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HOUSE FILE NO. 1671

FIRST COMMITTEE ENGROSSMENT

March 12, 2009

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The bill was read for the first time and referred to the Committee on Commerce and Labor

Referred by Chair to Labor and Consumer Protection Division.

March 23, 2009

Returned to the Committee on Commerce and Labor as Amended.

1.1 A bill for an act
1.2 relating to public employment; modifying provisions relating to labor or
1.3 employee organizations; amending Minnesota Statutes 2008, sections 16A.133,
1.4 subdivision 1; 179A.03, subdivision 14; 179A.06, subdivisions 3, 6.

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

1.6 Section 1. Minnesota Statutes 2008, section 16A.133, subdivision 1, is amended to
1.7 read:

1.8 Subdivision 1. **Payroll direct deposit and deductions.** An agency head in the
1.9 executive, judicial, and legislative branch shall, upon written request signed by an
1.10 employee, directly deposit all or part of an employee's pay to those credit unions or
1.11 financial institutions, as defined in section 47.015, designated by the employee.

1.12 An agency head ~~may~~ must, upon written request of an employee, deduct from the
1.13 pay of the employee a requested amount to be paid to the Minnesota Benefit Association,
1.14 or to any ~~organization~~ organizations contemplated by section 179A.06, of which the
1.15 employee is a member. ~~If an employee has more than one account with the Minnesota~~
1.16 ~~Benefit Association or more than one organization under section 179A.06, only the~~
1.17 ~~Minnesota Benefit Association and one organization, as defined under section 179A.06,~~
1.18 ~~may be paid money by payroll deduction from the employee's pay.~~

1.19 Sec. 2. Minnesota Statutes 2008, section 179A.03, subdivision 14, is amended to read:

1.20 Subd. 14. **Public employee or employee.** "Public employee" or "employee" means
1.21 any person appointed or employed by a public employer except:

1.22 (a) elected public officials;

1.23 (b) election officers;

- 2.1 (c) commissioned or enlisted personnel of the Minnesota National Guard;
- 2.2 (d) emergency employees who are employed for emergency work caused by natural
2.3 disaster;
- 2.4 (e) part-time employees whose service does not exceed the lesser of 14 hours per
2.5 week or 35 percent of the normal work week in the employee's appropriate unit;
- 2.6 (f) employees whose positions are basically temporary or seasonal in character and:
2.7 (1) are not for more than 67 working days in any calendar year; or (2) are not for more
2.8 than 100 working days in any calendar year and the employees are under the age of 22, are
2.9 full-time students enrolled in a nonprofit or public educational institution prior to being
2.10 hired by the employer, and have indicated, either in an application for employment or by
2.11 being enrolled at an educational institution for the next academic year or term, an intention
2.12 to continue as students during or after their temporary employment;
- 2.13 (g) employees providing services for not more than ~~two consecutive quarters~~ one
2.14 semester to the Board of Trustees of the Minnesota State Colleges and Universities under
2.15 the terms of a professional or technical services contract as defined in section 16C.08,
2.16 subdivision 1;
- 2.17 (h) employees of charitable hospitals as defined by section 179.35, subdivision 3;
- 2.18 (i) full-time undergraduate students employed by the school which they attend under
2.19 a work-study program or in connection with the receipt of financial aid, irrespective
2.20 of number of hours of service per week;
- 2.21 (j) an individual who is employed for less than 300 hours in a fiscal year as an
2.22 instructor in an adult vocational education program;
- 2.23 (k) an individual hired by the Board of Trustees of the Minnesota State Colleges
2.24 and Universities to teach one course for three or fewer credits ~~for one semester~~ in a
2.25 one-year period beginning after the end of an academic year and continuing through the
2.26 end of the next academic year;
- 2.27 (l) with respect to court employees:
- 2.28 (1) personal secretaries to judges;
- 2.29 (2) law clerks;
- 2.30 (3) managerial employees;
- 2.31 (4) confidential employees; and
- 2.32 (5) supervisory employees;
- 2.33 (m) with respect to employees of Hennepin Healthcare System, Inc., managerial,
2.34 supervisory, and confidential employees.
- 2.35 The following individuals are public employees regardless of the exclusions of
2.36 clauses (e) and (f):

3.1 (i) An employee hired by a school district or the Board of Trustees of the Minnesota
3.2 State Colleges and Universities except at the university established in section 136F.13 or
3.3 for community services or community education instruction offered on a noncredit basis:
3.4 (A) to replace an absent teacher or faculty member who is a public employee, where the
3.5 replacement employee is employed more than 30 working days as a replacement for that
3.6 teacher or faculty member; or (B) to take a teaching position created due to increased
3.7 enrollment, curriculum expansion, courses which are a part of the curriculum whether
3.8 offered annually or not, or other appropriate reasons;

3.9 (ii) An employee hired for a position under clause (f)(1) if that same position has
3.10 already been filled under clause (f)(1) in the same calendar year and the cumulative
3.11 number of days worked in that same position by all employees exceeds 67 calendar days
3.12 in that year. For the purpose of this paragraph, "same position" includes a substantially
3.13 equivalent position if it is not the same position solely due to a change in the classification
3.14 or title of the position; and

3.15 (iii) an early childhood family education teacher employed by a school district.

3.16 Sec. 3. Minnesota Statutes 2008, section 179A.06, subdivision 3, is amended to read:

3.17 Subd. 3. **Fair share fee.** An exclusive representative may require employees who
3.18 are not members of the exclusive representative to contribute a fair share fee for services
3.19 rendered by the exclusive representative. The fair share fee must be equal to the regular
3.20 membership dues of the exclusive representative, less the cost of benefits financed through
3.21 the dues and available only to members of the exclusive representative. In no event may
3.22 the fair share fee exceed 85 percent of the regular membership dues. The exclusive
3.23 representative shall provide advance written notice of the amount of the fair share fee to
3.24 the employer and to unit employees who will be assessed the fee. The employer shall
3.25 provide the exclusive representative with a list of all unit employees.

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

3.32 The employer shall deduct the fee from the earnings of the employee and transmit
3.33 the fee to the exclusive representative within 30 days after receipt of the written notice
3.34 ~~was provided.~~ If an employee is employed by the same employer in more than one
3.35 bargaining unit, the employer shall deduct the fees owed by the employee to the exclusive

4.1 representatives of each of the bargaining units of which the employee is a member and
4.2 transmit such fees to the respective exclusive representatives within 30 days after receipt
4.3 of the written notice. If a challenge is filed, the deductions for a fair share fee must be held
4.4 in escrow by the employer pending a decision by the commissioner.

4.5 Sec. 4. Minnesota Statutes 2008, section 179A.06, subdivision 6, is amended to read:

4.6 Subd. 6. **Dues check off.** Public employees have the right to request and be allowed
4.7 dues check off for ~~the~~ one or more exclusive ~~representative~~ representatives. In the absence
4.8 of an exclusive representative, public employees have the right to request and be allowed
4.9 dues check off for ~~the organization~~ one or more organizations of their choice.