

Editorial Notes

CODIFICATION

Section is comprised of subssecs. (a) to (c) of section 201 of Pub. L. 86-257. Subsec. (d) of section 201 repealed subssecs. (f) to (h) of section 159 of this title, and subsec. (e) of section 201 amended section 158(a)(3)(i) of this title.

§ 432. Report of officers and employees of labor organizations**(a) Filing; contents of report**

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 Secretary a signed report listing and describing for his preceding fiscal year—

(1) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer 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 employer;

(2) any transaction in which he or his 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 an employer whose employees such labor organization represents or is actively seeking to represent;

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

(4) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived 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 him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer; and

(6) any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in section 186(c) of this title.

(b) Report of certain bona fide investments

The provisions of paragraphs (1), (2), (3), (4), and (5) of subsection (a) shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], in shares in an investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, or to report any income derived therefrom.

(c) Exemption from filing requirement

Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a report under subsection (a) unless he or his spouse or minor child holds or has held an interest, has received income or any other benefit with monetary value or a loan, or has engaged in a transaction described therein.

(Pub. L. 86-257, title II, §202, Sept. 14, 1959, 73 Stat. 525.)

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REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (b), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Investment Company Act of 1940, referred to in subsec. (b), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of Title 15. For complete classification of this Act to the Code, see section 80a-51 of Title 15 and Tables.

The Public Utility Holding Company Act of 1935, referred to in subsec. (b), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109-58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

§ 433. Report of employers**(a) Filing and contents of report of payments, loans, promises, agreements, or arrangements**

Every employer who in any fiscal year made—

(1) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement therefor, to any labor organization or officer, agent, shop steward, or other representative of a labor organization, or employee of any labor organization, except (A) payments or loans made by any national or State bank, credit union, insurance company, savings and loan association or other credit institution

and (B) payments of the kind referred to in section 186(c) of this title;

(2) any payment (including reimbursed expenses) to any of his employees, or any group or committee of such employees, for the purpose of causing such employee or group or committee of employees to persuade other employees to exercise or not to exercise, or as the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing unless such payments were contemporaneously or previously disclosed to such other employees;

(3) any expenditure, during the fiscal year, where an object thereof, directly or indirectly, is to interfere with, restrain, or coerce employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing, or is to obtain information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

(4) any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertakes activities where an object thereof, directly or indirectly, is to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing, or undertakes to supply such employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; or

(5) any payment (including reimbursed expenses) pursuant to an agreement or arrangement described in subdivision (4);

shall file with the Secretary a report, in a form prescribed by him, signed by its president and treasurer or corresponding principal officers showing in detail the date and amount of each such payment, loan, promise, agreement, or arrangement and the name, address, and position, if any, in any firm or labor organization of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreement or understanding pursuant to which they were made.

(b) Persuasive activities relating to the right to organize and bargain collectively; supplying information of activities in connection with labor disputes; filing and contents of report of agreement or arrangement

Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly—

(1) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or

(2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

shall file within thirty days after entering into such agreement or arrangement a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing the name under which such person is engaged in doing business and the address of its principal office, and a detailed statement of the terms and conditions of such agreement or arrangement. Every such person shall file annually, with respect to each fiscal year during which payments were made as a result of such an agreement or arrangement, a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing a statement (A) of its receipts of any kind from employers on account of labor relations advice or services, designating the sources thereof, and (B) of its disbursements of any kind, in connection with such services and the purposes thereof. In each such case such information shall be set forth in such categories as the Secretary may prescribe.

(c) Advisory or representative services exempt from filing requirements

Nothing in this section shall be construed to require any employer or other person to file a report covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency, or tribunal of arbitration or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.

(d) Exemption from filing requirements generally

Nothing contained in this section shall be construed to require an employer to file a report under subsection (a) unless he has made an expenditure, payment, loan, agreement, or arrangement of the kind described therein. Nothing contained in this section shall be construed to require any other person to file a report under subsection (b) unless he was a party to an agreement or arrangement of the kind described therein.

(e) Services by and payments to regular officers, supervisors, and employees of employer

Nothing contained in this section shall be construed to require any regular officer, supervisor, or employee of an employer to file a report in connection with services rendered to such employer nor shall any employer be required to file a report covering expenditures made to any regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.

(f) Rights protected by section 158(c) of this title

Nothing contained in this section shall be construed as an amendment to, or modification of the rights protected by, section 158(c) of this title.

(g) “Interfere with, restrain, or coerce” defined

The term “interfere with, restrain, or coerce” as used in this section means interference, restraint, and coercion which, if done with respect to the exercise of rights guaranteed in section 157 of this title, would, under section 158(a) of this title, constitute an unfair labor practice.

(Pub. L. 86-257, title II, §203, Sept. 14, 1959, 73 Stat. 526.)

§ 434. Exemption of attorney-client communications

Nothing contained in this chapter shall be construed to require an attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this chapter any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

(Pub. L. 86-257, title II, §204, Sept. 14, 1959, 73 Stat. 528.)

§ 435. Reports and documents as public information**(a) Publication; statistical and research purposes**

The contents of the reports and documents filed with the Secretary pursuant to sections 431, 432, 433, and 441 of this title shall be public information, and the Secretary may publish any information and data which he obtains pursuant to the provisions of this subchapter. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

(b) Inspection and examination of information and data

The Secretary shall by regulation make reasonable provision for the inspection and examination, on the request of any person, of the information and data contained in any report or other document filed with him pursuant to section 431, 432, 433, or 441 of this title.

(c) Copies of reports or documents; availability to State agencies

The Secretary shall by regulation provide for the furnishing by the Department of Labor of copies of reports or other documents filed with the Secretary pursuant to this subchapter, upon payment of a charge based upon the cost of the service. The Secretary shall make available without payment of a charge, or require any person to furnish, to such State agency as is designated by law or by the Governor of the State in which such person has his principal place of business or headquarters, upon request of the Governor of such State, copies of any reports and documents filed by such person with the Secretary pursuant to section 431, 432, 433, or 441 of this title, or of information and data contained therein. No person shall be required by

reason of any law of any State to furnish to any officer or agency of such State any information included in a report filed by such person with the Secretary pursuant to the provisions of this subchapter, if a copy of such report, or of the portion thereof containing such information, is furnished to such officer or agency. All moneys received in payment of such charges fixed by the Secretary pursuant to this subsection shall be deposited in the general fund of the Treasury.

(Pub. L. 86-257, title II, §205, Sept. 14, 1959, 73 Stat. 528; Pub. L. 89-216, §2(a)-(c), Sept. 29, 1965, 79 Stat. 888.)

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AMENDMENTS

1965—Pub. L. 89-216 inserted references to section 441 of this title.

§ 436. Retention of records

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

(Pub. L. 86-257, title II, §206, Sept. 14, 1959, 73 Stat. 529.)

§ 437. Time for making reports

(a) Each labor organization shall file the initial report required under section 431(a) of this title within ninety days after the date on which it first becomes subject to this chapter.

(b) Each person required to file a report under section 431(b), 432, 433(a), the second sentence of 433(b), or section 441 of this title shall file such report within ninety days after the end of each of its fiscal years; except that where such person is subject to section 431(b), 432, 433(a), the second sentence of 433(b), or section 441 of this title, as the case may be, for only a portion of such a fiscal year (because September 14, 1959, occurs during such person's fiscal year) such person becomes subject to this chapter during its fiscal year or such person may consider that portion as the entire fiscal year in making such report.

(Pub. L. 86-257, title II, §207, Sept. 14, 1959, 73 Stat. 529; Pub. L. 89-216, §2(d), Sept. 29, 1965, 79 Stat. 888.)

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AMENDMENTS

1965—Subsec. (b). Pub. L. 89-216 inserted reference to section 441 of this title in two places.

§ 438. Rules and regulations; simplified reports

The Secretary shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports re-