

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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Employee Rights Reform Act

Did you know that global corporation Kraft Foods was the corporate co-chair in 2011?

Summary

The purpose of this act is to: 1) limit the amount of compelled agency fees which may be exacted from public employees as a condition of continued employment; 2) provide public employees compelled to pay agency fees as a condition of continued employment with an expeditious way to protect their rights to their pro rata share of union expenditures; and 3) minimize litigation over the appropriate share of union dues that is allocated to collective bargaining, contract administration, and grievance adjustment; provided, however, that nothing herein expresses or implies approval of laws requiring workers to pay unions for representation they do not want.

Note: In no way does ALEC endorse agency fee requirements. However, ALEC realizes that full employee choice in the workplace is not currently an available option in every state. Therefore, ALEC is suggesting this legislation for states that currently have agency fees, to alleviate the effects of such requirements.

Model Legislation

Section 1. {Short Title} This Act shall be known as the Employee Rights Reform Act.

Section 2. {Legislative declarations} This legislature finds and declares:

- A. That many public employees are required against their will to pay agency fees for representation they do not want; and
- B. The U.S. Supreme Court has held that the amount of agency fees must not exceed the fee payer's pro rata share of union expenses for collective bargaining, contract administration, and grievance processing; and
- C. That fee payers are unable to protect themselves against excessive fees unless fee payers have prompt access to union audited financial statements and other books and records; and
- D. That legislation is imperative to provide such access and thereby protect agency fee payers from excessive fees.

Section 3. {Definitions}

- A. "Agency fee payer" means an individual who is not a union member, but is employed in a bargaining unit represented by an exclusive representative that has negotiated a "union security" or "agency shop" clause subjecting all represented employees to the obligation to either maintain membership in the exclusive representative, or pay some portion of union dues as a condition of continued employment with the public employer. No agency fee payer shall be deemed to have consented to any exaction of agency fees as a condition of continued employment.
- B. "Available" means available for inspection at no cost upon written request at the local office of the exclusive representative.
- C. "Chargeable activity" means an expenditure or activity for purposes of collective bargaining, contract administration, and grievance adjustment undertaken by the exclusive representative, or an affiliate of the exclusive representative, directly on behalf of the bargaining unit in which the "agency fee payer" is employed.
- D. "Expenditure" means all union expenditures of funds in any amount.
- E. "Nonchargeable activity" means an expenditure or activity for purposes other than collective bargaining, contract administration, and grievance adjustment undertaken by the exclusive representative, or an affiliate of the exclusive representative, on behalf of the bargaining unit in which the "agency fee payer" is employed, including, but not limited to, organizing activities, social activities, and activities to maintain the exclusive representative's corporate existence.
- F. For the purposes of this Act, "public employer" means any state or local government, government agency, government instrumentality, special district, joint powers authority, school board or special purpose organization that employs one or more persons in any capacity.

Section 4. {Compliance}

A. Public employers negotiating and enforcing "union security" or "agency shop" clauses in their agreements with an exclusive representative of its employees shall exact from nonmembers not more than their pro rata share of the "exclusive representative" chargeable costs, as set forth herein. Under no circumstances shall a public employer deduct full union dues from the wages of any employee not specifically authorizing such deductions.

B. Exclusive representatives of public employees negotiating "union security" or "agency shop" clauses in their agreements with public employers shall, as a condition of enforcement of such agreements:

- 1) require their employees to prepare and maintain contemporaneous records recording the nature of their activities and the amount of time expended in each such activity, and shall allocate those activities into chargeable and nonchargeable categories; and
- 2) make such records available for inspection to all represented employees within fourteen (14) days after a request for inspection.

C. To fulfill the purposes of this Act, exclusive representatives shall allocate all public employee time and expenditures as either "chargeable to agency fee payer" or "nonchargeable to agency fee payers" not later than fourteen (14) days after the date upon which the activity occurs. All activities and expenditures not so allocated within the required period shall be deemed "nonchargeable to agency fee payers."

D. As to determining the "chargeability" of political and ideological activities and expenditures, the exclusive representative shall apply the legal standards set forth in controlling court decisions. As to determining the "chargeability" of all other activities and expenditures, the exclusive representative shall limit the "chargeable" activities to those collective bargaining, contract administration, and grievance adjustment activities undertaken for, or on behalf of the bargaining unit within which the agency fee payer is employed. It is the purpose of this section to limit "chargeable expenditures" to a greater degree than set forth in the Supreme Court's decision in *Lehnert v. Ferris Faculty Ass'n*, 500 U.S. 507 (1991).

E. All allocations of activities and expenditures of an exclusive representative shall be made available to represented employees no later than twenty-eight (28) calendar days after the activity or expenditure. Any activity or expenditure not made available for review within such period shall be deemed "nonchargeable" to agency fee payers.

F. To the extent that the exclusive representative may, by virtue of its affiliation with a regional, state, national, international, or any other form of affiliated labor organization, seek to compel represented employees to subsidize the activities of such affiliate or affiliates, similar records must be provided to, and maintained by the exclusive representative. Payments made by an exclusive representative to any such affiliate not maintaining and providing such records to the exclusive representative shall be deemed "nonchargeable to agency fee payer."

G. For activities or expenditures continuing for more than fourteen (14) days, the exclusive representative shall provide an estimate of the duration and anticipated allocation to "chargeable" and "nonchargeable" costs in records made available for review pursuant to the terms of this section.

H. This section shall be liberally construed to provide represented employees with timely information about the allocations of activities and expenditures of the exclusive representative as chargeable and nonchargeable to agency fee payers.

Section 5. {Penalties}

A. An exclusive representative failing to prepare and make reports available as set forth herein shall be deemed to have surrendered its authority to collect from nonmembers agency fees for a period of one (1) month. After two such occurrences, the exclusive representative shall be deemed to have surrendered its authority to collect from nonmembers agency fees for a period of one (1) year.

B. Upon sworn written notice to a public employer of an exclusive representative's failure to provide a timely opportunity for inspection, a public employer shall suspend deductions of agency fees from all agency fee payers for a period of one (1) month. After two (2) such occurrences, the public employer shall suspend deductions of all agency fees from all agency fee payers for a period of one (1) year.

C. A public employer failing to comply with this section shall be liable to all agency fee payers for an amount equal to twice the fees wrongfully held, plus the costs (including attorney's fees) of any action to recover such fees.

Section 6. {Effective Date}

Section 7. {Severability Clause} The provisions of this Act are severable. If any provision of this measure or its application to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of this measure which can be given effect without the invalid provision or application. If any provision of this measure is held to be in conflict with federal law, that provision shall remain in full force and effect to the maximum extent permitted by federal law. For purposes of this section, "provision" shall mean any section, subdivision, sentence, phrase or word.

Section 8. {Construction} This Act shall be liberally construed to accomplish its purposes. Compliance herewith is not intended to, nor is to be construed as, substitute for compliance with "the constitutional requirements for the...collection of agency fees." *Teachers Local No. 1 v. Hudson*, 475 U.S. 292 (1986).

Exposed

By the Center for
Media and Democracy
www.prwatch.org

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECexposed.org. For more information contact: editor@prwatch.org or 608-260-9713.

Center for Media and Democracy's quick summary

This bill is focused on limiting the revenue streams for public employee unions and imposes new reporting burdens on union activities. Many state labor laws require that non-union members who are nonetheless represented by a union pay so-called "agency fees," reimbursing unions for the costs of representation (but not the costs of organizing or political activities). This bill requires that public employee unions conduct extensive reporting on activities that are "chargable" to non-union members and those that are "non-chargable." This is one of many ALEC anti-union bills that imposes new burdens and makes sustaining a union more difficult.

Wisconsin Governor Scott Walker went further than this act in his budget repair bill, changing the law to allow non-union employees to avoid paying union dues all together.

Note that ALEC does not support agency fee requirements, but "realizes that full employee choice in the workplace is not currently an available option in every state."