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STATE PERSONNEL DIRECTOR OFFICIAL COMMUNICATION

SPDOC No. 15-11

TO: ALL APPOINTING AUTHORITIES, HUMAN RESOURCES OFFICERS,
AND RECOGNIZED EMPLOYEE ORGANIZATIONS

FROM: JANINE M. WINTERS, STATE PERSONNEL DIRECTOR

DATE: AUGUST 6, 2015

SUBJECT: **PROPOSED RULE AMENDMENTS TO RULE 6-7, DUES AND FEES.**

Since collective bargaining was first introduced to the state civil service in August 1979, the commission has allowed agency-shop provisions requiring bargaining-unit members to pay fees related to costs for providing representation in labor-management issues to their exclusive representative.

In August 2013, the Michigan Court of Appeals held in *UAW v Green* that the prohibition on public-sector agency-shop fees in Public Act 349 of 2012 applied to the state classified civil service. Most state union contracts approved by the commission in 2013 implemented a voluntary system of union support, where employees could opt to pay full union dues, a service fee, or nothing.

Last week, the Michigan Supreme Court issued its opinion in the appeal of *UAW v Green*. The majority did not adopt the holding of the Michigan Court of Appeals that the prohibition in PA 349 applied to the state classified service. Instead, the majority held that the commission's policy on agency-shop fees exceeded the commission's constitutional authority.

Staff has prepared the attached proposed amendments to CSC Rule 6-7 to comply with the majority's opinion. The major change is to allow union contracts to establish voluntary service fees instead of mandatory service fees. Because the service fees would be voluntary, staff proposes removing the requirement of providing a formal appeal process to challenge the amount of fees and ending related notice and accounting requirements.

THIS DOCUMENT IS AVAILABLE UPON REQUEST IN ALTERNATIVE ACCESSIBLE FORMATS TO INDIVIDUALS WITH DISABILITIES. FOR FURTHER INFORMATION CALL: VOICE (517) 373-3020 OR MICHIGAN RELAY CENTER 711.

Copies of Regulations may be viewed in Civil Service Commission's Regulatory Information Web site, at <http://www.michigan.gov/mdcs/0,1607,7-147-6877---,00.html>

Comments on the proposed amendments may be addressed to Matthew Fedorchuk, Deputy Director, Civil Service Commission, P.O. Box 30002, Lansing, Michigan, 48909, or emailed to fedorchukm@mi.gov. Comments must be received by Thursday, September 3, 2015.

Attachment

Proposed Amendments to CSC Rule 6-7

6-7 Dues and Service Fees

~~6-7.1—Membership Dues for Exclusive Representatives~~

~~If agreed to in a collective bargaining agreement, the state may deduct the dues or service fee of a member of an exclusively representative bargaining unit through payroll deduction. Notwithstanding any contrary provision of a collective bargaining agreement, an appointing authority shall not deduct membership dues or service fees unless the employee has filed a current prior, voluntary, written authorization.~~

~~6-7.2—Service Fee Authorized~~

~~Nothing in this rule precludes the employer from making an agreement with an exclusive representative to require, as a condition of continued employment, that each eligible employee in the unit who chooses not to become a member of the exclusive representative shall pay a service fee to the exclusive representative. If agreed to in a collective bargaining agreement, the state may deduct the service fee by payroll deduction. An appointing authority shall not deduct a service fee unless the employee has filed a prior written authorization or as otherwise authorized in a collective bargaining agreement.~~

~~6-7.3—Limitations on Service Fee~~

~~The amount of a service fee cannot exceed the employee's proportionate share of the costs of the activities that are necessary to perform its duties as the exclusive representative in dealing with the employer on labor management issues. The service fee may include only the costs germane to collective bargaining, contract administration, grievance adjustment, and any other cost necessarily or reasonably incurred for the purpose of performing the duties of an exclusive representative of the employees in dealing with the employer on labor management issues.~~

~~6-7.4—Right of Fee-Payer to Object~~

~~An employee required to pay a service fee has the right to object to the amount of the service fee and obtain a reduction of the service fee to exclude all expenses not germane to collective bargaining, contract administration, and grievance adjustment, or otherwise necessarily or reasonably incurred for the purpose of performing the duties of an exclusive representative of the employees in dealing with the employer on labor management issues. Each collective bargaining agreement must provide a procedure that provides an objector with the following rights:~~

- ~~(a) The right to financial information sufficient to determine how the service fee is calculated.~~
- ~~(b) The right to challenge the amount of the service fee before an impartial decision-maker.~~
- ~~(c) The right to have any disputed amount of the service fee placed in escrow by the exclusive representative pending a final decision.~~

~~6-7.5—Posted Notice~~

~~Each appointing authority shall post in conspicuous places a notice, in the form prescribed by the state personnel director, informing employees of the rights and obligations set forth in this rule.~~

~~6-7.6—Accounting~~

~~An exclusive representative shall account for and report fees and expenses in such detail as necessary to allow employees to determine the proportionate costs of expenditures necessarily or reasonably incurred for the purposes of performing the duties of an exclusive representative of the employees in dealing with the employer on labor management issues. Each exclusive representative shall provide three copies of an audited report accounting for its fees and expenses to the state personnel director annually.~~