

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2392

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Deanna Walker  
Operator's Signature

10/22/03  
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2392

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10/22/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2392

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 02-10-03

Tape Number	Side A	Side B	Meter #
1	xxx		5000
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Vice-Chairman Klein opened the hearing on SB 2392. Senator Mutch was absent.

SB 2392 relates to union representation expenses of nonunion members.

**Testimony in support of SB 2392**

**Senator Syverson** introduced the bill. He stated that this bill is not an attack on the ND Right To Work Law. It is a bill about fairness. People in unionized labor should pay cost to reap benefits where right now a lot of nonunion members are not paying anything. This bill doesn't force nonunion members to join the union, but they should pay for their representation.

**Representative Amerman** also spoke in support of the bill. He also feels that workers should pay for contract negotiation. It is about fairness. If you (union member) work side-by-side with someone who doesn't pay anything, it will cause hardships at work. See attached testimony.

(END TAPE, Continue side B Meter no. 0.)

**Dave Kemnitz**, AFL-CIO, stated his support of SB 2392.

**Senator Klein:**

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*Deanna Hall*  
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10/22/03

Date

Page 2  
Senate Industry, Business and Labor Committee  
Bill/Resolution Number 2392  
Hearing Date 02-10-03

**Dean Sifert**, Teamsters Union President of Fargo, feels that a portion of the expense of representation should be assessed to nonmembers.

**Senator Klein**: What is the percent of nonunion workers?

**Dean**: About 20-25%.

**Gerry Henricksen**, IBEW 1593, stated his support of SB 2392. See attached testimony.

**Senator Espegard**: Have you ever asked the nonunion workers for a contribution?

**Gerry**: No.

**Renee Pfenning**, ND Building and Construction Trades Council, spoke in support of the bill. See testimony of Virgil Horst. He couldn't be at the hearing, so she read his testimony.

**Testimony in opposition of SB 2392**

**Dean Rummel**, President of TMI Systems Design Corporation of Dickinson, spoke in opposition of SB 2392. See attached testimony. He stated that there are a lot of summer, temporary employees who qualify as full time and shouldn't be subjected to any cost.

**Senator Nething**: Should we add an amendment to say "full-time" employees?

**Dean**: How do you determine a full time employee? It might help.

**Senator Every**: How do you union employees feel about you representing nonunion employees?

**Dean**: I represent both union and nonunion employees. I feel that a union is necessary and beneficial to many, but there should be a choice.

**Senator Heltkamp**: Have nonunion members ever turned down an offer for a pay increase?

**Dean**: They are not allowed to negotiate.

**Curt Peterson**, Associated General Contractors, spoke in opposition to SB 2392.

**Senator Heltkamp**: Don't you feel this bill would make a more harmonious work environment between union and nonunion coworkers?

**Curt**: A contractor who is not a union member deals with their own problems.

**Darryl Galt**, Butler Mach. Co., spoke in opposition to SB 2392.

Page 3  
Senate Industry, Business and Labor Committee  
Bill/Resolution Number 2392  
Hearing Date 02-10-03

(tape 1, side B, meter no. 2230)

**Senator Espegard:** Why aren't there any nonunion members here?

**Dave Kemnitz:** It is clear that they are not interested in paying.

**Vern Hixt,** Bobcat in Bismarck, spoke in opposition of SB 2392. He stated that there are an estimated 585 union members and under 10 nonmembers. The extra cost would be about \$31.00.

**Hearing closed. No action taken.**

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Deanna Ballerino  
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10/22/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2392

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 02-11-03

Tape Number	Side A	Side B	Meter #
2		xxx	1000
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the committee discussion on SB 2392. All Senators were present. SB 2392 relates to union representation expenses of nonunion members.

There was brief discussion among committee members.

Senator Klein moved a DO NOT PASS. Senator Krebsbach seconded.

Roll Call Vote: 5 yes. 2 no. 0 absent.

Carrier: Senator Nething.

Date: 2-11-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2392

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Klein Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Sen. Jerry Klein, Vice Chairman	X				
Sen. Karen Krebsbach	X				
Sen. Dave Nething	X				
Sen. Joel Heitkamp		X			
Sen. Mike Every		X			
Sen. Duane Espgaard	X				
Sen. Duane Mutch, Chairman	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment ~~Nothing~~ Nothing

If the vote is on an amendment, briefly indicate intent:

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Dennis Hall 10/22/03  
Operator's Signature Date

**REPORT OF STANDING COMMITTEE (110)**  
February 12, 2003 1:10 p.m.

Module No: SR-27-2401  
Carrier: Nothing  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
SB 2392: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends  
**DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2392 was  
placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-27-2401

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Deanne Hallen  
Operator's Signature

10/22/03  
Date



2003 TESTIMONY

SB 2392

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10/22/03

Date

**Testimony of Dean Rummel, President  
TMI Systems Design Corporation  
Senate Bill No. 2392  
February 10, 2003**

Mr. Chairman and members of the Senate Industry, Business and Labor Committee:

My name is Dean Rummel and I am the President of TMI Systems Design Corporation in Dickinson. Thank you for allowing me to speak in opposition to Senate Bill No. 2392.

TMI is a manufacturer of institutional furniture located in Dickinson with 95% of our sales outside the state of North Dakota. We currently employ 365 full time employees and since the early 1970's the Carpenters Union has represented our factory employees, that number approximately 200. With North Dakota being a Right-To-Work State about half of the factory employees choose to pay union dues.

TMI management meets monthly with the Union Leadership and their Business Agent. This committee is called the Union/Management Committee and I have served on that committee for over 15 years. We discuss issues, introduce change, and resolve problems. In essence we have ongoing or continuous negotiations. I feel the Union and Management have a good working relationship. I am opposed to this amendment for the following reasons:

1. Employees should have the right to decide to belong to a Union and pay dues. Those who choose not to belong relinquish their right to vote on union contracts and all issues that require a vote of the union membership. I have personally encouraged our employees to join the Union so they can exercise their right to vote.
2. TMI has a cyclical business that has required us to hire between 60 and 70 college students every summer. This works very well for the students, the company, and union employees. We have not had a layoff of full time employees for over 15 years because of this negotiated work issue. I am concerned about the students because they could be required to pay for expenses incurred by the Union because they may benefit from "a contract or agreement that would have an effect on that employee." It is not fair to require someone to pay without having a voice and vote.
3. This past year the college students left before we were able to meet our customer demand for product. For three weeks a number of TMI office employees outside the Union volunteered to work in the factory (with the Union's permission) additional hours outside their normal work shift. How will the "prorated share of expenses" be determined for a three-week period especially when we have a Union/Management committee with ongoing negotiations?
4. Through negotiations TMI agreed to deduct union dues from union members. Many questions are unanswered that have the potential to create a bookkeeping hardship on employers. How will the prorated share be determined? How will the Union collect the dues and over what period of time? How do we communicate to seasonal, part-time and temporary employees as to what this will cost them? Could the "prorated share of expenses" be larger than Union dues thus forcing employees to belong?

Senate Bill No. 2392 has the ability to circumvent North Dakota's Right-To-Work laws.  
My opinion is it will not benefit the Union or Business.

I thank you for your time and strongly encourage you to *not* support SB 2392.

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Deanna Hall  
Operator's Signature

10/22/03  
Date

To: Chairman Mutch  
Members of the Industry, Business and Labor Committee

My name is Virgil Horst. I am a business representative for the Operating Engineers Local No. 49. On behalf of our membership, I strongly encourage you to support S.B. 2392.

This bill would only make it fair and equitable for all of the employees who work under a collective bargaining agreement. These labor agreements are the product of countless hours of identifying workers' concerns, prioritizing proposals and negotiating with employers to reach mutually agreeable conditions for the employees and employers. These agreements are usually part of a long-term relationship that provides good paying, secure jobs with necessary benefits. Jobs like these union jobs, give young employees reasons to stay with their employer. The employer often sees less turnover, more satisfied workers and a safer workplace. But all of these benefits require negotiations, time and resources. Like any legitimate organization, the union relies on its members to contribute modest dues to improve every worker's terms and conditions of employment and to secure the economic standard for their families.

Unfortunately, North Dakota's laws have allowed employees to reap all the benefits of their co-worker's efforts while refusing to pay membership dues. The loophole that allows a few employees to enjoy the benefits without paying the cost needs to be closed. It reminds me of when my college classmate and I were drafted to serve our country. He sold his textbooks and headed for the border, while I went to proudly serve my country. Today, both of our families enjoy the freedom and American lifestyle, but only one of us contributed when called upon.

The logic of requiring all citizens to pay taxes, regardless of whether they agree with a democratic elected official, should also apply here. All employees should contribute to an organization that raises the employment standards. It's fair and it's American.

We ask that you support S.B. 2392.

Sincerely,

*Virgil Horst*

Virgil Horst, Area Business Representative  
Operating Engineers Local No. 49  
Lobbyist #477

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*Deanna Ball*  
Operator's Signature

10/22/03

Date

# IBEW

## International Brotherhood of Electrical Workers



### LOCAL UNION NO. 1593

P.O. BOX 527  
44 West Main Street  
Hazen, ND 58545

(701) 748-6710

Fax: (701) 748-5383  
ibew1593@west.riv.com  
www.ibew1593.com

February 10, 2003

Gerry L. Henriksen, President  
IBEW Local Union 1593  
Hazen, North Dakota

Written Testimony in support of SB2392

Industry, Business, and Labor Chairman, and committee members:

As the President of the International Brotherhood of Electrical Workers (IBEW) Local Union 1593, which represents approximately 900 members throughout the state of North Dakota we urge you to enter a do pass on SB2392. North Dakota is a "Right to Work" state. "Right to Work" has nothing to do with a right to a job or employment but gives workers a choice to belong to or not to belong to a union, which represents them at their place of work. The "Right to Work Law" gives nonmembers a free ride, without paying their fair share for the benefits they receive from being represented by unions. By federal law, unions must represent all workers, members and nonmembers alike, in contract negotiations and other workplace issues. According to the Bureau of Labor Statistics Employees, who are represented by unions, receive better pay, benefits, and pensions than those employees who are not represented. It costs the unions a lot of time and money to achieve these things. SB2392 makes it fair to share the expense incurred for representation. Mr. Chairman and committee members of Industry, Business, and Labor committee, please recommend a do pass on SB2392.

*Gerry L. Henriksen*

Gerry L. Henriksen, President  
IBEW Local Union 1593

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*Deanna Hall*  
Operator's Signature

10/22/03

Date

34-01-14. Right to work not to be abridged by membership or non-membership in labor union. The right of persons to work may not be denied or abridged on account of membership or nonmembership in any labor union or labor organization, and all contracts in negation or abrogation of such rights are hereby declared to be invalid, void, and unenforceable.

Sources: S.L. 1947, ch. 243, § 1; R.M. June 29, 1948, S.L. 1949, p. 512; R.C. 1943, 1957 Supp., § 34-0114.

#### Cross-References.

Public policy of state, see §§ 34-08-02, 34-09-01.

Rights of employees under Labor-Management Relations Act, see § 34-12-02.

#### Dues "Check Off" Prohibited.

This section prohibits an "agency shop" and the dues "check off" of a nonunion member as a condition of employment or continued employment. *Fick v. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local No. 647 (1974) 219 NW 2d 860.*

#### Federal Preemption — Jurisdiction of State Courts.

The North Dakota courts, rather than society the National Labor Relations Board, are tribunals with jurisdiction to enforce the state's prohibition against an "agency shop" clause and a dues "check off" provision for nonunion employees in an executed collective bargaining agreement. *Fick v. International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local No. 647 (1974) 219 NW 2d 860.*

Labor agreement provision that hiring for job vacancies was to be conducted through union registration facilities and referral systems when the referral systems are not in violation of federal law, although not expressly stated to be nondiscriminatory, was not on its face discriminatory against employees by making union membership a condition of employment; absence such a discriminatory condition, section 14(b) of the Taft-Hartley Act does not apply and state court does not have jurisdiction over complaint that such labor agreement violates the state's right-to-work law enacted pursuant to section 14(b). *Associated General Contractors of North Dakota v. Otter Tail Power Co. (1979) 611 F 2d 684.*

State courts do not have jurisdiction under state right-to-work laws over complaints in the hiring procedure provisions contained in a labor contract where the contract provisions do not require union membership as a

condition of employment so as to be within section 14(b) of the Taft-Hartley Act. *Associated General Contractors of North Dakota v. Otter Tail Power Co. (1979) 457 F Supp 1207 a52 (1979) 611 F 2d 684.*

State court would not have jurisdiction of action alleging that agreement between power companies and various labor unions requiring that contractors performing construction work on power plant use union registration facilities and referral systems in filling job vacancies discriminated against employees on account of their status as nonunion members of a labor union in violation of this section since the agreement was silent on the question of discrimination and the court would not infer discrimination; absent discrimination, section 14(b) of the Taft-Hartley Act did not apply and neither the state court, nor the federal district court to which the action was removed because of diversity of citizenship, had jurisdiction. *Associated General Contractors of North Dakota v. Otter Tail Power Co. (1978) 457 F Supp 1207 a1d (1979) 611 F 2d 684.*

#### Hiring Practices — Union Referrals.

Labor agreement provision that hiring for job vacancies was to be conducted through union registration facilities and referral systems when the referral systems are not in violation of federal law, although not expressly stated to be nondiscriminatory, was not on its face discriminatory against employees by making union membership a condition of employment; absence such a discriminatory condition, section 14(b) of the Taft-Hartley Act does not apply and state court does not have jurisdiction over complaint that such labor agreement violates the state's right-to-work law enacted pursuant to section 14(b). *Associated General Contractors of North Dakota v. Otter Tail Power Co. (1979) 611 F 2d 684.*

#### Public Policy.

Public policy of the state as established by the constitution and statutes is to protect an employee in his right to work free from any interference, restraint, or coercion by either the employer or a labor organization. *Fick v. International Brotherhood of Boilermakers,*

*N.D. 122*

#### 34-01-14.1

##### LABOR AND EMPLOYMENT

Iron Ship Builders, Blacksmiths, Forgers and Helpers, Local # 647 (1974) 219 NW 2d 860.

#### Right to Discharge Employees.

This section in no way interferes with the normal exercise of an employer's right to choose his employees, or to discharge them, with or without cause. *Sand v. Queen City Packing Co. (1961) 108 NW 2d 448.*

An employer will not be prevented from discharging an inefficient employee merely because such employee is engaged, or has engaged, in union activities. *Sand v. Queen City Packing Co. (1961) 108 NW 2d 448.*

The so-called "Right to Work" law (this section) places but one limitation upon the employer's right to discharge an employee, and

that is that such discharge cannot be made "on account of" union membership or non-membership of the employee. *Sand v. Queen City Packing Co. (1961) 108 NW 2d 448.*

#### Collateral References.

Labor Relations — 251.  
48 Am. Jur. 2d, Labor and Labor Relations, §§ 12-20.

51 C. J. S. Labor Relations, §§ 10, 228.  
Validity and construction of "right-to-work" laws, 92 ALR 2d 598.

#### Law Reviews.

The Right to Work Imbroglio, 51 N.D.L.Rev. 571.

The Right to Work Imbroglio: Another View, 53 N.D.L.Rev. 163.

34-01-14.1: Collection of actual representation expenses from non-union employees. As used in this section, "actual representation expenses" are only those actual expenses which are sustained by a labor union or labor organization in processing any grievance of a nonunion employee. For grievances arising from actions occurring while an employee was a member of a bargaining unit of a management entity with which a labor union or labor organization has a contract, but while that employee was not a member of that union or organization, that labor union or labor organization shall collect actual representation expenses from that non-union employee. Actual representation expenses may be assessed only in instances in which a nonunion employee has specifically requested in writing to use representation by the labor union or labor organization. A non-union employee may not be compelled to pay any expenses incurred by a labor union or labor organization in the course of general contract negotiations or collective bargaining. An assessment under this section is not an abridgement of any rights guaranteed under section 34-01-14. This section does not abridge or in any way interfere with rights guaranteed employees generally under the Labor Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.].

Source: 1967, ch. 409, § 1.

Effective Date.

This section became effective July 8, 1967.

FEB 10, 2003

TESTIMONY, OF REP. BILL AMERMAN

Chairman Mutch and Members of the Senate IBL Committee.  
It's a pleasure to be before you today, to testify on SB2392.

SB2392 deals with an unfairness that exists in Union held shops across N. D.

Employees in Union Shops have held free elections and have chosen to be organized and represented by a Labor Organization.

Of course N.D. being a right to work State employees may choose to belong to the Union or not.

So employees who work at Union Shops don't have to belong to the Union and they must be treated equally and receive any and all benefits the Union Negotiates for, with the employer.

However Union members pay a regular monthly dues and the nonunion employees don't have to.

These Union dues are used to pay for many things. Some of those are Lost time for Union Officials, arbitrations, negotiations and many other expenses.

What this bill addresses today deals with the Negotiation process. It costs a great deal of money to pay for a negotiation. The cost of this to the Union is covered by the Union dues pay by the members.

However the non Union employees do not pay anything yet they will receive all the pay raises and benefits that the Union can negotiate for. I have a copy of the cost of the last negotiations that members of P.A.C.E. Local 7-560 had to pay for. These costs are on the low side because the cost of our International Rep. is not included. It will however give you a pretty good idea of the cost of this process.

I also have a copy of the raises and benefits the Union was able to gain through the negotiations.

It is simply unfair that employees who pay dues and those who don't receive the same thing

This bill would allow the Union to collect at least a pro rated share of the negotiations from non Union employees.

If employees don't want to belong to a Union, fine, that's the State Law. However they should not be able to freeloader either. They get exactly everything Union members get and yet pay nothing.

There is no reason they should get welfare from hard working Union members.

Thank You, I'll try and answer any questions.

Honorable Bill Amerman  
26<sup>th</sup> Dist. Representative

Bill,

I am sending the figures on the cost of our last negotiations. I haven't received anything from the International yet; if I do I will forward it to you. In addition to these figures, there is also the cost of having our Int'l Rep. Attend all the negotiation sessions. There were 9 of those. We also had to meet with Blue Cross in Fargo twice and with the Bank committee once. These figures are Appx. Direct costs.

Lost Wages for Bargaining Committee	\$5000.00
Per Diem for Committee	\$360.00
Meeting rooms	\$200.00
Rooms for committee for last wk. of negotiations	\$500.00
Research expense/installing contract on computer	\$200.00
General supplies	\$100.00
Meals	\$200.00
	<hr/>
	\$6560.00

In addition to these expenses we also incur expenses during lay offs, general contract administration, administering pension funds, sub pay funds, and overtime issues that benefit both Union and Non-Union employees.

Hope this will help



Randall Edison Fin/Sec  
PACLocal 7-560

  
Operator's Signature

10/22/03  
Date



Feb 05 03 08:00p

PAGE LOCAL 7-580

(701-678-2106

P. 9

**Gwinner**  
**Bobcat Company's Best and Final Contract Offer**  
**06-Dec-02**

YEAR	1ST	2ND	3RD	4TH
<b>Signing Bonus</b>	<b>\$750</b>			
(Contingent upon ratification on December 7th, 2002)				
<b>Wages</b>	<b>3.00%</b>	<b>2.75%</b>	<b>2.50%</b>	<b>2.50%</b>
<b>Average Increase Per Hour</b>	<b>\$0.62</b>	<b>\$0.49</b>	<b>\$0.46</b>	<b>\$0.47</b>
(Assumes Ave Per Hour \$17.27)				<b>\$1.94</b>
				(Total Ave Increase)
<b>Shift Differential</b>	<b>\$0.10</b>			
<b>Health</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>
<b>\$487.73</b>	<b>\$512.12</b>	<b>\$537.73</b>	<b>\$564.62</b>	<b>\$592.85</b>
<b>Pension</b>	<b>\$0.75</b>	<b>\$0.75</b>	<b>\$0.75</b>	<b>\$0.75</b>
<b>\$35.00</b>	<b>\$36.75</b>	<b>\$36.50</b>	<b>\$37.25</b>	<b>\$38.00</b>
<b>Life Insurance</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>
<b>\$29,500</b>	<b>30,500</b>	<b>31,500</b>	<b>32,500</b>	<b>33,500</b>
<b>A D &amp; D</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>	<b>\$1,000</b>
<b>\$29,500</b>	<b>30,500</b>	<b>31,500</b>	<b>32,500</b>	<b>33,500</b>
<b>Weekly Indemnity</b>	<b>\$10.00</b>	<b>\$10.00</b>	<b>\$10.00</b>	<b>\$10.00</b>
<b>\$270.00</b>	<b>\$280.00</b>	<b>\$290.00</b>	<b>\$300.00</b>	<b>\$310.00</b>

Raise Maintenance Mechanics to Grade 8

Increase probationary rate along with annual increases

Freeze vacation replacement wage rate

Extend dependent health coverage in case of death to four (4) months

Eye Exam \$35.00

\$25.00

Prescription Safety Glasses \$50.00

\$35.00

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Date