

# Senate Study Bill 1322

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
LABOR AND BUSINESS  
RELATIONS BILL BY  
CHAIRPERSON DEARDEN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for fair share agreements relating to collective  
2 bargaining for public employees and providing an effective  
3 date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2842XC 82  
6 ec/es/88

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1 1 Section 1. Section 20.3, Code 2007, is amended by adding  
1 2 the following new subsection:  
1 3 NEW SUBSECTION. 5A. "Fair share fee" means the amount  
1 4 charged to an employee in a bargaining unit who is not a  
1 5 member of the employee organization certified by the board as  
1 6 the exclusive bargaining representative for the public  
1 7 employees in that bargaining unit, to cover the costs incurred  
1 8 by the employee organization on behalf of the employee for  
1 9 collective bargaining, contract administration, the adjustment  
1 10 of grievances, and the pursuit of other matters affecting  
1 11 wages, hours, and other conditions of employment.  
1 12 Sec. 2. Section 20.8, subsection 4, Code 2007, is amended  
1 13 to read as follows:  
1 14 4. Refuse to join or participate in the activities of  
1 15 employee organizations, including the payment of any dues,  
1 16 fees or assessments or service fees of any type, except as  
1 17 provided in section 20.9A.  
1 18 Sec. 3. Section 20.9, unnumbered paragraph 1, Code 2007,  
1 19 is amended to read as follows:  
1 20 The public employer and the employee organization shall  
1 21 meet at reasonable times, including meetings reasonably in  
1 22 advance of the public employer's budget-making process, to  
1 23 negotiate in good faith with respect to wages, hours,  
1 24 vacations, insurance, holidays, leaves of absence, shift  
1 25 differentials, overtime compensation, supplemental pay,  
1 26 seniority, transfer procedures, job classifications, health  
1 27 and safety matters, evaluation procedures, procedures for  
1 28 staff reduction, in-service training, and other matters  
1 29 mutually agreed upon. Negotiations shall also include whether  
1 30 a fair share fee shall be charged to nonmembers of the  
1 31 employee organization. terms authorizing dues checkoff for  
1 32 members of the employee organization, and grievance procedures  
1 33 for resolving any questions arising under the agreement, which  
1 34 shall be embodied in a written agreement and signed by the  
1 35 parties. If an agreement provides for dues checkoff, a  
2 1 member's dues may be checked off only upon the member's  
2 2 written request and the member may terminate the dues checkoff  
2 3 at any time by giving thirty days' written notice. Such  
2 4 obligation to negotiate in good faith does not compel either  
2 5 party to agree to a proposal or make a concession.  
2 6 Sec. 4. NEW SECTION. 20.9A FAIR SHARE FEE PROCEDURES.  
2 7 1. When a collective bargaining agreement between a public  
2 8 employer and a certified employee organization, which provides  
2 9 that a fair share fee shall be charged to nonmembers of the  
2 10 employee organization, is reached by ratification of the  
2 11 agreement or by issuance of an arbitration award under section  
2 12 20.22, the public employer shall, within ten days of the date  
2 13 the agreement is reached, provide the employee organization  
2 14 with a list of the names and addresses of all employees in the  
2 15 bargaining unit represented by the employee organization. If  
2 16 a collective bargaining agreement providing for fair share

2 17 fees has a term of more than one year, the list shall be  
2 18 provided by the public employer annually, not later than  
2 19 thirty days prior to the commencement of the next full year of  
2 20 the contract's term.

2 21 2. a. Following receipt by the employee organization of a  
2 22 list of employees pursuant to subsection 1, the employee  
2 23 organization shall provide the public employer with the name  
2 24 of each nonmember of the employee organization and the amount  
2 25 of the fair share fee. Commencing on the effective date of  
2 26 the collective bargaining agreement which provides for a fair  
2 27 share fee or the public employer's receipt of the names and  
2 28 amounts from the employee organization, whichever occurs  
2 29 later, the public employer shall deduct once each month from  
2 30 the wages or salaries of each nonmember the amount of the fair  
2 31 share fee specified for that nonmember by the employee  
2 32 organization and transmit the amounts deducted to the employee  
2 33 organization within fourteen days of the deduction. If a  
2 34 collective bargaining agreement includes a retroactive  
2 35 effective date, the public employer shall make deductions for  
3 1 fair share fees prospectively only.

3 2 b. For purposes of determining the fair share fee, the  
3 3 amount of the fair share fee shall not exceed the regular  
3 4 membership dues paid by members of the employee organization  
3 5 and shall not include any share of the costs incurred by the  
3 6 employee organization for fraternal, ideological, political,  
3 7 or other activities not germane to collective bargaining,  
3 8 contract administration, the adjustment of grievances, or the  
3 9 pursuit of other matters affecting wages, hours, and other  
3 10 conditions of employment. Costs that shall be excluded from  
3 11 the fair share fee include but are not limited to costs for  
3 12 social events; lobbying on issues or for purposes other than  
3 13 the negotiation, ratification, or implementation of a  
3 14 collective bargaining agreement; voter registration training;  
3 15 efforts to increase voting; political campaign techniques;  
3 16 supporting or contributing to charitable organizations; and  
3 17 supporting or contributing to religious or other ideological  
3 18 causes.

3 19 3. As a precondition to the collection of a fair share  
3 20 fee, the employee organization shall establish and maintain a  
3 21 full and fair procedure that conforms with the requirements of  
3 22 the Constitution of the United States and the Constitution of  
3 23 the State of Iowa and all of the following:

3 24 a. Provides nonmembers of the employee organization with  
3 25 an annual notice which informs them of the amount of the fair  
3 26 share fee to be charged, provides them with sufficient  
3 27 information to gauge the propriety of that amount, and informs  
3 28 them of the procedure by which a nonmember may challenge that  
3 29 amount.

3 30 b. Permits challenges by nonmembers to the amount of the  
3 31 fair share fee.

3 32 c. Provides for the consolidation of all timely challenges  
3 33 and for an impartial hearing, before an arbitrator appointed  
3 34 by the American arbitration association pursuant to its rules  
3 35 for impartial determination of union fees, conducted in  
4 1 accordance with those rules and paid for by the employee  
4 2 organization.

4 3 d. Provides that the burden of proof relating to the  
4 4 propriety of the amount of the fair share fee is on the  
4 5 employee organization.

4 6 e. Provides that all fair share fees reasonably in dispute  
4 7 while a challenge is pending shall be held by the employee  
4 8 organization in an interest-bearing escrow account until a  
4 9 final decision is issued by the arbitrator, at which time such  
4 10 funds shall be disbursed in accordance with the arbitrator's  
4 11 decision.

4 12 4. The employee organization shall notify the public  
4 13 employer of any arbitrator's award issued pursuant to the  
4 14 challenge procedure specified in subsection 3 which reduced  
4 15 the amount of a fair share fee and the public employer shall  
4 16 adjust its deduction from the wages or salaries of the  
4 17 challenging nonmembers accordingly.

4 18 5. This section shall be enforced through an action in a  
4 19 court of competent jurisdiction.

4 20 Sec. 5. EFFECTIVE DATE. This Act, being deemed of  
4 21 immediate importance, takes effect upon enactment.

#### 4 22 EXPLANATION

4 23 This bill authorizes the negotiating of fair share fees in  
4 24 collective bargaining agreements for public employees.

4 25 Code chapter 20, concerning collective bargaining for  
4 26 public employees, is amended to authorize fair share fees.

4 27 Code section 20.9 is amended to provide that the scope of

4 28 negotiations for purposes of a collective bargaining agreement  
4 29 includes negotiating whether a fair share fee shall be charged  
4 30 to nonmembers of an employee organization.  
4 31 New Code section 20.9A establishes the procedures to follow  
4 32 if a fair share fee is included in a collective bargaining  
4 33 agreement. The new Code section provides that once an  
4 34 agreement is ratified or an arbitration award is issued that  
4 35 includes a fair share fee, the public employer shall, within  
5 1 10 days, provide the employee organization with a list of  
5 2 employees covered by the agreement. If the agreement has a  
5 3 term of more than one year, the employer shall provide the  
5 4 list on an annual basis. Once the employee organization  
5 5 receives the list, the employee organization shall provide the  
5 6 employer with a list of each nonmember of the employee  
5 7 organization and the amount of the fair share fee. The bill  
5 8 provides that the fee shall not exceed the regular membership  
5 9 dues paid by members and shall not include costs of the  
5 10 employee organization that are not costs incurred by the  
5 11 employee organization and germane for collective bargaining,  
5 12 contract administration, the adjustment of grievances, and the  
5 13 pursuit of other matters affecting wages, hours, and other  
5 14 conditions of employment. The bill provides that the public  
5 15 employer shall begin deducting the fair share fee from  
5 16 nonmembers upon the later of the effective date of the  
5 17 collective bargaining agreement or the date the public  
5 18 employer receives the list of nonmembers and the amount of the  
5 19 fair share fee. The bill provides that no retroactive  
5 20 deductions for fair share fees are allowed.  
5 21 The bill also establishes several additional conditions for  
5 22 the collection of a fair share fee. The bill provides that  
5 23 nonmembers be given an annual notice of the amount of the fair  
5 24 share fee and their rights as to challenging the amount. The  
5 25 bill also provides that nonmembers shall be permitted to  
5 26 challenge the amount of the fair share fee at an impartial  
5 27 hearing before an arbitrator appointed by the American  
5 28 arbitration association. The bill provides that the employee  
5 29 organization has the burden of proof relating to the amount of  
5 30 the fee to be charged. The bill provides that the employee  
5 31 organization shall notify the public employer of any  
5 32 arbitrator's award and the public employer shall adjust the  
5 33 deduction from wages of the nonmembers who challenged the fair  
5 34 share fee amount. The bill provides that the requirements of  
5 35 this new Code section shall be enforced in a court of  
6 1 competent jurisdiction.  
6 2 The bill takes effect upon enactment.  
6 3 LSB 2842XC 82  
6 4 ec:rj/es/88