

Prohibiting Using State Funds and Facilities to Assist, Promote or Deter Union Organizing

This Act prohibits using state funds and facilities to assist, promote or deter union organizing. This includes using such money to train managers, supervisors or other administrative personnel to encourage or discourage employees from participating in a union organizing drive. The law establishes a legislative finding regarding the proprietary interest of the state in ensuring that scarce public resources are utilized solely for the public purpose for which they were appropriated and requires employers to keep records of the expenditures of state funds sufficient to show that state funds have not been utilized in a prohibited manner.

Submitted as:

New York

11784A

Status: Enacted into law in 2002.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act to Prohibit Using State Funds
2 and Facilities to Assist, Promote or Deter Union Organizing.”

3
4 Section 2 [*Prohibition against Use of State Funds.*]

5 1. The [legislature] hereby finds and declares that sound fiscal management requires
6 vigilance to ensure that funds appropriated by the legislature for the purchase of goods and
7 provision of services are ultimately expended solely for the purpose for which they were
8 appropriated. The [legislature] finds and declares that when public funds are appropriated for
9 the purchase of specific goods and/or the provision of services, and those funds are instead used
10 to encourage or discourage union organization, the proprietary interests of this state are
11 adversely affected. As a result, the [legislature] declares that the use of state funds and property
12 to encourage or discourage employees from union organization constitutes a misuse of the
13 public funds and a misapplication of scarce public resources, which should be utilized solely for
14 the public purpose for which they were appropriated.

15 2. Notwithstanding any other provision of law, no monies appropriated by the state for
16 any purpose shall be used or made available to employers to:

17 (a) Train managers, supervisors or other administrative personnel regarding
18 methods to encourage or discourage union organization, or to encourage or discourage an
19 employee from participating in a union organizing drive;

20 (b) Hire or pay attorneys, consultants or other contractors to encourage or
21 discourage union organization, or to encourage or discourage an employee from participating in
22 a union organizing drive; or

23 (c) Hire employees or pay the salary and other compensation of employees
24 whose principal job duties are to encourage or discourage union organization, or to encourage or
25 discourage an employee from participating in a union organizing drive.

26 3. Any employer that utilizes funds appropriated by the state and engages in such
27 activities shall maintain, for a period of not less than [three years] from the date of such
28 activities, financial records, audited as to their validity and accuracy, sufficient to show that

29 state funds were not used to pay for such activities. An employer shall make such financial
30 records available to the state entity that provided such funds and the [attorney general] within
31 [ten business days] of receipt of a request from such entity or the [attorney general] for such
32 records.

33 4. The [attorney general] may apply in the name of the people of this state for an order
34 enjoining or restraining the commission or continuance of the alleged violation of this section.
35 In any such proceeding, a court may order the return to the state of the unlawfully expended
36 funds. Further, a court may impose a civil penalty not to exceed [one thousand dollars] where it
37 has been shown that an employer engaged in a violation of subdivision two of this section;
38 provided, however, that a court may impose a civil penalty not to exceed [one thousand dollars]
39 or [three] times the amount of money unlawfully expended, whichever is greater, where it is
40 shown that the employer knowingly engaged in a violation of subdivision two of this section or
41 where the employer previously had been found to have violated subdivision two within the
42 preceding [two years]. All monies collected pursuant to this section shall be deposited in the
43 state [general fund].

44 5. The [commissioner of labor relations] shall promulgate regulations describing the
45 form and content of the financial records required pursuant to this section, and the
46 [commissioner] shall provide advice and guidance to state entities subject to the provisions of
47 this section as to the implementation of contractual and administrative measures to enforce the
48 purposes of this section.

49

50 Section 3. [*Severability.*] [Insert severability clause.]

51

52 Section 4. [*Repealer.*] [Insert repealer clause.]

53

54 Section 5. [*Effective Date.*] [Insert effective date.]