

REFERENCE TITLE: labor relations; right to work

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HCR 2031

Introduced by
Representatives Gallardo, Lujan, Prezelski, Sinema: Ableser, Lopes

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO
LABOR RELATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to labor relations, is enacted to become
5 valid as a law if approved by the voters and on proclamation of the Governor:

6 AN ACT

7 AMENDING SECTIONS 23-1302, 23-1304, 23-1305, 23-1306 AND
8 23-1501, ARIZONA REVISED STATUTES; RELATING TO LABOR RELATIONS.

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

10 Section 1. Section 23-1302, Arizona Revised Statutes, is
11 amended to read:

12 23-1302. Prohibition of agreements denying employment
13 because of membership or nonmembership in
14 labor organization

15 A. ~~No~~ A person shall NOT be denied the opportunity to
16 obtain or retain employment because of MEMBERSHIP OR
17 nonmembership in a labor organization, nor shall the state or
18 any POLITICAL subdivision thereof, OF THE STATE or any
19 corporation, individual, or association of any kind enter into
20 an agreement, written or oral, which THAT excludes a person from
21 employment or continuation of employment because of MEMBERSHIP
22 OR nonmembership in a labor organization.

23 B. THE RIGHT OF EMPLOYEES TO BARGAIN COLLECTIVELY BY AND
24 THROUGH A LABOR ORGANIZATION SHALL NOT BE DENIED OR ABRIDGED.

25 Sec. 2. Section 23-1304, Arizona Revised Statutes, is
26 amended to read:

27 23-1304. Prohibition of threatened or actual interference
28 to compel a person to join or not join labor
29 organization, strike or leave employment

30 A. It is unlawful for an employee, labor organization,
31 or officer, agent or member thereof OF A LABOR ORGANIZATION, by
32 any threatened or actual interference with the A person, his OR
33 THE PERSON'S immediate family or his property, to compel or
34 attempt to compel such A person to join a labor organization, to
35 strike against his THE PERSON'S will or to leave his THE
36 PERSON'S employment.

37 B. IT IS UNLAWFUL FOR ANY EMPLOYER, CONSULTANT, OFFICER,
38 AGENT OR OTHER EMPLOYEE, BY ANY THREATENED OR ACTUAL
39 INTERFERENCE WITH A PERSON OR THE PERSON'S IMMEDIATE FAMILY OR
40 PROPERTY, TO COMPEL OR ATTEMPT TO COMPEL THE PERSON NOT TO JOIN
41 A LABOR ORGANIZATION OR TO LEAVE THE PERSON'S EMPLOYMENT AGAINST
42 THE PERSON'S WILL. THIS SUBSECTION APPLIES TO AND PROTECTS A
43 PERSON WHO IS ENGAGED IN LABOR ORGANIZING EFFORTS WHILE THE
44 PERSON IS OFF DUTY.

1 Sec. 3. Section 23-1305, Arizona Revised Statutes, is
2 amended to read:

3 23-1305. Prohibition of conspiracy to induce persons to
4 refuse to work with persons, members or
5 nonmembers of a labor organization

6 A combination or conspiracy by two or more persons to
7 cause the discharge OR DISCIPLINARY ACTION of any person or to
8 cause ~~him~~ THAT PERSON to be denied employment because ~~he~~ THE
9 PERSON is OR IS not a member of a labor organization by inducing
10 or attempting to induce any other person to refuse to work with
11 ~~such~~ THAT person, ~~is~~ illegal.

12 Sec. 4. Section 23-1306, Arizona Revised Statutes, is
13 amended to read:

14 23-1306. Civil liability of person violating article

15 A person who violates ~~any provision of~~ this article, ~~or~~
16 who enters into an agreement containing a provision declared
17 illegal by this article, ~~or~~ who brings about the discharge of,
18 DISCIPLINE OF or denial of employment to any person because of
19 MEMBERSHIP OR nonmembership in a labor organization shall be
20 liable to the person injured as the result of such act or
21 provision and may be sued therefor, and in such action any labor
22 organization, EMPLOYER, POLITICAL subdivision or local OR
23 SUBSIDIARY thereof shall be bound by the acts of its duly
24 authorized agents acting within the scope of their authority, ~~and~~
25 and may sue or be sued in its common name.

26 Sec. 5. Section 23-1501, Arizona Revised Statutes, is
27 amended to read:

28 23-1501. Severability of employment relationships:
29 protection from retaliatory discharges:
30 exclusivity of statutory remedies in
31 employment

32 The public policy of this state is that:

- 33 1. The employment relationship is contractual in nature.
34 2. The employment relationship is severable at the
35 pleasure of either the employee or the employer unless both the
36 employee and the employer have signed a written contract to the
37 contrary setting forth that the employment relationship shall
38 remain in effect for a specified duration of time or otherwise
39 expressly restricting the right of either party to terminate the
40 employment relationship. Both the employee and the employer
41 must sign this written contract, or this written contract must
42 be set forth in the employment handbook or manual or any similar
43 document distributed to the employee, if that document expresses
44 the intent that it is a contract of employment, or this written
45 contract must be set forth in a writing signed by the party to

1 be charged. Partial performance of employment shall not be
2 deemed sufficient to eliminate the requirements set forth in
3 this paragraph. Nothing in this paragraph shall be construed to
4 affect the rights of public employees under the Constitution of
5 Arizona and state and local laws of this state or the rights of
6 employees and employers as defined by a collective bargaining
7 agreement.

8 3. An employee has a claim against an employer for
9 termination of employment only if one or more of the following
10 circumstances have occurred:

11 (a) The employer has terminated the employment
12 relationship of an employee in breach of an employment contract,
13 as set forth in paragraph 2 of this section, in which case the
14 remedies for the breach are limited to the remedies for a breach
15 of contract.

16 (b) The employer has terminated the employment
17 relationship of an employee in violation of a statute of this
18 state. If the statute provides a remedy to an employee for a
19 violation of the statute, the remedies provided to an employee
20 for a violation of the statute are the exclusive remedies for
21 the violation of the statute or the public policy set forth in
22 or arising out of the statute, including the following:

23 (i) The civil rights act prescribed in title 41,
24 chapter 9.

25 (ii) The occupational safety and health act prescribed in
26 chapter 2, article 10 of this title.

27 (iii) The statutes governing the hours of employment
28 prescribed in chapter 2 of this title.

29 (iv) The agricultural employment relations act prescribed
30 in chapter 8, article 5 of this title.

31 All definitions and restrictions contained in the statute also
32 apply to any civil action based on a violation of the public
33 policy arising out of the statute. If the statute does not
34 provide a remedy to an employee for the violation of the
35 statute, the employee shall have the right to bring a tort claim
36 for wrongful termination in violation of the public policy set
37 forth in the statute.

38 (c) The employer has terminated the employment
39 relationship of an employee in retaliation for any of the
40 following:

41 (i) The refusal by the employee to commit an act or
42 omission that would violate the Constitution of Arizona or the
43 statutes of this state.

44 (ii) The disclosure by the employee in a reasonable
45 manner that the employee has information or a reasonable belief

1 that the employer, or an employee of the employer, has violated,
2 is violating or will violate the Constitution of Arizona or the
3 statutes of this state to either the employer or a
4 representative of the employer who the employee reasonably
5 believes is in a managerial or supervisory position and has the
6 authority to investigate the information provided by the
7 employee and to take action to prevent further violations of the
8 Constitution of Arizona or statutes of this state or an employee
9 of a public body or political subdivision of this state or any
10 agency of a public body or political subdivision.

11 (iii) The exercise of rights under the workers'
12 compensation statutes prescribed in chapter 6 of this title.

13 (iv) Service on a jury as protected by section 21-236.

14 (v) The exercise of voting rights as protected by section
15 16-1012.

16 (vi) The exercise of free choice with respect to
17 MEMBERSHIP OR nonmembership in a labor organization as protected
18 by section 23-1302.

19 (vii) Service in the national guard or armed forces as
20 protected by sections 26-167 and 26-168.

21 (viii) The exercise of the right to be free from the
22 extortion of fees or gratuities as a condition of employment as
23 protected by section 23-202.

24 (ix) The exercise of the right to be free from coercion
25 to purchase goods or supplies from any particular person as a
26 condition of employment as protected by section 23-203.

27 (x) The exercise of a victim's ~~leaves~~ right TO LEAVE WORK
28 as provided in sections 8-420 and 13-4439.

29 (d) In the case of a public employee, if the employee has
30 a right to continued employment under the United States
31 Constitution, the Arizona Constitution, Arizona Revised
32 Statutes, any applicable regulation, policy, practice, or
33 contract of the state, any subdivision of the state or other
34 public entity, or any ordinance of any political subdivision of
35 the state.

36 2. The Secretary of State shall submit this proposition to the voters
37 at the next general election as provided by article IV, part 1, section 1,
38 Constitution of Arizona.