

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7021

BILL NUMBER: HB 1105

NOTE PREPARED: Jan 3, 2012

BILL AMENDED:

SUBJECT: Employee's Right to Work.

FIRST AUTHOR: Rep. McClain

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes it a Class A misdemeanor for an employer to require an individual to:

1. Become or remain a member of a labor organization;
 2. Pay dues, fees, or other charges to a labor organization; or
 3. Pay to a charity or another third party an amount that represents dues, fees, or other charges required of members of a labor organization;
- as a condition of employment or continuation of employment.

The bill establishes a separate private right of action for violations or threatened violations.

The bill exempts individuals employed in the construction industry, employed by the United States, or subject to the federal Railway Labor Act.

Effective Date: July 1, 2012.

Explanation of State Expenditures: Costs for the Office of the Attorney General may increase if the Attorney General is required to investigate complaints of violations or enforce compliance if a violation of the statute is found.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$5), judicial salaries fee (\$19), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: The number of units that have contracts that would require an employee to: (1) become or remain a member of a labor organization; (2) pay dues, fees, or other charges to a labor organization; or (3) pay to a charity or other third party an amount that represents dues, fees, or other charges required of members of a labor organization is unknown. The bill would apply to contracts modified, renewed, or extended after June 30, 2012. An individual who is required to pay to or join a labor organization may bring a civil action to obtain any of the following:

1. Actual and consequential damages resulting from the violation.
2. A civil penalty of not more than \$1,000.
3. Reasonable attorney's fees, litigation expenses, and costs.
4. Declaratory or equitable relief, including injunctive relief.
5. Any other relief the court considers proper.

A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Costs for county prosecuting attorneys may increase if the prosecuting attorneys are required to investigate complaints of violations or enforce compliance if a violation of the statute is found.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: All.

Local Agencies Affected: All local units; Trial courts; Local law enforcement agencies.

Information Sources:

Fiscal Analyst: Camille Tesch, 317-232-9866.