later than**
69 **six weeks, after the board receives the decertification cards. Notice of such election shall**
70 **be distributed to all public employees within the bargaining unit and posted within the**
71 **public body's place of business. The election shall be conducted at the public body's place**
72 **of business or by mail-in ballot, in whole or in part, at the discretion of the chairman of the**
73 **board.**

74 **11. If more than fifty percent of the public employees in the bargaining unit cast**
75 **votes to terminate the labor organization's representation of the public employees in the**
76 **bargaining unit, the labor organization shall immediately cease to represent the public**
77 **employees in the bargaining unit.**

78 **12. All labor organizations that have previously been certified shall be recertified**
79 **during the twelve-month period beginning on August 28, 2018, provided that any labor**
80 **organization that has a labor agreement that expires after August 28, 2020, may be**
81 **recertified at any time prior to, but in no event later than, August 28, 2020. All subsequent**
82 **recertification elections shall be held every three years. To meet the recertification**
83 **requirement, continuation of the labor organization's status as the exclusive bargaining**
84 **representative shall be favored in a secret ballot election conducted by the board by more**
85 **than fifty percent of the public employees in the bargaining unit. Public employees shall**
86 **vote by telephone or online during a two-week period beginning on the anniversary of**
87 **initial certification, whether such certification occurred prior to, on, or after August 28,**
88 **2018. Failure to schedule an election within the prescribed time period on the part of the**
89 **labor organization shall result in immediate decertification as the exclusive bargaining**
90 **representative.**

91 **13. In the event of the decertification of a labor organization as the exclusive**
92 **bargaining representative of the public employees in any bargaining unit or failure to**
93 **recertify a labor organization, all terms and conditions of employment existing at the time**
94 **of decertification or failure to recertify shall remain in place until such time as those terms**
95 **or conditions of employment are altered by the public body.**

96 **14. No more than one election shall take place in any bargaining unit within the**
97 **same twelve-month period. Once an election takes place, the board shall not accept cards**
98 **from labor organizations or public employees within the bargaining unit seeking another**
99 **election for one full calendar year after the date of the election.**

100 **15. The board shall assess and collect a fee from each labor organization**
101 **participating in an election conducted under this section for the purpose of paying for such**
102 **election as follows:**

103 **(1) For a bargaining unit of one to one hundred members, a fee of two hundred**
104 **dollars;**

105 **(2) For a bargaining unit of one hundred one to two hundred fifty members, a fee**
106 **of three hundred fifty dollars;**

107 **(3) For a bargaining unit of two hundred fifty-one to five hundred members, a fee**
108 **of five hundred dollars;**

109 **(4) For a bargaining unit of five hundred one to one thousand members, a fee of**
110 **seven hundred fifty dollars;**

111 **(5) For a bargaining unit of one thousand one to three thousand members, a fee of**
112 **one thousand five hundred dollars;**

113 **(6) For a bargaining unit of more than three thousand members, a fee of two**
114 **thousand dollars.**

105.580. 1. Within eight weeks after a labor organization is certified as the
2 **exclusive bargaining representative for the public employees in a bargaining unit as**
3 **described in section 105.575, representatives of the public body, designated by the public**
4 **body, and representatives of the labor organization, selected by the labor organization,**
5 **shall meet and begin bargaining for an agreement covering the wages, benefits, and other**
6 **terms and conditions of employment for the public employees within the bargaining unit.**

7 **2. No labor organization may refuse to meet with designated representatives of any**
8 **public body or engage in conduct intended to cause the removal or replacement of any**
9 **designated representative by the public body.**

10 **3. The labor organization and the public body shall engage in bargaining with each**
11 **other's designated representatives, but neither side shall be required to offer any particular**
12 **concession or withdraw any particular proposal.**

13 **4. The public body shall not pay any labor organization representative or employee**
14 **for time spent participating in collective bargaining or preparing for collective bargaining**
15 **on behalf of a labor organization, except to the extent the person in question is an employee**
16 **of the public body and elects to use accrued paid time off that was personally accrued by**
17 **such person to cover the time so spent.**

18 **5. Before any proposed agreement or memorandum of understanding is presented**
19 **to a public body, the labor organization, as a condition of its presentation, shall establish**
20 **that it has been ratified by a majority of its members. The public body may approve the**
21 **entire agreement or any part thereof. If the public body rejects any portion of the**

22 agreement, the public body may return any rejected portion of the agreement to the parties
23 for further bargaining, adopt a replacement provision of its own design, or state that no
24 provision covering the topic in question shall be adopted. Any tentative agreement reached
25 between the parties' representatives shall not be binding on the public body or labor
26 organization.

27 6. A public body and a labor organization shall not be subject to binding mediation,
28 binding interest arbitration, or interest arbitration in the event the parties are unable to
29 reach an agreement.

30 7. After the first agreement between the public body and the labor organization is
31 adopted, bargaining for renewal agreements shall take place triennially. Such bargaining
32 shall be completed within thirty days of the end of the public body's fiscal year. The
33 parties may elect to bargain non-economic terms for longer periods, but all economic
34 provisions of the agreement shall be adopted on a triennial basis only.

35 8. The term of any labor agreement, provision of a labor agreement, or extension
36 of a labor agreement entered into after the effective date of sections 105.500 to 105.598
37 shall not exceed a period of three years. Any modification, extension, renewal, or any
38 change whatsoever to a labor agreement in effect as of the effective date of sections 105.500
39 to 105.598 shall be considered a new labor agreement for purposes of this section.

105.583. 1. Prior to any tentative agreement being presented to an exclusive
2 bargaining representative or a public body for ratification, such tentative agreement shall
3 be discussed in detail in a public meeting. Any such tentative agreement shall be published
4 on the public body's website at least five business days prior to the public meeting. During
5 such public meeting, the public shall be permitted to provide comment on the tentative
6 agreement.

7 2. Nothing contained in sections 105.500 to 105.598 shall obligate a public body to
8 enter into a collective bargaining agreement.

9 3. For purposes of this section, the term "public meeting" shall have the same
10 meaning as in section 610.010.

105.585. Labor agreements negotiated between a public body and a labor
2 organization may cover wages, benefits, and all other terms and conditions of employment
3 for public employees within the bargaining unit and shall be subject to the following
4 limitations:

5 (1) Every labor agreement shall include a provision reserving to the public body
6 the right to hire, promote, assign, direct, transfer, schedule, discipline, and discharge
7 public employees. Every labor agreement shall also include a provision reserving to

8 management the right to make, amend, and rescind reasonable work rules and standard
9 operating procedures;

10 (2) Every labor agreement shall expressly prohibit all strikes and picketing of any
11 kind. A strike shall include any refusal to perform services, walkout, sick-out, sit-in, or
12 any other form of interference with the operations of any public body. Every labor
13 agreement shall include a provision acknowledging that any public employee who engages
14 in any strike or concerted refusal to work, or who pickets over any personnel matter, shall
15 be subject to immediate termination of employment;

16 (3) Every labor agreement shall include a provision extending the duty of fair
17 representation by the labor organization to public employees in a bargaining unit;

18 (4) Every labor agreement shall expressly prohibit labor organization
19 representatives and public employees from accepting paid time, other than unused paid
20 time off that was accrued by such public employees, by a public body for the purposes of
21 conducting labor organization-related activities concerning collective bargaining,
22 including, but not limited to, negotiations, bargaining meetings, meet and confer sessions,
23 and any other collective bargaining-related activity, provided that every labor agreement
24 may allow for paid time off for the purposes of grievance-handling, advisory committees,
25 establishing a work calendar, and internal and external communication;

26 (5) Every labor agreement shall inform public employees of their right to refrain
27 from engaging in and supporting labor organization activity as well as their right to oppose
28 labor organization activity; and

29 (6) Every labor agreement shall include a provision stating that in the event of a
30 budget shortfall, the public body shall have the right to require the modification of the
31 economic terms of any labor agreement. Every labor agreement shall also state that if the
32 public body deems it necessary to modify, upon good cause, the economic terms of any
33 labor agreement, the public body shall so notify the labor organization and shall provide
34 a period of thirty days during which the public body and the labor organization shall
35 bargain over any necessary adjustments to the economic terms of the agreement. The
36 labor agreement shall state that if, at the end of the thirty-day period, the parties have been
37 unable to agree upon modifications that meet the public body's requirements, the public
38 body shall have the right, upon good cause, to make necessary adjustments on its own
39 authority.

2 105.590. The secretary or corresponding principal officer of each labor
3 organization shall forward a complete copy of each agreement made by such labor
4 organization with any public body to any public employee who requests such a copy and
whose rights as such public employee are directly affected by such agreement.

105.595. Whenever it shall appear that any labor organization or representative of any labor organization or any public body or representative of a public body has violated or is about to violate any of the provisions of sections 105.570 to 105.590, the department, a public body, or any citizen of the state of Missouri may bring a civil action for such relief, including injunctive relief, as may be appropriate. Any such action may be brought in the county where the violation occurred, or is about to occur, and damages and attorney's fees shall be awarded for the enforcement of the provisions of sections 105.570 to 105.590.

105.598. The board may promulgate rules necessary to implement the provisions of sections 105.500 to 105.595. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.

208.862. [~~Consumer rights and employment relations.~~]

1. Consumers shall retain the right to hire, fire, supervise, and train personal care attendants.
2. Vendors shall continue to perform the functions provided in sections 208.900 to 208.930. In addition to having a philosophy that promotes the consumer's ability to live independently in the most integrated setting or the maximum community inclusion of persons with physical disabilities, as required by subsection 1 of section 208.918, vendors shall provide to consumers advocacy, independent living skills training, peer counseling, and information and referral services, as those terms are used in subsection 3 of section 178.656.
3. The council shall be a public body as that term is ~~used~~ **defined** in section 105.500, and personal care attendants shall be employees of the council solely for purposes of ~~section~~ **sections 105.500**~~[, et seq]~~ **to 105.598.**
4. The sole ~~appropriate~~ **bargaining** unit of personal care attendants, as that term is ~~used in subdivision (1) of~~ **defined in** section 105.500, shall be a statewide unit. Personal care attendants who are related to or members of the family of the consumer to whom they provide services shall not for that reason be excluded from the unit. The state board of mediation shall conduct an election, by mail ballot, to determine whether an organization shall be designated the exclusive bargaining representative as defined in ~~subdivision (2) of~~ section 105.500 for the statewide unit of personal care attendants under section 105.525 upon a showing that ten percent of the personal care attendants in said unit want to be represented by a representative. The

21 Missouri office of administration shall represent the council in any collective bargaining with
22 a representative of personal care attendants. Upon completion of bargaining, any agreements
23 shall be reduced to writing and presented to the council for adoption, modification or rejection
24 ~~[in accordance with section 105.520].~~

25 5. The state of Missouri and all vendors shall cooperate in the implementation of any
26 agreements reached by the council and any representative of personal care attendants, including
27 making any payroll deductions authorized by the agreements which can lawfully be made
28 pursuant to agreements entered into under sections 105.500 to ~~[405.530]~~ **105.598** as currently
29 construed by the Missouri appellate courts.

30 6. Personal care attendants shall not have the right to strike and breach of this prohibition
31 will result in disqualification from participation in the consumer directed services program.

32 7. Personal care attendants shall not be considered employees of the state of Missouri
33 or any vendor for any purpose.

34 **8. (1) The provisions of sections 105.500 to 105.598 shall apply to all personal care**
35 **attendants, organizations elected as the exclusive bargaining representative of the**
36 **bargaining unit of personal care attendants under this section, and all officers and**
37 **employees of such organizations. For purposes of this subsection, organizations elected as**
38 **the exclusive bargaining representative of a bargaining unit under this section shall be**
39 **considered a labor organization, as that term is defined in section 105.500.**

40 **(2) If an organization is not recertified or is decertified as the exclusive bargaining**
41 **representative of a bargaining unit of personal care attendants under section 105.575, any**
42 **subsequent certification of an organization as exclusive bargaining representative of a**
43 **bargaining unit of personal care attendants shall be conducted according to the provisions**
44 **of section 105.575, notwithstanding subsection 4 of this section to the contrary.**

2 ~~[105.520. Whenever such proposals are presented by the exclusive~~
3 ~~bargaining representative to a public body, the public body or its designated~~
4 ~~representative or representatives shall meet, confer and discuss such proposals~~
5 ~~relative to salaries and other conditions of employment of the employees of the~~
6 ~~public body with the labor organization which is the exclusive bargaining~~
7 ~~representative of its employees in a unit appropriate. Upon the completion of~~
8 ~~discussions, the results shall be reduced to writing and be presented to the~~
9 ~~appropriate administrative, legislative or other governing body in the form of an~~
10 ~~ordinance, resolution, bill or other form required for adoption, modification or~~
~~rejection.]~~

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