

V. Rules of Procedure for Challenge of a Fair Share Fee Assessment  
Under the Public Employment Labor Relations Act.

BMS 150 Application. These rules govern a challenge by an employee or by a person aggrieved by a fair share fee assessment.

BMS 151 Policy. These rules shall be construed to effectuate the purposes and provisions of the Public Employment Labor Relations Act.

BMS 152 Definitions. The words, terms and phrases in these rules shall have the same meaning and definition as contained in BMS 102.

BMS 153 Fair Share Fee Notice Form. The advance written notice of a fair share fee assessment required by Minn. Stat. § 179.65, subd. 2, shall consist of the following information:

- (a) The name, address and telephone number of the exclusive representative.
- (b) The amount of the regular dues of the exclusive representative.
- (c) The amount of the fair share fee assessment.
- (d) A statement of any benefits available only to members of the exclusive representative and the portion of the regular membership dues attributable to each of those benefits.
- (e) A statement as follows: "Within 30 days after receipt of this notice, an employee or person aggrieved by the assessment may challenge the assessment, specifying those portions of the assessment challenged and the reasons therefore. Forms for challenges may be obtained from the Bureau of Mediation Services, Veterans Service Building, St. Paul, Minnesota 55155."

BMS 154 Challenge of A Fair Share Fee Assessment.

- (a) A petition asserting a challenge to a fair share fee assessment by an employee(s) or person(s) aggrieved by the assessment shall be filed in person or by certified mail with the Director. Such petition shall be in writing in the form prescribed and obtainable from the Bureau.
- (b) A petition asserting a challenge to a fair share fee assessment must be filed within 30 calendar days after receipt of the written notice of the assessment. Receipt of the petition by all parties will be presumed effective on the date the petition is received by the Director.
- (c) The petition shall contain the following information:
  - (1) Certification that a written challenge has been filed with the employer and the exclusive representative of the unit.
  - (2) The name(s) of the employee(s) or person(s) aggrieved by the assessment and filing the petition.

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(3) The name, address and telephone number of the agent/representative of the employee(s) or person(s) filing the petition, if any.

(4) The name of the exclusive representative.

(5) The name, address and telephone number of the agent/representative of the exclusive representative.

(6) The name of the public employer.

(7) The name, address and telephone number of the agent/representative of the public employer.

(8) The description of the bargaining unit of which the petitioner is a member.

(9) The amount of the regular membership dues in the unit.

(10) The amount which represents 85% of the regular membership dues in the unit.

(11) The amount of the fair share fee assessment.

(12) The percent of the regular membership dues represented by the fair share fee assessment.

(13) The benefits the petitioner asserts are financed through the membership dues and available only to members of the exclusive representative.

(14) An assertion that the cost of benefits available only to members of the exclusive representative exceeds the amount by which the regular membership dues were reduced in arriving at the fair share fee.

(d) Upon receipt of such a petition the employer shall hold the deductions for a fair share fee in escrow pending an order or decision by the Director.

(e) Upon receipt of such a petition the Director shall investigate to determine if sufficient evidence on or concerning the question of the circumstances or the amount of the fair share fee assessment exists. If the Director determines that sufficient evidence exists:

(1) he may issue an order directing the employer to hold the fair share fee deductions, or the specific portion thereof which is challenged, in escrow pending a decision by the Director;

(2) he shall require a reply in writing by the exclusive representative of the unit in the form prescribed by the Bureau. The reply shall be filed in person or by certified mail with the Director;

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(3) he shall conduct a hearing in accordance with BMS 104(c), (1)-(3) and (5)-(7). Hearings may be combined as deemed appropriate and notice of any such hearings will be served on the challenger(s), the exclusive representative and the employer.

(f) The Director shall decide the issues in a fair share fee challenge hearing on the basis of the record in accordance with BMS 104 (d), but the burden of proof relating to the amount of the fair share fee shall be on the exclusive representative. The decision and order shall be issued to the parties and take effect 10 days after issuance unless appealed to the Board.

STATE OF MINNESOTA  
DEPARTMENT OF STATE  
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Secretary of State

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