

ASSEMBLY BILL NO. 69—ASSEMBLYMEN KOIVISTO, CLABORN,
MCCLAIN, GIUNCHIGLIANI, PARKS, ANDERSON,
ARBERRY JR., ATKINSON, CONKLIN, DENIS, GERHARDT,
KIRKPATRICK, MANENDO, MCCLEARY, OCEGUERA, PIERCE
AND SMITH

FEBRUARY 17, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Authorizes employer to enter into fair share
agreement with labor organization. (BDR 53-956)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to employment practices; authorizing an employer
to enter into a fair share agreement with a labor
organization which requires employees who are not
members of the labor organization to pay a fee to the
labor organization as a condition for employment; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits an employer from requiring a person to be a member of a labor organization as a condition to obtaining or retaining employment. (NRS 613.250) The Nevada Supreme Court has further held that Nevada's "right to work" law (NRS 613.230-613.300) also prohibits an agreement which requires an employee who is not a member of a labor organization to pay certain fees to the labor organization as a condition of employment because such an agreement has the effect of excluding persons from employment on the basis of nonmembership in a labor organization. (*Independent Guard Ass'n, Local No. 1 v. Wackenhut Servs., Inc.*, 90 Nev. 198 (1974))

This bill excludes from the right to work law fair share agreements like the one described in the case considered by the Nevada Supreme Court. Thus, the bill allows an employer to enter into an agreement with a labor organization whereby the employer agrees to require a nonunion employee to pay a service fee to the labor organization as a condition of employment. The service fee represents the employee's proportional share of the expenses of the labor organization relating to collective bargaining, the administration of contracts and the adjustment of grievances. This bill also provides that any such service fee must not exceed the



18 amount paid by members of the labor organization as dues and must not include
19 any fee related to elections or political support or opposition of a candidate or ballot
20 question.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 613 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *An employer may enter into a fair share agreement with*
4 *any labor organization the employer recognizes which requires*
5 *each employee in a bargaining unit who is not a member of that*
6 *labor organization to pay a service fee to the labor organization as*
7 *a condition of employment.*

8 2. *A service fee required pursuant to subsection 1 must*
9 *represent the employee's proportional share of the cost incurred*
10 *by the labor organization for collective bargaining, the*
11 *administration of contracts and the adjustment of grievances. The*
12 *service fee must not:*

13 (a) *Exceed the amount of dues, if any, that are required for*
14 *membership in the labor organization.*

15 (b) *Include any fee for contributions relating to the election or*
16 *support of a candidate for public office or the passage or defeat of*
17 *a question or group of questions on a ballot.*

18 3. *As used in this section:*

19 (a) *"Employer" means:*

20 (1) *The State of Nevada;*

21 (2) *Any local government employer, as defined in NRS*
22 *288.060; and*

23 (3) *Any person, including, without limitation, a public*
24 *service corporation, who has in service a person under a contract*
25 *of hire.*

26 (b) *"Labor organization" includes an employee organization*
27 *as defined in NRS 288.040.*

28 **Sec. 2.** NRS 613.230 is hereby amended to read as follows:

29 613.230 As used in NRS 613.230 to 613.300, inclusive, *and*
30 *section 1 of this act*, the term "labor organization" means any
31 organization of any kind, or any agency or employee representation
32 committee or plan, in which employees participate and which exists
33 for the purpose, in whole or in part, of dealing with employers
34 concerning grievances, labor disputes, wages, rates of pay, hours of
35 employment, or other conditions of employment.

36 **Sec. 3.** NRS 613.250 is hereby amended to read as follows:

37 613.250 ~~[No person shall]~~



1 **1. A person must not** be denied the opportunity to obtain or
2 retain employment because of nonmembership in a labor
3 organization . ~~[, nor shall the State, or]~~ **The State**, any subdivision
4 ~~[thereof or]~~ **of the State and** any corporation, ~~[individual]~~ **natural**
5 **person** or association of any kind **shall not** enter into any
6 agreement, written or oral, which excludes any person from
7 employment or continuation of employment because of
8 nonmembership in a labor organization.

9 **2. The provisions of this section do not prohibit an employer**
10 **from entering into a fair share agreement with a labor**
11 **organization pursuant to section 1 of this act.**

12 **Sec. 4.** NRS 613.290 is hereby amended to read as follows:

13 613.290 Any person who violates any provision of NRS
14 613.230 to 613.300, inclusive, **and section 1 of this act** or who
15 enters into any agreement containing a provision declared illegal by
16 NRS 613.230 to 613.300, inclusive, **and section 1 of this act** or who
17 shall bring about the discharge or the denial of employment of any
18 person because of nonmembership in a labor organization shall be
19 liable to the person injured as a result of such act or provision and
20 may be sued therefor, and in any such action any labor organization,
21 subdivision or local thereof shall be held to be bound by the acts of
22 its duly authorized agents acting within the scope of their authority
23 and may sue or be sued in its common name.

24 **Sec. 5.** NRS 613.300 is hereby amended to read as follows:

25 613.300 Any person injured or threatened with injury by an act
26 declared illegal by NRS 613.230 to 613.300, inclusive, **and section**
27 **1 of this act** shall, notwithstanding any other provision of the law to
28 the contrary, be entitled to injunctive relief therefrom.



