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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 352

01/24/2019 Authored by Drazkowski, Miller, Bahr and Munson
The bill was read for the first time and referred to the Committee on Labor

1.1 A bill for an act
1.2 relating to employment; granting employees the right to work without being
1.3 required to become a member or pay fees to a labor organization; creating penalties
1.4 and jurisdiction; providing for other unfair labor practices; amending Minnesota
1.5 Statutes 2018, sections 179.01, subdivision 3; 179.10, by adding subdivisions;
1.6 179A.06, subdivision 6, by adding subdivisions; 179A.60, subdivision 7; repealing
1.7 Minnesota Statutes 2018, sections 179A.03, subdivision 9; 179A.06, subdivision
1.8 3.

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

1.10 ARTICLE 1
1.11 DEFINITIONS

1.12 Section 1. Minnesota Statutes 2018, section 179.01, subdivision 3, is amended to read:

1.13 Subd. 3. Employer. "Employer" ~~includes~~ means all persons, firms, associations,
1.14 corporations employing others, and all persons acting in the interest of an employer, but
1.15 does not include the state, or any political or governmental subdivision thereof, nor any
1.16 person subject to the Federal Railway Labor Act, as amended from time to time, nor the
1.17 state or any political or governmental subdivision thereof except when used in section
1.18 179.13.

1.19 Sec. 2. REPEALER.

1.20 Minnesota Statutes 2018, section 179A.03, subdivision 9, is repealed.

ARTICLE 2

RIGHT TO WORK FOR PRIVATE SECTOR EMPLOYEES

2.1
2.2
2.3 Section 1. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision
2.4 to read:

2.5 Subd. 3. **Right to refrain.** No person shall be required, as a condition or continuation
2.6 of employment, to:

2.7 (1) become or remain a member of a labor organization;

2.8 (2) pay any dues, fees, assessments, or other similar charges, however denominated, of
2.9 any kind or amount to a labor organization; or

2.10 (3) pay to any charity or other third party, in lieu of such payments, any amount equivalent
2.11 to or pro rata portion of dues, fees, assessments, or other charges required of members of a
2.12 labor organization.

2.13 Sec. 2. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
2.14 read:

2.15 Subd. 4. **Agreements in violation.** An agreement, understanding, or practice, written
2.16 or oral, implied or expressed, between any labor organization and employer that violates
2.17 the rights of employees as guaranteed by subdivision 3 is hereby declared to be unlawful,
2.18 null and void, and of no legal effect.

2.19 Sec. 3. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
2.20 read:

2.21 Subd. 5. **Penalty; jurisdiction.** A person who directly or indirectly violates subdivision
2.22 3 is guilty of a misdemeanor. District courts shall have jurisdiction to hear and determine
2.23 any violation of this subdivision.

2.24 Sec. 4. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
2.25 read:

2.26 Subd. 6. **Injunctive relief.** A person injured as a result of any violation or threatened
2.27 violation of subdivision 3 is entitled to injunctive relief against any and all violators or
2.28 persons threatening violations.

3.1 Sec. 5. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 7. **Damages.** A person injured as a result of a violation or threatened violation of
3.4 subdivision 3 shall recover any and all damages, including costs and reasonable attorney
3.5 fees, of any character resulting from such violation or threatened violation. Such remedies
3.6 shall be independent of and in addition to the penalties and remedies prescribed in other
3.7 provisions of this section.

3.8 Sec. 6. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
3.9 read:

3.10 Subd. 8. **Duty to investigate and enforce.** It is the duty of the attorney general of this
3.11 state, and of the prosecuting attorneys of each county, to investigate complaints of violation
3.12 or threatened violations of subdivision 3 and to prosecute all persons violating any of its
3.13 provisions, and to take all means at his or her command to ensure effective enforcement.

3.14 Sec. 7. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
3.15 read:

3.16 Subd. 9. **Exceptions.** Subdivisions 3 to 8 do not apply:

3.17 (1) to employers and employees covered by the Railway Labor Act, United States Code,
3.18 title 45, section 151, et seq.;

3.19 (2) to federal employers and employees;

3.20 (3) to employers and employees on exclusive federal enclaves; or

3.21 (4) where they would otherwise conflict with, or be preempted by, federal law.

3.22 Sec. 8. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
3.23 read:

3.24 Subd. 10. **Conflict of provisions; effect.** Wherever the application of other statutes or
3.25 laws conflict with the application of this section, this section prevails.

3.26 Sec. 9. Minnesota Statutes 2018, section 179.10, is amended by adding a subdivision to
3.27 read:

3.28 Subd. 11. **Severability clause.** If this section or the application of this section to any
3.29 person or circumstance is held invalid by a court of competent jurisdiction, the remainder

4.1 of this section or the application of its provisions to persons or circumstances other than
 4.2 those to which it is held invalid shall not be affected.

4.3 ARTICLE 3

4.4 RIGHT TO WORK FOR PUBLIC SECTOR EMPLOYEES

4.5 Section 1. Minnesota Statutes 2018, section 179A.06, subdivision 6, is amended to read:

4.6 Subd. 6. **Dues checkoff.** Public employees have the right to request and be allowed dues
 4.7 checkoff for the exclusive representative. Public employees have the right to revoke a dues
 4.8 checkoff agreement at-will. In the absence of an exclusive representative, public employees
 4.9 have the right to request and be allowed dues checkoff for the organization of their choice.

4.10 Sec. 2. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
 4.11 read:

4.12 Subd. 8. **Right to refrain.** No person shall be required, as a condition or continuation
 4.13 of public employment, to:

4.14 (1) become or remain a member of a labor organization;

4.15 (2) pay any dues, fees, assessments, or other similar charges, however denominated, of
 4.16 any kind or amount to a labor organization; or

4.17 (3) pay to any charity or other third party, in lieu of such payments, any amount equivalent
 4.18 to or pro rata portion of dues, fees, assessments, or other charges required of members of a
 4.19 labor organization.

4.20 Sec. 3. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
 4.21 read:

4.22 Subd. 9. **Agreements in violation.** An agreement, understanding, or practice, written
 4.23 or oral, implied or expressed, between any labor organization and employer that violates
 4.24 the rights of employees as guaranteed by subdivision 3 is hereby declared to be unlawful,
 4.25 null and void, and of no legal effect.

4.26 Sec. 4. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
 4.27 read:

4.28 Subd. 10. **Penalty; jurisdiction.** A person who directly or indirectly violates subdivision
 4.29 8 is guilty of a misdemeanor. District courts shall have jurisdiction to hear and determine
 4.30 any violation of subdivision 8.

5.1 Sec. 5. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
5.2 read:

5.3 Subd. 11. **Injunctive relief.** A person injured as a result of any violation or threatened
5.4 violation of subdivision 8 is entitled to injunctive relief against any and all violators or
5.5 persons threatening violations.

5.6 Sec. 6. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
5.7 read:

5.8 Subd. 12. **Damages.** A person injured as a result of a violation or threatened violation
5.9 of subdivision 8 shall recover any and all damages, including costs and reasonable attorney
5.10 fees, of any character resulting from such violation or threatened violation. Such remedies
5.11 shall be independent of and in addition to the penalties and remedies prescribed in other
5.12 provisions of this section.

5.13 Sec. 7. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
5.14 read:

5.15 Subd. 13. **Duty to investigate and enforce.** It is the duty of the attorney general of this
5.16 state, and of the prosecuting attorneys of each county, to investigate complaints of violation
5.17 or threatened violations of subdivision 8 and to prosecute all persons violating any of its
5.18 provisions, and to take all means at his or her command to ensure effective enforcement.

5.19 Sec. 8. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
5.20 read:

5.21 Subd. 14. **Conflict of provisions; effect.** Wherever the application of other statutes or
5.22 laws conflict with the application of this section, this section prevails.

5.23 Sec. 9. Minnesota Statutes 2018, section 179A.06, is amended by adding a subdivision to
5.24 read:

5.25 Subd. 15. **Severability clause.** If this section or the application of this section to any
5.26 person or circumstance is held invalid by a court of competent jurisdiction, the remainder
5.27 of this section or the application of its provisions to persons or circumstances other than
5.28 those to which it is held invalid shall not be affected.

6.1 Sec. 10. Minnesota Statutes 2018, section 179A.60, subdivision 7, is amended to read:

6.2 Subd. 7. **Contract negotiations and administration.** The exclusive representative of
6.3 employees of a new joint powers entity shall upon certification be responsible to negotiate
6.4 a new collective bargaining agreement, file grievances, and otherwise administer the prior
6.5 collective bargaining agreement until a new collective bargaining agreement is agreed to,
6.6 ~~and to receive dues or fair-share fees.~~

6.7 Sec. 11. **REPEALER.**

6.8 Minnesota Statutes 2018, section 179A.06, subdivision 3, is repealed.

179A.03 DEFINITIONS.

Subd. 9. **Fair share fee challenge.** "Fair share fee challenge" means any proceeding or action instituted by a public employee, a group of public employees, or any other person, to determine their rights and obligations with respect to the circumstances or the amount of a fair share fee.

179A.06 RIGHTS AND OBLIGATIONS OF EMPLOYEES.

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

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

The employer shall deduct the fee from the earnings of the employee and transmit the fee to the exclusive representative 30 days after the written notice was provided. If a challenge is filed, the deductions for a fair share fee must be held in escrow by the employer pending a decision by the commissioner.