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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2203

02/13/2012 Authored by Bills and Kieffer

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to labor; modifying the public employee fair share fee; prohibiting dues
1.3 check offs; amending Minnesota Statutes 2010, sections 179A.06, subdivisions
1.4 3, 6; 179A.102, subdivisions 3, 6.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2010, section 179A.06, subdivision 3, is amended to
1.7 read:

1.8 Subd. 3. **Fair share fee.** An exclusive representative may require employees who
1.9 are not members of the exclusive representative to contribute a fair share fee for services
1.10 rendered by the exclusive representative. The fair share fee must be equal to the regular
1.11 membership dues of the exclusive representative, less the cost of benefits financed through
1.12 the dues and available only to members of the exclusive representative. In no event may
1.13 the fair share fee exceed 85 percent of the regular membership dues. The exclusive
1.14 representative shall provide advance written notice of the amount of the fair share fee to
1.15 the employer and to unit employees who will be assessed the fee. The employer shall
1.16 provide the exclusive representative with a list of all unit employees.

1.17 A challenge by an employee or by a person aggrieved by the fee must be filed in
1.18 writing with the commissioner, the public employer, and the exclusive representative
1.19 within 30 days after receipt of the written notice. All challenges must specify those
1.20 portions of the fee challenged and the reasons for the challenge. The burden of proof
1.21 relating to the amount of the fair share fee is on the exclusive representative. The
1.22 commissioner shall hear and decide all issues in these challenges.

1.23 ~~The employer shall deduct the fee from the earnings of the employee and transmit~~
1.24 ~~the fee to the exclusive representative 30 days after the written notice was provided. If~~

2.1 ~~a challenge is filed, the deductions for a fair share fee must be held in escrow by the~~
2.2 ~~employer pending a decision by the commissioner.~~

2.3 Sec. 2. Minnesota Statutes 2010, section 179A.06, subdivision 6, is amended to read:

2.4 Subd. 6. **Dues check off; prohibition.** Public ~~employees have the right to request~~
2.5 ~~and be allowed~~ employers, including school districts, shall not provide a dues check off
2.6 for the exclusive representative. ~~In the absence of an exclusive representative, public~~
2.7 ~~employees have the right to request and be allowed dues check off for the organization~~
2.8 ~~of their choice.~~

2.9 Sec. 3. Minnesota Statutes 2010, section 179A.102, subdivision 3, is amended to read:

2.10 Subd. 3. **No existing majority.** (a) If no exclusive representative is certified under
2.11 subdivision 2, the commissioner shall certify an employee organization as exclusive
2.12 representative for an appropriate unit established under section 179A.101 upon a petition
2.13 filed by the organization within the time period provided in subdivision 2 demonstrating
2.14 that the petitioner is certified under section 179A.12 as the exclusive representative of
2.15 fewer than a majority of the employees included within the unit established by section
2.16 179A.101, if no other employee organization so certified has filed a petition within the time
2.17 period provided in subdivision 2 and a majority of the employees in the unit established
2.18 by section 179A.101 are represented by employee organizations under section 179A.12
2.19 on the effective date of the judicial district coming under section 480.181, subdivision 1,
2.20 paragraph (b). Two or more employee organizations, each of which represents employees
2.21 included in the unit established by section 179A.101, may petition jointly under this
2.22 paragraph, provided that any organization may withdraw from a joint certification in
2.23 favor of the remaining organizations on 30 days' notice to the remaining organizations,
2.24 the employer, and the commissioner without affecting the rights and obligations of the
2.25 remaining organizations or the employer. The commissioner shall make a determination
2.26 on a timely petition within 45 days of its receipt.

2.27 (b) If no exclusive representative is certified under subdivision 2 or paragraph (a),
2.28 and an employee organization petitions the commissioner within 90 days of the effective
2.29 date of the judicial district coming under section 480.181, subdivision 1, paragraph
2.30 (b), demonstrating that a majority of the employees included within a unit established
2.31 by section 179A.101 wish to be represented by the petitioner, where this majority is
2.32 evidenced by current dues ~~deduction rights~~, signed statements from court employees in
2.33 counties within the district that are not currently represented by any employee organization
2.34 plainly indicating that the signatories wish to be represented for collective bargaining

3.1 purposes by the petitioner rather than by any other organization, or a combination of
 3.2 those, the commissioner shall certify the petitioner as exclusive representative of the
 3.3 employees in the unit established by section 179A.101. The commissioner shall make a
 3.4 determination on a timely petition within 45 days of its receipt.

3.5 (c) If no exclusive representative is certified under subdivision 2 or paragraph (a) or
 3.6 (b), and an employee organization petitions the commissioner subsequent to the effective
 3.7 date of the judicial district coming under section 480.181, subdivision 1, paragraph (b),
 3.8 demonstrating that at least 30 percent of the employees included within a unit established
 3.9 by section 179A.101 wish to be represented by the petitioner, where this 30 percent is
 3.10 evidenced by current dues ~~deduction rights~~, signed statements from court employees in
 3.11 counties within the district that are not currently represented by any employee organization
 3.12 plainly indicating that the signatories wish to be represented for collective bargaining
 3.13 purposes by the petitioner rather than by any other organization, or a combination of
 3.14 those, the commissioner shall conduct a secret ballot election to determine the wishes of
 3.15 the majority. The election must be conducted within 45 days of receipt or final decision on
 3.16 any petitions filed pursuant to subdivision 2, whichever is later. The election is governed
 3.17 by section 179A.12, where not inconsistent with other provisions of this section.

3.18 Sec. 4. Minnesota Statutes 2010, section 179A.102, subdivision 6, is amended to read:

3.19 Subd. 6. **Contract and representation responsibilities.** (a) Notwithstanding
 3.20 the provisions of section 179A.101, the exclusive representatives of units of court
 3.21 employees certified prior to the effective date of the judicial district coming under
 3.22 section 480.181, subdivision 1, paragraph (b), remain responsible for administration of
 3.23 their contracts and for other contractual duties and have the right to dues and fair share
 3.24 fee ~~deduction~~ and other contractual privileges and rights until a contract is agreed upon
 3.25 with the state court administrator for a new unit established under section 179A.101.
 3.26 Exclusive representatives of court employees certified after the effective date of Laws
 3.27 1999, chapter 216, article 7, section 10, in the judicial district are immediately upon
 3.28 certification responsible for bargaining on behalf of employees within the unit. They are
 3.29 also responsible for administering grievances arising under previous contracts covering
 3.30 employees included within the unit which remain unresolved upon agreement with the
 3.31 state court administrator on a contract for a new unit established under section 179A.101.
 3.32 Where the employer does not object, these responsibilities may be varied by agreement
 3.33 between the outgoing and incoming exclusive representatives. All other rights and duties
 3.34 of representation begin on July 1 of the year in which the state assumes the funding of
 3.35 court administration in the judicial district, except that exclusive representatives certified

4.1 after the effective date of Laws 1999, chapter 216, article 7, section 10, shall immediately,
4.2 upon certification, have the right to all employer information and all forms of access to
4.3 employees within the bargaining unit which would be permitted to the current contract
4.4 holder, including the rights in section 179A.07, subdivision 6. This section does not
4.5 affect an existing collective bargaining contract. Incoming exclusive representatives of
4.6 court employees from judicial districts that come under section 480.181, subdivision 1,
4.7 paragraph (b), are immediately, upon certification, responsible for bargaining on behalf
4.8 of all previously unrepresented employees assigned to their units. All other rights and
4.9 duties of exclusive representatives begin on July 1 of the year in which the state assumes
4.10 the funding of court administration in the judicial district.

4.11 (b) Nothing in Laws 2001, First Special Session chapter 5, or Laws 1999, chapter
4.12 216, article 7, sections 3 to 15, prevents an exclusive representative certified after
4.13 the effective dates of those provisions from assessing fair share or dues ~~deductions~~
4.14 immediately upon certification for employees in a unit established under section 179A.101
4.15 if the employees were unrepresented for collective bargaining purposes before that
4.16 certification.