

HOUSE BILL No. 2354

By Committee on Commerce, Labor and Economic Development

2-10

1 AN ACT concerning labor organizations; relating to fair share fees;
2 amending K.S.A. 44-803 and repealing the existing section.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 44-803 is hereby amended to read as follows: 44-
6 803. (a) Employees shall have the right to self-organization, to form, join,
7 or assist labor organizations, to bargain collectively through
8 representatives of their own choosing, and to engage in concerted
9 activities, for the purpose of collective bargaining or other mutual aid or
10 protection, and such employees shall also have the right to refrain from
11 any or all such activities.

12 (b) (1) *Collective bargaining negotiations between an employer and*
13 *a labor organization shall include whether a fair share fee shall be*
14 *charged to employee nonmembers of the labor organization. If a collective*
15 *bargaining agreement provides for a fair share fee, a fair share fee may*
16 *apply to any employee who chooses not to join a labor organization that is*
17 *the exclusive bargaining representative of the employee's bargaining unit*
18 *under applicable federal law. The fair share fee shall be a payment to the*
19 *labor organization of an amount equal to the percentage of the labor*
20 *organization's regular dues and initiation fees used to defray the costs and*
21 *expenses incurred by the labor organization in fulfilling a legal duty to act*
22 *as the exclusive collective bargaining representative for all employees in*
23 *the nonmember employee's bargaining unit and that are reasonably*
24 *expended in negotiating with the employer for wages, benefits, working*
25 *conditions or grievance and arbitration rights that are enjoyed by or*
26 *available to the nonmember employee.*

27 (2) *The failure of the nonmember employee to pay the fair share fee*
28 *shall exclude the nonmember employee from any and all benefits of the*
29 *collective bargaining agreement negotiated by the labor organization with*
30 *the employer with the exception of conditions of employment directly*
31 *related to employee or workplace safety, but shall not subject the*
32 *nonmember employee to dismissal or any other disciplinary action by the*
33 *employer or the labor organization.*

34 (3) *The fair share fee shall not exceed the regular membership dues*
35 *and initiation fees paid by an employee who is a member of the labor*
36 *organization. The fair share fee shall not include any costs incurred by the*

1 labor organization for fraternal, ideological, political or other activities
2 not directly related to collective bargaining, contract administration, the
3 adjustment of grievances or the pursuit of other matters affecting wages,
4 hours and other conditions of employment enjoyed by or available to the
5 nonmember employee assessed the fair share fee. Costs that shall be
6 excluded from determination of the fair share fee shall include, but not be
7 limited to, costs for social events, lobbying on issues or purposes other
8 than the negotiation, ratification or implementation of a collective
9 bargaining agreement, voter registration training, efforts to increase
10 voting, political campaign contributions, supporting or contributing to
11 charitable organizations and supporting or contributing to religious or
12 other ideological causes.

13 (4) The labor organization's calculation of the fair share fee and
14 documentation of all expenditures included in the calculation of the fair
15 share fee shall be available to any employee member of the bargaining
16 unit upon request. The fair share fee may be deducted by the employer
17 from a nonmember employee's wages and transmitted to the labor
18 organization if the nonmember employee agrees to the deduction in
19 writing. The nonmember employee's agreement to the deduction may be
20 withdrawn upon reasonable and written notice to the employer and the
21 labor organization. The labor organization shall provide nonmembers
22 with an annual notice that informs them of the amount of the fair share
23 fee, provides them with sufficient information to gauge the propriety of
24 that amount, informs them of the right to request documentation and
25 calculations as provided in this paragraph and informs them of the
26 procedure by which a nonmember may challenge the imposition or amount
27 of the fair share fee.

28 (5) Nonmembers may challenge the imposition or the amount of the
29 fair share fee by an action in any court of competent jurisdiction.

30 (6) The charge, receipt or retention of the fair share fee as provided
31 in this subsection shall not constitute a violation of K.S.A. 44-809(6), and
32 amendments thereto.

33 (7) The secretary of labor may adopt rules and regulations as
34 necessary or convenient to implement the provisions of this subsection.

35 Sec. 2. K.S.A. 44-803 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its
37 publication in the statute book.