

Amendment 47 Prohibition on Mandatory Labor Union Membership and Dues

1 **Amendment 47 proposes amending the Colorado Constitution to:**

- 2 ♦ prohibit requiring an employee to join and pay any dues or fees to a
- 3 labor union as a condition of employment; and
- 4 ♦ create a misdemeanor penalty for violation of this law.

5 **Summary and Analysis**

6 ***Requirements for union membership today.*** All employees have the right to

7 join a workplace union as a means for negotiating with their employer over issues

8 such as pay, benefits, and working conditions.

9 The procedure to form a union in the private sector is outlined in federal and

10 Colorado law. The decision to be represented by a union must be approved by a

11 majority vote of the employees. At this point, membership and payment of dues is

12 voluntary. Once a union is in place, private-sector employees in Colorado may vote to

13 require all employees, including those who choose not to join the union, to pay their

14 share of the cost of collective bargaining as a condition of employment.

15 Neither federal nor Colorado law regulates the formation of unions for most state

16 and local public employees, such as teachers or government workers. In the public

17 sector, the employer decides how to recognize and interact with any prospective

18 union. The collective bargaining agreement sets forth requirements for membership

19 and payment of dues. It can require public employees who choose not to join the

20 union to pay their share of the cost of collective bargaining.

21 ***Requirements for union membership under Amendment 47.*** Amendment 47

22 applies to all employees, whether working in the public or private sector. It eliminates

23 the possibility that any employee can be required to pay for the cost of collective

24 bargaining or join a union as a condition of employment. Violation of this law carries

25 the highest-level misdemeanor fine, which is currently a fine of between \$500 and

26 \$5,000.

27 Amendment 47 defines a labor union to include organizations that deal with

28 employers over employee issues such as wages, rates of pay, hours of work,

29 grievances, and other conditions of employment, and organizations that provide

30 mutual aid or protection in connection with employment.

1 **Arguments For**

2 1) Banning mandatory union membership and dues gives employees the freedom
3 to choose how to participate in union activities. No one should be required to join a
4 union or contribute financially to a union as a condition of employment. Removing
5 these obstacles to employment creates greater flexibility for both job seekers and
6 employers.

7 2) States with laws like Amendment 47 are often viewed as more business
8 friendly. Most of Colorado's neighboring states have laws similar to Amendment 47,
9 and labor laws are a factor that businesses consider when deciding where to relocate
10 or expand. Therefore, the measure may help the state as it competes with other
11 states for new jobs and business investment.

12 **Arguments Against**

13 1) States with laws like Amendment 47 are often viewed as less worker friendly.
14 Under Amendment 47, employees can avoid paying their fair share for representation
15 to improve wages, health care benefits, and workplace safety because federal law
16 requires that all private-sector employees receive the benefits of collective bargaining,
17 whether they are union members or not. Labor unions with fewer resources are not as
18 effective in standing up for the interests of all employees.

19 2) Amendment 47 may define labor union too broadly. By defining labor union to
20 include organizations that provide mutual aid or protection, employers may be banned
21 from requiring employees to belong to organizations that promote workplace safety or
22 provide job-related education programs.

23 **Estimate of Fiscal Impact**

24 Other than potential fine revenue, Amendment 47 is not expected to affect state or
25 local government revenue or spending.

JEFF ZAX COMMENTS ON LAST DRAFT OF AMENDMENT 47

1. Lines 12 and 13 ("Neither federal nor state law regulates the formation of unions for public employees, such as teachers or government workers.") is simply wrong. Federal law regulates the formation of unions for federal workers. State law regulates the formation of unions for state government workers and often for local government workers as well. In particular, state laws can and do address certification and decertification election procedures, bargaining rights, dues check-offs and union security for state government workers. Where did this line come from?
2. Line 15: Should "employees" be "private sector employees"? Or does the current law, allowing unions to seek all-union agreements, apply to state and/or local government workers?
3. Lines 23-26 are sloppy, but that may be inherent in the proposed amendment. Ordinarily, the essential concepts are "bargaining unit" and "bargaining agent". What are here called "all-union" agreements require workers in bargaining units to join or pay fees to the bargaining agent. "Bargaining unit" and "bargaining agent" are already appropriate and well-defined terms. If "labor union" is to be synonymous with "bargaining agent", then the latter term is superior and the former term doesn't need to be defined. If "labor union" is intended to include entities which are not formally designated as bargaining agents, then these entities would not be in a position to bargain for "all-union" agreements and their inclusion under this amendment would be unnecessary.
4. Page 2, lines 4-5: There is no scientific evidence to support the suggestion that "the measure may help the state as it competes with other states for new jobs and business investment." To the contrary, what evidence exists contradicts this suggestion.

Last Draft as Mailed to Interested Parties

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1 **Amendment 47 proposes amending the Colorado Constitution to:**

- 2 ◆ prohibit requiring an employee to join and pay any dues or fees to a
- 3 labor union as a condition of employment;
- 4 ◆ define labor union; and
- 5 ◆ create a misdemeanor penalty for violation of this law.

6 **Summary and Analysis**

7 ***Forming a union.*** Federal law gives private-sector employees the right to join a
8 workplace union as a means for negotiating with their employer over issues such as
9 pay, benefits, and working conditions. The decision to be represented by a particular
10 union must be approved by a majority vote of the employees. When a union is
11 formed, membership and payment of dues is voluntary.

12 Neither federal nor state law regulates the formation of unions for public
13 employees, such as teachers or government workers.

14 ***Forming an all-union agreement.*** Once a union is in place, state law allows
15 employees in Colorado to seek an all-union agreement. Under an all-union
16 agreement, all employees, including those who choose not to join the union, must pay
17 their share of the cost of collective bargaining as a condition of employment.

18 ***Impact of Amendment 47.*** Amendment 47 applies to all employees, whether
19 working in the public or private sector. It eliminates all-union agreements and the
20 possibility that an employee can be required to pay for the cost of collective bargaining
21 or join a union as a condition of employment. Violation of this law carries the
22 highest-level misdemeanor fine, which is currently a fine of between \$500 and \$5,000.

23 Amendment 47 defines a labor union to include organizations that deal with
24 employers over employee issues such as wages, rates of pay, hours of work,
25 grievances, and other conditions of employment, and organizations that provide
26 mutual aid or protection in connection with employment.

27 **Arguments For**

28 1) Banning mandatory union dues allows employees the freedom to choose
29 whether to contribute financially to union activities. No one should be required to
30 make payments to a union as a condition of employment. Removing this obstacle to
31 employment creates greater flexibility for both job seekers and employers.

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2 friendly. Most of Colorado's neighboring states have laws similar to Amendment 47,
3 and labor laws are a factor that businesses consider when deciding where to relocate
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5 states for new jobs and business investment.

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12 standing up for the interests of all employees.

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Amendment 47
Prohibition on Mandatory Labor Union Membership and Dues

1 **Ballot Title:** An amendment to the Colorado constitution concerning participation in
2 a labor organization as a condition of employment, and, in connection therewith,
3 prohibiting an employer from requiring that a person be a member and pay any moneys
4 to a labor organization or to any other third party in lieu of payment to a labor
5 organization and creating a misdemeanor criminal penalty for a person who violates the
6 provisions of the section.

7 **Text of Proposal:**

8 *Be it Enacted by the People of the State of Colorado:*

9 **SECTION 1.** Article XVIII of the constitution of the state of Colorado is
10 amended BY THE ADDITION OF A NEW SECTION to read:

11 **Section 16. Right to work.** (1) THIS AMENDMENT SHALL BE KNOWN AND MAY
12 BE CITED AS THE "COLORADO RIGHT TO WORK AMENDMENT".

13 (2) (a) NO PERSON SHALL, AS A CONDITION OF EMPLOYMENT, BE REQUIRED TO:

14 (I) BE A MEMBER OF A LABOR UNION; AND

15 (II) PAY ANY DUES, FEES, ASSESSMENTS, OR OTHER CHARGES OF ANY KIND TO A
16 LABOR UNION OR TO ANY CHARITY OR OTHER THIRD PARTY, IN LIEU OF SUCH PAYMENTS.

17 (b) NOTHING IN THIS SECTION SHALL PREVENT ANY PERSON FROM VOLUNTARILY
18 BELONGING OR VOLUNTARILY PROVIDING FINANCIAL SUPPORT TO A LABOR UNION.

19 (3) ANY PERSON WHO DIRECTLY OR INDIRECTLY VIOLATES ANY PROVISION OF
20 THIS SECTION COMMITS A MISDEMEANOR AND UPON CONVICTION THEREOF SHALL BE
21 PUNISHED BY A FINE IN AN AMOUNT EQUIVALENT TO THE MOST STRINGENT
22 MISDEMEANOR CLASSIFICATION PROVIDED BY LAW.

23 (4) THIS SECTION SHALL APPLY TO ALL UNION EMPLOYMENT CONTRACTS
24 ENTERED INTO AFTER THE EFFECTIVE DATE OF THIS SECTION AND SHALL APPLY TO ANY
25 RENEWAL OR EXTENSION OF ANY EXISTING UNION CONTRACT.

1 (5) AS USED IN THIS SECTION, "LABOR UNION" MEANS ANY ORGANIZATION OF
2 ANY KIND, OR AGENCY OR EMPLOYEE REPRESENTATION COMMITTEE OR ORGANIZATION,
3 THAT EXISTS FOR THE PURPOSE, IN WHOLE OR IN PART, OF DEALING WITH EMPLOYERS
4 CONCERNING WAGES, RATES OF PAY, HOURS OF WORK, OTHER CONDITIONS OF
5 EMPLOYMENT, OR OTHER FORMS OF COMPENSATION; ANY ORGANIZATION THAT EXISTS
6 FOR THE PURPOSE OF COLLECTIVE BARGAINING OR OF DEALING WITH EMPLOYERS
7 CONCERNING GRIEVANCES; AND ANY ORGANIZATION PROVIDING OTHER MUTUAL AID OR
8 PROTECTION IN CONNECTION WITH EMPLOYMENT.

9 **SECTION 2. Effective date.** This amendment shall take effect upon
10 proclamation of the vote by the governor.