

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 an employee who is not a member of the labor organization and who requests and receives services from the labor organization to pay to the labor organization a service fee which represents the reasonable costs incurred by the labor organization in providing those services; 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 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)) The Nevada Supreme Court has further held, however, that imposing fees on nonunion members for representation in grievance matters is a valid statutory requirement. (*Cone v. Nevada Serv. Employees Union/SEIU local 1107*, 116 Nev. 473 (2000))

This bill, in effect, codifies the decision of the Nevada Supreme Court in *Cone v. Nevada Serv. Employees Union/SEIU Local 1107*, by authorizing an employer



and a labor organization to enter into an agreement which requires an employee in a bargaining unit who is not a member of that labor organization to pay a service fee to the labor organization for any services that the labor organization provides to the employee upon the request of that employee. The service fee must represent the reasonable costs incurred by the labor organization for the services that the labor organization provides to the employee upon the request of that employee. This bill also provides that the service fee must not include any fee related to elections or political support or opposition of a candidate or ballot question.

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

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

1. An employer may enter into a fair share agreement with any labor organization the employer recognizes which requires an employee in a bargaining unit who is not a member of that labor organization to pay a service fee to the labor organization for any services that the labor organization provides to the employee upon the request of that employee.

2. A service fee required pursuant to subsection 1 must represent the reasonable costs incurred by the labor organization for any services that the labor organization provides to the employee upon the request of that employee. The service fee must not include any fee for contributions relating to the election or support of a candidate for public office or the passage or defeat of a question or group of questions on a ballot.

3. As used in this section:

(a) "Employer" means:

(1) The State of Nevada;

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

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

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

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

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



1 **Sec. 3.** NRS 613.250 is hereby amended to read as follows:
2 613.250 ~~[No person shall]~~

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

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

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

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

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

27 613.300 Any person injured or threatened with injury by an act
28 declared illegal by NRS 613.230 to 613.300, inclusive, **and section**
29 **1 of this act** shall, notwithstanding any other provision of the law to
30 the contrary, be entitled to injunctive relief therefrom.



