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LABOR & INDUSTRIAL RELATIONS

HOUSE FILE 126

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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to prohibiting use of state funds and facilities
2 to assist, promote, or deter union organizing, providing
3 penalties, and including an applicability provision.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 126

1 Section 1. NEW SECTION. 731.10 USE OF STATE FUNDS AND
2 FACILITIES TO ASSIST, PROMOTE, OR DETER UNION ORGANIZING
3 PROHIBITED.

4 1. DEFINITIONS. As used in this section, unless the
5 context otherwise requires:

6 a. "Assist, promote, or deter union organizing" means any
7 attempt by an employer to influence the decision of its
8 employees in this state or those of its subcontractors
9 regarding either of the following:

10 (1) Whether to support or oppose a union that represents
11 or seeks to represent those employees.

12 (2) Whether to become a member of any union.

13 b. "Employer" means any individual, corporation,
14 unincorporated association, partnership, government agency,
15 government body, or other legal entity that employs more than
16 one person in the state.

17 c. "State contractor" means any employer that receives
18 state funds for supplying goods or services pursuant to a
19 written contract with the state or any of its agencies.

20 "State contractor" includes an employer that receives state
21 funds pursuant to a contract specified in paragraph "d". For
22 purposes of this section, the contract shall be deemed to be a
23 contract with a state agency.

24 d. "State funds" means any moneys drawn from the state
25 treasury or any special or trust fund of the state. "State
26 funds" includes any moneys appropriated by the state and
27 transferred to any public agency, including a special
28 district, that is used by the public agency to fund, in whole
29 or part, a service contract in excess of two hundred fifty
30 thousand dollars.

31 e. "State property" means any property or facility owned
32 or leased by the state or any state agency.

33 2. REIMBURSEMENTS -- USE OF STATE FUNDS PROHIBITED.

34 a. State funds shall not be used to reimburse a state
35 contractor for any costs incurred to assist, promote, or deter

1 union organizing.

2 b. A request for reimbursement from state funds by a state
3 contractor must include a certification that the state
4 contractor is not seeking reimbursement for costs incurred to
5 assist, promote, or deter union organizing. A state
6 contractor that incurs costs to assist, promote, or deter
7 union organizing shall maintain records sufficient to show
8 that a reimbursement from state funds has not been sought for
9 those costs. The state contractor shall provide the records
10 to the attorney general upon request.

11 c. A state contractor is liable to the state for the
12 amount of any funds obtained in violation of paragraph "a",
13 plus a civil penalty equal to twice the amount of the funds.

14 d. This section does not apply to a fixed-price contract
15 or to any other arrangement by which the amount of the payment
16 of state funds does not depend on the costs incurred by the
17 state contractor.

18 3. STATE GRANTS -- USE OF STATE FUNDS PROHIBITED.

19 a. The recipient of a grant of state funds, including
20 state funds disbursed as a grant by a public agency, shall not
21 use the funds to assist, promote, or deter union organizing.

22 b. For purposes of this section, each recipient of a grant
23 of state funds shall account for the funds as follows:

24 (1) State funds designated by the grantor for use for a
25 specific expenditure of the recipient shall be accounted for
26 as allocated to that expenditure.

27 (2) State funds that are not designated as described in
28 subparagraph (1) shall be allocated on a pro rata basis to all
29 expenditures by the recipient that support the program for
30 which the grant is made.

31 c. Prior to the disbursement of a grant of state funds,
32 the recipient shall provide a certification to the state that
33 the funds will not be used to assist, promote, or deter union
34 organizing. Any recipient that makes expenditures to assist,
35 promote, or deter union organizing shall maintain records

1 sufficient to show that state funds have not been used for
2 such expenditures. The grant recipient shall provide the
3 records to the attorney general upon request.

4 d. A grant recipient is liable to the state for the amount
5 of funds expended in violation of paragraph "a", plus a civil
6 penalty equal to twice the amount of the funds.

7 4. STATE CONTRACTS -- USE OF STATE FUNDS PROHIBITED.

8 a. A state contractor that receives state funds in excess
9 of fifty thousand dollars pursuant to a contract with the
10 state or a state agency shall not use the state funds to
11 assist, promote, or deter union organizing during the life of
12 the contract, including any extensions or renewals of the
13 contract. The dollar threshold in this paragraph, however,
14 does not limit the application of other provisions of this
15 chapter that restrict the use of state funds.

16 b. All contracts in excess of fifty thousand dollars that
17 are awarded by the state or a state agency must contain the
18 prohibition stated in paragraph "a".

19 c. A state contractor that is subject to paragraph "a" and
20 that makes expenditures to assist, promote, or deter union
21 organizing shall maintain records sufficient to show that
22 state funds were not used for such expenditures. The state
23 contractor shall provide the records to the attorney general
24 upon request.

25 d. A state contractor is liable to the state for the
26 amount of any funds expended in violation of paragraph "a",
27 plus a civil penalty equal to twice the amount of the funds.

28 5. MEETINGS ON STATE PROPERTY -- PROHIBITED.

29 a. An employer conducting business on state property
30 pursuant to a contract or concession agreement with the state
31 or a state agency, or a subcontractor on such a contract or
32 agreement, shall not use state property to hold a meeting with
33 any employees or supervisors if the purpose of the meeting is
34 to assist, promote, or deter union organizing. This
35 subsection does not apply if the state property is equally

1 available, without charge, to the general public for holding a
2 meeting.

3 b. An employer that violates paragraph "a" is liable to
4 the state for a civil penalty equal to one thousand dollars
5 per employee per meeting.

6 6. PUBLIC EMPLOYER -- USE OF STATE FUNDS PROHIBITED.

7 a. A public employer receiving state funds shall not use
8 any of those funds to assist, promote, or deter union
9 organizing.

10 b. A public official who knowingly authorizes the use of
11 state funds in violation of paragraph "a" is liable to the
12 state for the amount of the funds.

13 7. STATE PROGRAMS -- USE OF STATE FUNDS PROHIBITED.

14 a. A private employer receiving state funds in excess of
15 ten thousand dollars in any calendar year on account of its
16 participation in a state program shall not use any of the
17 funds to assist, promote, or deter union organizing.

18 b. As a condition of participating in a state program
19 pursuant to which it will receive state funds in excess of ten
20 thousand dollars in any calendar year, a private employer
21 shall provide a certification to the state that the funds will
22 not be used to assist, promote, or deter union organizing.

23 c. A private employer that is subject to paragraph "a" and
24 who makes expenditures to assist, promote, or deter union
25 organizing shall maintain records sufficient to show that
26 state funds were not used for such expenditures. The private
27 employer shall provide the records to the attorney general
28 upon request.

29 d. A private employer is liable to the state for any funds
30 expended in violation of paragraph "a" plus a civil penalty
31 equal to twice the amount of the funds.

32 8. VIOLATIONS -- CIVIL ACTION.

33 a. A civil action for a violation of this section may be
34 brought by the attorney general, or by any state taxpayer, on
35 behalf of the people of the state, for injunctive relief,

1 damages, civil penalties, and other appropriate equitable
2 relief. All damages and civil penalties collected pursuant to
3 this section shall be paid to the general fund of the state.

4 b. Before filing an action under this subsection, a
5 taxpayer shall give written notice to the attorney general of
6 the alleged violation and the intent to bring suit. If the
7 attorney general commences a civil action for the same alleged
8 violation within sixty days of receiving the notice, a
9 separate action by the taxpayer shall be barred.

10 c. A taxpayer may intervene as a plaintiff in any action
11 brought under this subsection.

12 d. A prevailing plaintiff in any action brought under this
13 subsection is entitled to recover reasonable attorney fees and
14 costs. A prevailing taxpayer intervenor who makes a
15 substantial contribution to an action brought under this
16 subsection is entitled to recover reasonable attorney fees and
17 costs.

18 9. ACCOUNTING RULES.

19 a. For purposes of this section, any expense, including
20 legal and consulting fees and salaries of supervisors and
21 employees, incurred for research for, or preparation,
22 planning, or coordination of, or carrying out, an activity to
23 assist, promote, or deter union organizing shall be treated as
24 paid or incurred for that activity.

25 b. For purposes of accounting for expenditures, if state
26 funds and other funds are commingled, any expenditures to
27 assist, promote, or deter union organizing shall be allocated
28 between state funds and other funds on a pro rata basis.

29 10. EXCEPTIONS. This section does not apply to an
30 activity performed, or to an expense incurred, in connection
31 with any of the following:

32 a. Addressing a grievance or negotiating or administering
33 a collective bargaining agreement.

34 b. Allowing a labor organization or its representatives
35 access to the employer's facilities or property.

1 c. Performing an activity required by federal or state law
2 or by a collective bargaining agreement.

3 d. Negotiating, entering into, or carrying out a voluntary
4 recognition agreement with a labor organization.

5 Sec. 2. APPLICABILITY. This Act does not apply to an
6 expenditure made prior to the effective date of this Act, or
7 to a grant or contract awarded prior to the effective date of
8 this Act, unless the grant or contract is modified, extended,
9 or renewed after the effective date of this Act.

10 EXPLANATION

11 This bill creates a new section in Code chapter 731 which
12 prohibits private and public employers from using moneys
13 received from the state to influence their employees about
14 unionization. The prohibition includes state funds received
15 in the form of reimbursements, state grants, and state
16 contracts, and through state programs.

17 The bill also prohibits employers that conduct business on
18 state property from holding meetings on state property for the
19 purpose of influencing employees about unionization unless the
20 state property is equally available, without charge, to the
21 general public. The bill also provides civil penalties and
22 provides that the attorney general or any state taxpayer can
23 bring a civil action and obtain damages and penalties that are
24 to be paid into the general fund of the state. The prevailing
25 plaintiff in such an action is also entitled to attorney fees
26 and costs.

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