

House File 35 - Introduced

HOUSE FILE 35

BY HUNTER

A BILL FOR

1 An Act providing for fair share agreements relating to
2 collective bargaining and including effective date
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 20.3, Code 2013, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 4A. *"Fair share fee"* means the amount
4 charged to an employee in a bargaining unit who is not a member
5 of the employee organization certified by the board as the
6 exclusive bargaining representative for the public employees
7 in that bargaining unit, to cover the costs incurred by the
8 employee organization on behalf of the employee for collective
9 bargaining, contract administration, the adjustment of
10 grievances, and the pursuit of other matters affecting wages,
11 hours, and other conditions of employment.

12 Sec. 2. Section 20.8, subsection 4, Code 2013, is amended
13 to read as follows:

14 4. Refuse to join or participate in the activities of
15 employee organizations, including the payment of any dues, fees
16 or assessments or service fees of any type, except as provided
17 in section 20.9A.

18 Sec. 3. Section 20.9, unnumbered paragraph 1, Code 2013, is
19 amended to read as follows:

20 The public employer and the employee organization shall meet
21 at reasonable times, including meetings reasonably in advance
22 of the public employer's budget-making process, to negotiate in
23 good faith with respect to wages, hours, vacations, insurance,
24 holidays, leaves of absence, shift differentials, overtime
25 compensation, supplemental pay, seniority, transfer procedures,
26 job classifications, health and safety matters, evaluation
27 procedures, procedures for staff reduction, in-service training
28 and other matters mutually agreed upon. Negotiations shall
29 also include whether a fair share fee shall be charged to
30 nonmembers of the employee organization, terms authorizing
31 dues checkoff for members of the employee organization, and
32 grievance procedures for resolving any questions arising under
33 the agreement, which shall be embodied in a written agreement
34 and signed by the parties. If an agreement provides for dues
35 checkoff, a member's dues may be checked off only upon the

1 member's written request and the member may terminate the dues
2 checkoff at any time by giving thirty days' written notice.
3 Such obligation to negotiate in good faith does not compel
4 either party to agree to a proposal or make a concession.

5 **Sec. 4. NEW SECTION. 20.9A Fair share fee procedures.**

6 1. When a collective bargaining agreement between a public
7 employer and a certified employee organization, which provides
8 that a fair share fee shall be charged to nonmembers of the
9 employee organization, is reached by ratification of the
10 agreement or by issuance of an arbitration award under section
11 20.22, the public employer shall, within ten days of the date
12 the agreement is reached, provide the employee organization
13 with a list of the names and addresses of all employees in the
14 bargaining unit represented by the employee organization. If a
15 collective bargaining agreement providing for fair share fees
16 has a term of more than one year, the list shall be provided by
17 the public employer annually, not later than thirty days prior
18 to the commencement of the next full year of the agreement's
19 term.

20 2. a. Following receipt by the employee organization of
21 a list of employees pursuant to subsection 1, the employee
22 organization shall provide the public employer with the name
23 of each nonmember of the employee organization and the amount
24 of the fair share fee. In addition, the employee organization
25 shall provide the labor commissioner with the amount of the
26 fair share fee and any supporting documentation utilized in
27 determining the amount of the fair share fee. Commencing on
28 the effective date of the collective bargaining agreement which
29 provides for a fair share fee or the public employer's receipt
30 of the names and amounts from the employee organization,
31 whichever occurs later, the public employer shall deduct once
32 each month from the wages or salaries of each nonmember the
33 amount of the fair share fee specified for that nonmember by
34 the employee organization and transmit the amounts deducted
35 to the employee organization within fourteen days of the

1 deduction. If a collective bargaining agreement includes a
2 retroactive effective date, the public employer shall make
3 deductions for fair share fees prospectively only.

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

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

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

31 *b.* Permits challenges by nonmembers to the amount of the
32 fair share fee.

33 *c.* Provides for the consolidation of all timely challenges
34 and for an impartial hearing, before an arbitrator appointed by
35 the American arbitration association pursuant to its rules for

1 impartial determination of union fees, conducted in accordance
2 with those rules and paid for by the employee organization.

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

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

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

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

20 Sec. 5. Section 731.3, Code 2013, is amended to read as
21 follows:

22 **731.3 Contracts to exclude unlawful.**

23 ~~It~~ Except as provided in sections 20.8, 20.9A, and 731.4A,
24 it shall be unlawful for any person, firm, association,
25 corporation or labor organization to enter into any
26 understanding, contract, or agreement, whether written or
27 oral, to exclude from employment members of a labor union,
28 organization, or association, or persons who do not belong
29 to, or who refuse to join, a labor union, organization, or
30 association, or because of resignation or withdrawal therefrom.

31 Sec. 6. Section 731.4, Code 2013, is amended to read as
32 follows:

33 **731.4 Union dues as prerequisite to employment — prohibited.**

34 ~~It~~ Except as provided in sections 20.8, 20.9A, and 731.4A,
35 it shall be unlawful for any person, firm, association, labor

1 organization or corporation, or political subdivision, either
2 directly or indirectly, or in any manner or by any means as a
3 prerequisite to or a condition of employment to require any
4 person to pay dues, charges, fees, contributions, fines or
5 assessments to any labor union, labor association, or labor
6 organization.

7 Sec. 7. NEW SECTION. 731.4A Fair share fee agreements.

8 A labor union, labor association, labor organization, or
9 employee organization, which is the certified or recognized
10 exclusive representative for collective bargaining under
11 applicable federal law, may enter into an agreement with the
12 employer of the employees it is certified or recognized to
13 represent in collective bargaining that, as a condition of
14 continued employment, requires employees, after thirty days
15 of employment, either to become a member of the certified or
16 recognized labor union, labor association, labor organization,
17 or employee organization, or to pay a fair share fee to the
18 extent permitted by the Constitution of the United States, the
19 Constitution of the State of Iowa, and federal law. Nothing in
20 this section shall be deemed to require an employee to become a
21 member of a labor union, labor association, labor organization,
22 or employee organization. In addition, the requirements of
23 a fair share agreement shall not apply to an employee whose
24 initial date of employment with the employer occurs on a date
25 when a fair share fee agreement as authorized by this section
26 is not in effect.

27 Sec. 8. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
28 immediate importance, takes effect upon enactment.

29 EXPLANATION

30 This bill authorizes the negotiating of fair share fees in
31 collective bargaining agreements.

32 Code chapter 20, concerning collective bargaining for public
33 employees, is amended to authorize fair share fees.

34 Code section 20.9 is amended to provide that the scope of
35 negotiations for purposes of a collective bargaining agreement

1 includes negotiating whether a fair share fee shall be charged
2 to nonmembers of an employee organization.

3 New Code section 20.9A establishes the procedures to follow
4 if a fair share fee is included in a collective bargaining
5 agreement. The new Code section provides that once an
6 agreement is ratified or an arbitration award is issued that
7 includes a fair share fee, the public employer shall, within
8 10 days, provide the employee organization with a list of
9 employees covered by the agreement. If the agreement has a
10 term of more than one year, the employer shall provide the list
11 on an annual basis. Once the employee organization receives
12 the list, the employee organization shall provide the employer
13 with a list of each nonmember of the employee organization and
14 the amount of the fair share fee. The employee organization
15 shall also inform the labor commissioner of the amount of the
16 fair share fee and how it was determined. The bill provides
17 that the fee shall not exceed the regular membership dues
18 paid by members and shall not include costs of the employee
19 organization that are not germane to collective bargaining,
20 contract administration, the adjustment of grievances, and
21 the pursuit of other matters affecting wages, hours, and
22 other conditions of employment. The bill provides that the
23 public employer shall begin deducting the fair share fee
24 from nonmembers upon the later of the effective date of the
25 collective bargaining agreement or the date the public employer
26 receives the list of nonmembers and the amount of the fair
27 share fee. The bill provides that no retroactive deductions
28 for fair share fees are allowed.

29 The bill also establishes several additional conditions for
30 the collection of a fair share fee from public employees. The
31 bill provides that nonmembers be given an annual notice of the
32 amount of the fair share fee and their rights as to challenging
33 the amount. The bill also provides that nonmembers shall be
34 permitted to challenge the amount of the fair share fee at
35 an impartial hearing before an arbitrator appointed by the

1 American arbitration association. The bill provides that the
2 employee organization has the burden of proof relating to the
3 amount of the fee to be charged. The bill provides that the
4 employee organization shall notify the public employer of any
5 arbitrator's award and the public employer shall adjust the
6 deduction from wages of the nonmembers who challenged the fair
7 share fee amount. The bill provides that the requirements of
8 this new Code section shall be enforced in a court of competent
9 jurisdiction.

10 Code chapter 731, concerning labor union membership, is
11 also amended to authorize fair share agreements. New Code
12 section 731.4A provides that a labor union, certified as the
13 bargaining representative of a private sector employer under
14 federal law, may enter into an agreement with an employer that,
15 as a condition of continued employment, requires employees whom
16 the union is certified to represent to become a member of the
17 labor union or to pay a fair share fee to the extent permitted
18 by the United States Constitution, the Iowa Constitution, and
19 applicable federal law. The new Code section provides that
20 nothing in this Code section shall be deemed to require an
21 employee to become a member of a labor union and also provides
22 that the requirement to pay a fair share fee shall not apply to
23 an employee whose initial date of employment occurred on a date
24 when a fair share agreement was not in effect.

25 The bill takes effect upon enactment.