Here’s the summary of Missouri’s new (terrible, awful, completely infuriating, made-me-shout-at-the-computer-in-my-office-multiple-times) omnibus attack on public sector unions, HB 251.

There’s a much longer section-by-section analysis below, but here are the highlights (really, lowlights):

* Annual written authorization for payroll deduction and additional annual authorization for the use of payroll-deducted money for campaign-related political purposes.
* By prohibiting use or receipt of dues and fees without written consent, bars agency or fair share fee.
* LMRDA-like recording-keeping and reporting requirements for unions, officers, and employees.  Significantly more onerous than the federal LMRDA imposes on private-sector unions.
* Bars voluntary recognition.
* Requires 50%+1 vote of unit employees (not votes cast) for elections and biennial recertification.
* Permits decertification petition and election at any time (i.e., no contract bar).
* Prohibits the use of work time (other than bona fide, personally accrued leave) for any union activities, including contract negotiation and grievance arbitration.
* Makes negotiation sessions and documents provided in them public meetings and public records.
* Requires majority vote of membership to ratify contract.
* Stacks the deck in favor of management in negotiations by requiring that a union ratify a contract first, before the public employer can consider it, and giving the employer a line-item veto to reject portions of the contract while approving others.  The employer can then send the rejected provisions back for more bargaining, or it can impose its own terms unilaterally.
* Requires contracts to reserve significant rights to the public employer, including hiring, promotion, assignment and discharge; changing work rules and procedures; and unilaterally changing the economic terms of contracts in the event of a budget shortfall.
* Prohibits strikes and provides for the immediate termination of any employee who engages in a strike or “interference with the operation of any public body.”
* Permits employer to modify agreement in the event of budget shortfall.
* Gives the Department of Labor and Industrial Relations, any public body, and any citizen of Missouri the right to sue for enforcement of any part of the statute when a union has violated or “is about to violate” any provision.  Requires attorneys’ fees to be awarded to a prevailing plaintiff.

And here is the longer version:

**Payroll Deduction Provisions**

* Requires annual written or electronic authorization for payroll deduction of dues, agency fees, or any other fees.  Also requires “informed” annual authorization to use any portion of the fees collected by payroll deduction for contributions or expenditures, as they are defined in the campaign finance law.  Employees cannot waive the annual reauthorization requirement.
* The definition of contributions and expenditures in Missouri law is broad enough for this to be a very significant restriction.  It would require annual authorization for money to be spent on independent expenditures or ballot initiatives, or money to be given to a committee that makes contributions to candidates.  However, unlike the initial paycheck deception draft we saw in Kentucky, it would not go so far as to require authorization for money spent on legislative campaigns or nonpartisan voter registration drives.
* The bill does not give any indication about what “informed” authorization of political spending actually entails, though there has been at least one successfully First Amendment challenge to a detailed statutory requirement of providing information about the planned spending to members prior to the authorization, so there would likely be limits on how broadly “informed” could be interpreted.
* Although the payroll deduction provisions are phrased to apply to “members of a labor organization” (again, defined as a union that at least partially consists of public employees), the authorization requirement would really only apply to public employees.  Payroll deduction for private sector workers is governed by federal law and therefore the state regulation *as to them* would be preempted.

**Record-keeping and Reporting Provisions**

* Requires unions to maintain records similar to those required to be reported to the federal government under the LMRDA.  The records must be made available to every employee the union represents in a searchable electronic format and kept for five years.
* Creates a private right of action for represented employees to sue their union for enforcement of the payroll deduction authorization requirements and the record-keeping requirements.  Allows for discretionary attorneys’ fees to be awarded to successful plaintiff employees.
* Requires unions to adopt a constitution and bylaws and to be filed with the Department of Labor and Industrial Relations (DLIR).  Unions must also file information about officers and how they are selected; dues and agency fees; and detailed statements regarding qualifications for membership, participation in benefit plans, authorization for union funds disbursement, discipline procedures for officers and members, and authorization for bargaining demands and contract ratification.
* Requires unions to file annual financial statements with the DLIR that include information about assets, liabilities, and receipts; salaries and expenses of officers; loans to officers; the names and addresses of any law firms, public relations firms, or lobbyists used by the union; contributions to political candidates and political, charitable, non-profit, or community organizations to which the union gave financial or in-kind support; support to an affiliated PAC and what candidates and “causes” the PAC supported; and a breakdown of all expenditures that fall into one of ten categories and the percentage of total funds spent in each category:  contract negotiation and administration, organizing activities, litigation (with specificity about the matters and cases involved), public relations activities, political activities, activities to influence legislative or regulatory decisions at any level of government, voter education and issue advocacy, training for officers and staff, conference/convention/travel expenses, and organization administration.  The DLIR may also prescribe additional reporting requirements for expenditures.  The union is required to allow any member with “just cause” to examine the books and records that are necessary to verify the contents of the report.  The reports must be filed electronically and will be available to the public.
* The reporting is somewhat similar to the LMRDA, but with one immediately obvious difference:  HB 251 does not include a monetary threshold for itemization.  It appears all expenditures in the categories described above, no matter how small, would have to be itemized.
* Requires reports by officers and union employees about financial transactions involving any bonds, securities, loans, reimbursements, or other payments or interests provided to the officer/employee and their immediate family by public bodies; businesses of such public bodies; businesses that has substantial dealings with such public bodies (buying, selling, leasing, etc.); businesses that has substantial dealings with the union; and labor relations consultants to public bodies.
* Reports only have to be filed when a reportable transaction occurs.
* Clerical and custodial employees do not need to file reports.
* Payments for bona fide employment do not need to be reported.
* Securities traded on public exchanges do not need to be reported.
* Information filed in the required reports is considered public information and can be used and compiled by the DLIR for research and reports.
* Records supporting the required reports must be kept “available for examination” for five years.
* Imposes penalties for false statements on reports and late-filed reports.
* Shields attorneys from revealing privileged information in filing requires reports.

**Representation and Election Provisions**

* Supervisory employees may not be included in the same bargaining unit as the employees they supervise.
* The same union may not represent both supervisory and non-supervisory employees.
* Prohibits voluntary recognition of a union by any public body.  Recognition may only be obtained through an election before the state board of mediation (created under R.S.Mo. § 295.030 to govern public utility unions).
* Board elections are triggered by the submission of valid signature cards signed by at least 30% of the employees in the proposed bargaining unit.  Elections will be held by secret ballot at the public body’s place of business between four and eight weeks from the validation of the signed cards.
* The election ballot will ask employees whether they want to select the union as the exclusive bargaining rep, as a Y/N question.  If more than one union has obtained valid signatures of more than 30% of the employees, then the ballot will ask for a vote among union A, union B, or no union.
* A union receiving more than 50% of the votes of the employees in the unit will be certified.
* Note that it has to be 50% of employees, not just 50% of votes cast.
* Decertification elections are also triggered by the submission of valid signature cards from at least 30% of the unit’s employees.  Decertification elections will be held between four and six weeks from the validation of the signed cards.  A vote of 50%+1 of the unit employees to decertify will prevail.
* Unions must be recertified every two years by a vote of more than 50% of the employees in the unit.  Recertification votes will take place by phone or online during a two-week period beginning on the anniversary of the initial certification.
* If a union is decertified (or not recertified), the terms of employment in place at the time will continue in effect until the public employer makes changes.
* No more than one election (of any type) may take place in any twelve-month period.
* Sets fees for conducting elections.

**Bargaining Provisions**

* Union representatives and public employer representatives must meet and begin bargaining within eight weeks of the union’s certification.
* Prohibits unions from refusing to meet with the designated representative of the public body and from “engag[ing] in conduct intended to cause the removal or replacement of any designated representative by a public body.”
* Although it’s imprecisely drafted, I expect that the prohibition on engaging in conduct intended to cause the removal or replacement of a representative must have some limitations on it as a matter of constitutionality – for example, the state cannot prohibit a union from working in a gubernatorial race for a challenger simply because the incumbent appointed the designated representative for the bargaining.
* Union representatives cannot use working time for bargaining, except that they can use bona fide leave they have personally accrued.
* A union must establish that a majority of its members has ratified the proposed agreement *before* the proposed agreement is submitted to the public body for approval.  The public body can then approval or reject an agreement in whole or in part.  The public body can send back any rejected portion for further bargaining, “adopt a replacement provision of its own design,” or “state that no provision covering the topic in question shall be adopted.”  Neither a union nor a public body can be bound by a tentative agreement reached by the bargaining representatives, nor can either be subject to binding mediation or to interest arbitration (binding or non).
* This provision appears to stack the deck in favor of the public employer quite substantially (in addition to all of the other ways the bill does so, that is).  By requiring a union to ratify the agreement first, it gives a public body a line-item veto power on any contract.  It also seems to allow the employer to take subjects of bargaining completely off the table after-the-fact.
* Economic terms in contracts must be re-bargained and renewed biennially.  Non-economic terms can be bargained for longer terms.
* Any renewal, modification, or change made to an existing contract after the bill becomes effective law shall be considered a new contract.
* This provision is not perfectly clear, but it appears that it means the two-year clock would begin for any existing contract if a change is made (regardless of its materiality) after the law goes into effect.
* Any meeting between a public body or its representative and a union about a contract will be considered a “public meeting” and any document presented by either side will be considered a “public record.”
* However, it is not considered a “public meeting” for any portion of a meeting in which a public body is planning or adopting a strategy or position for bargaining.
* Imposes the following limitations/requirements on negotiated agreements:
* Must reserve to the public body the right to hire, promote, assign, direct, transfer, schedule, discipline and discharge employees;
* Must reserve to the public body (termed “management,” which is unusual in the draft) the right to make, amend, and rescind reasonable work rules and standard operating procedures;
* Must expressly prohibit all strikes, including any “interference with the operations of any public body,” and acknowledge that any employee who engages in any strike shall be subject to immediate termination;
* Must extend the union’s duty of fair representation to “employees in any bargaining unit” (which is a bit unclear, because it’s hard to see how the duty could extend to anyone in *any* bargaining unit – I would assume this simply means employees in any bargaining unit the union represents);
* Must prohibit the use of any paid time for union duties or union activities of any kind;
* Must inform employees of their right to oppose union activity;
* Must include a provision that, in the event of an undefined “budget shortfall,” the public body can require a thirty-day renegotiation period of the contract’s economic terms and can unilaterally change any economic terms the union does not agree to at the end of the thirty days.
* The union must provide a copy of the contract to any employee who requests it.

**Enforcement**

* Creates a right of action for the DLIR, a public body, or any Missouri citizen to sue for “appropriate relief,” including an injunction, when any union “has violated or is about to violate” any of the provisions of the new bill relating to reporting, elections, representation, or bargaining.  Requires that damages and attorneys’ fees *shall* be awarded to successful plaintiffs.
* In practice, there would also be some constitutional limits on this provision, particularly the ability to sue when a union “is about to violate” the law.