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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2005

03/08/2021

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

1.1 A bill for an act  
1.2 relating to labor relations; modifying public labor relations; amending Minnesota  
1.3 Statutes 2020, sections 13.43, subdivision 6; 179A.06, subdivision 6, by adding a  
1.4 subdivision; 179A.07, by adding subdivisions; 572B.17.

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

1.6 Section 1. Minnesota Statutes 2020, section 13.43, subdivision 6, is amended to read:

1.7 Subd. 6. **Access by labor organizations.** (a) Personnel data may be disseminated to  
1.8 labor organizations to the extent that the responsible authority determines that the  
1.9 dissemination is necessary to conduct elections, notify employees of fair share fee  
1.10 assessments, and implement the provisions of chapters 179 and 179A. Personnel data shall  
1.11 be disseminated to labor organizations and to the Bureau of Mediation Services to the extent  
1.12 the dissemination is ordered or authorized by the commissioner of the Bureau of Mediation  
1.13 Services. Personnel data described under section 179A.07, subdivisions 8 and 9, must be  
1.14 disseminated to an exclusive representative under the terms of those subdivisions.

1.15 (b) The home addresses, phone numbers, e-mail addresses, dates of birth, negotiation  
1.16 units and groupings of employees, and e-mails or other communications between employee  
1.17 organizations and their members, prospective members, and nonmembers, are private data  
1.18 on individuals.

1.19 Sec. 2. Minnesota Statutes 2020, section 179A.06, subdivision 6, is amended to read:

1.20 Subd. 6. **Dues checkoff, deduction, and authorization.** (a) Public employees have the  
1.21 right to request and be allowed dues checkoff for the exclusive representative. In the absence

2.1 of an exclusive representative, public employees have the right to request and be allowed  
2.2 dues checkoff for the organization of their choice.

2.3 (b) Employees of a public employer have the right to authorize deductions, in the manner  
2.4 described in section 179A.07, subdivision 10, from their salaries or wages from a public  
2.5 employer for the payment of dues in, or for services from, any organization with membership  
2.6 consisting, in whole or in part, of public employees of the public employer.

2.7 (c) An authorization by a public employee under this section remains in effect until the  
2.8 public employee changes or cancels the authorization in a manner specified in the original  
2.9 authorizing document and the change or cancellation is communicated to the public employer  
2.10 pursuant to section 179A.07, subdivision 10.

2.11 (d) Any request to cancel or change deductions under this subdivision must be made to  
2.12 the employee organization.

2.13 (e) A public employee's deduction authorization under this section is independent from  
2.14 the employee's membership status in the organization to which payment is remitted and is  
2.15 effective regardless of whether a collective bargaining agreement authorizes the deduction.

2.16 Sec. 3. Minnesota Statutes 2020, section 179A.06, is amended by adding a subdivision to  
2.17 read:

2.18 Subd. 8. **Liability.** (a) A public employer, a labor organization, or any of its employees  
2.19 or agents, shall not be liable for and shall have a complete defense to claims or actions under  
2.20 the laws of this state for requiring, deducting, receiving, or retaining agency or fair share  
2.21 fees from public employees, and current or former public employees shall not have standing  
2.22 to pursue these claims or actions if the fees were permitted at the time under the laws of  
2.23 this state then in force and paid, through payroll deduction or otherwise, prior to June 27,  
2.24 2018.

2.25 (b) This subdivision applies to claims and actions pending on its effective date and to  
2.26 claims and actions filed on or after that date.

2.27 (c) The enactment of this subdivision shall not be interpreted to create the inference that  
2.28 any relief made unavailable by this section would otherwise be available.

2.29 (d) The legislature finds and declares:

2.30 (1) application of this subdivision to pending claims and actions clarifies existing state  
2.31 law rather than changes it. Public employees who paid agency or fair share fees as a condition  
2.32 of public employment according to state law and supreme court precedent prior to June 27,

3.1 2018, had no legitimate expectation of receiving the money under any available cause of  
3.2 action. Public employers and employee organizations who relied on and abided by state  
3.3 law and supreme court precedent in deducting and accepting those fees were not liable to  
3.4 refund them or any agency or fair share fees paid for collective bargaining representation  
3.5 that employee organizations were obligated by state law to provide to public employees.  
3.6 Application of this subdivision to pending claims will preserve, rather than interfere with,  
3.7 important reliance interests; and

3.8 (2) this subdivision is necessary to provide certainty to public employers and employee  
3.9 organizations that relied on state law and to avoid disruption of public employee labor  
3.10 relations.

3.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.12 Sec. 4. Minnesota Statutes 2020, section 179A.07, is amended by adding a subdivision to  
3.13 read:

3.14 Subd. 8. **Member data and access.** (a) A public employer must provide access to the  
3.15 following to an exclusive representative with respect to members in the represented  
3.16 bargaining unit:

3.17 (1) the right to meet with bargaining unit members on the premises of the public employer  
3.18 during the work day to investigate and discuss grievances and other workplace issues;

3.19 (2) the right to conduct worksite meetings on the public employer's premises during  
3.20 lunch and other breaks or before and after the workday, to discuss workplace issues, collective  
3.21 negotiations, the administration of collective negotiations agreements, other matters related  
3.22 to the duties of an exclusive representative employee organization, and internal union matters  
3.23 involving the governance or business of the exclusive representative employee organization;

3.24 (3) the right to meet with newly hired employees without charge to the pay or leave time  
3.25 of the employees for a minimum of 30 minutes within 30 calendar days from the date of  
3.26 hire during new employee orientation or, if the employer does not conduct new employee  
3.27 orientation, at an individual or group meeting; and

3.28 (4) the right for an exclusive representative employee organization to use the e-mail  
3.29 systems of public employers to communicate with negotiations unit members regarding  
3.30 collective negotiations, the administration of collective negotiations agreements, the  
3.31 investigation of grievances, other workplace-related complaints and issues, and internal  
3.32 union matters involving the governance or business of the union.

4.1 (b) Exclusive representative employee organizations shall have the right to use  
4.2 government buildings and other facilities that are owned or leased by government entities  
4.3 to conduct meetings with their unit members regarding collective negotiations, the  
4.4 administration of collective negotiations agreements, the investigation of grievances, other  
4.5 workplace-related complaints and issues, and internal union matters involving the governance  
4.6 or business of the union, provided the use does not interfere with governmental operations.  
4.7 Meetings conducted in government buildings pursuant to this section shall not be for the  
4.8 purpose of supporting or opposing any candidate for partisan political office or for the  
4.9 purpose of distributing literature or information regarding partisan elections. An exclusive  
4.10 representative employee organization conducting a meeting in a government building or  
4.11 other government facility pursuant to this section may be charged for maintenance, security,  
4.12 and other costs related to the use of the government building or facility that would not  
4.13 otherwise be incurred by the government entity.

4.14 Sec. 5. Minnesota Statutes 2020, section 179A.07, is amended by adding a subdivision to  
4.15 read:

4.16 Subd. 9. **Bargaining unit information.** Within ten calendar days from the date of hire  
4.17 of negotiations unit employees, a public employer shall provide the following contact  
4.18 information to an exclusive representative employee organization in an Excel file format  
4.19 or other format agreed to by the exclusive representative employee organization: name; job  
4.20 title; worksite location; home address; work, home, and personal cellular telephone numbers;  
4.21 date of hire; and work e-mail address and any personal e-mail address on file with the public  
4.22 employer. Every 120 calendar days beginning on January 1 following the effective date of  
4.23 this act, public employers shall provide exclusive representative employee organizations,  
4.24 in an Excel file format or similar format agreed to by the employee organization, the  
4.25 following information for all negotiations unit employees: name; job title; worksite location;  
4.26 home address; work, home, and personal cellular telephone numbers; date of hire; and work  
4.27 e-mail address and personal e-mail address on file with the public employer.

4.28 Sec. 6. Minnesota Statutes 2020, section 179A.07, is amended by adding a subdivision to  
4.29 read:

4.30 Subd. 10. **Deduction and authorization.** (a) A public employer must administer payroll  
4.31 deductions authorized by public employees under section 179A.06, subdivision 6, as follows:

4.32 (1) a public employer must rely on a certification from any employee organization  
4.33 requesting remittance of a deduction that the organization has and will maintain an

5.1 authorization, signed by the public employee from whose salary or wages the deduction is  
 5.2 to be made. An employee organization making such certification must not be required to  
 5.3 provide the public employer a copy of the authorization unless a dispute arises about the  
 5.4 existence or terms of the authorization. The employee organization must indemnify the  
 5.5 public employer for any successful claims made by the employee for unauthorized deductions  
 5.6 in reliance on the certification. The signature required under this subdivision is sufficient  
 5.7 if it satisfies the requirements of chapter 325L; and

5.8 (2) a public employer must not change or cancel any deductions under this subdivision  
 5.9 upon request from an individual public employee. Deductions must only be changed or  
 5.10 canceled under the terms of original authorizing document and a public employer must rely  
 5.11 on information from the employee organization receiving remittance of the deduction  
 5.12 regarding whether the deductions have been properly changed or canceled. The employee  
 5.13 organization must indemnify the public employer for any successful claims made by the  
 5.14 employee for unauthorized deductions made in reliance on such information.

5.15 (b) Any dispute regarding the existence, validity, cancellation, or a change in an  
 5.16 authorization under this subdivision must be resolved through an unfair labor practice  
 5.17 proceeding under section 179A.13.

5.18 Sec. 7. Minnesota Statutes 2020, section 572B.17, is amended to read:

5.19 **572B.17 WITNESSES; SUBPOENAS; DEPOSITIONS; DISCOVERY.**

5.20 (a) An arbitrator may issue a subpoena for the attendance of a witness and for the  
 5.21 production of records and other evidence at any hearing and may administer oaths. A  
 5.22 subpoena must be served in the manner for service of subpoenas in a civil action and, upon  
 5.23 motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the  
 5.24 manner for enforcement of subpoenas in a civil action.

5.25 (b) On request of a party to or a witness in an arbitration proceeding, an arbitrator may  
 5.26 permit a deposition of any witness to provide testimony at the arbitration hearing, including  
 5.27 a witness who cannot be subpoenaed for or is unable to attend a hearing, to be taken under  
 5.28 conditions determined by the arbitrator for use as evidence in order to make the proceeding  
 5.29 fair, expeditious, and cost-effective.

5.30 (c) An arbitrator may permit such discovery as the arbitrator decides is appropriate in  
 5.31 the circumstances, taking into account the needs of the parties to the arbitration proceeding  
 5.32 and other affected persons and the desirability of making the proceeding fair, expeditious,  
 5.33 and cost-effective.

6.1 (d) If an arbitrator permits discovery under subsection (c), the arbitrator may order a  
6.2 party to the arbitration proceeding to comply with the arbitrator's discovery-related orders,  
6.3 including the issuance of a subpoena for the attendance of a witness and for the production  
6.4 of records and other evidence at a discovery proceeding, and may take action against a party  
6.5 to the arbitration proceeding who does not comply to the extent permitted by law as if the  
6.6 controversy were the subject of a civil action in this state.

6.7 (e) An arbitrator may issue a protective order to prevent the disclosure of privileged  
6.8 information, confidential information, trade secrets, data classified as nonpublic or private  
6.9 pursuant to chapter 13, and other information protected from disclosure as if the controversy  
6.10 were the subject of a civil action in this state.

6.11 (f) All laws compelling a person under subpoena to testify and all fees for attending a  
6.12 judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an  
6.13 arbitration proceeding as if the controversy were the subject of a civil action under the laws  
6.14 and rules of civil procedure of this state.

6.15 (g) The court may enforce a subpoena or discovery-related order for the attendance of  
6.16 a witness within this state and for the production of records and other evidence issued by  
6.17 an arbitrator in connection with an arbitration proceeding in another state upon conditions  
6.18 determined by the court in order to make the arbitration proceeding fair, expeditious, and  
6.19 cost-effective. A subpoena or discovery-related order issued by an arbitrator must be served  
6.20 in the manner provided by law for service of subpoenas in a civil action in this state and,  
6.21 upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced  
6.22 in the manner provided by law for enforcement of subpoenas in a civil action in this state.