

Legislative Analysis



PROHIBIT COLLECTION OF UNION DUES BY A PUBLIC SCHOOL EMPLOYER

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House Bill 4929 (Reported from committee without amendment)

Sponsor: Rep. Joe Haveman

Committee: Oversight, Reform, and Ethics

First Analysis (9-14-11)

BRIEF SUMMARY: The bill would prohibit the collection of union dues by a public school employer.

FISCAL IMPACT: The bill would have no significant fiscal impact on school districts. Individual school districts would likely only see a minimal savings from this change. The process for payroll deductions for union dues and service fees is largely automated, so there is very little work school districts must go through on a regular basis. Moreover, some collective bargaining agreements provide that the union is to reimburse (at least in part) the school district for administering a payroll deduction. There could be some initial work, if the bill were enacted, to process that change, but any ongoing savings would be minimal.

THE APPARENT PROBLEM:

When workers, including those in the public sector, vote as a group to form a union that represents their interests, they customarily seek the opportunity to collectively bargain with their employers. During collective bargaining, representatives from the union and management address the workers' levels of compensation, including wages, benefits, and working conditions, and over time, the compensation for workers improves, subject to the availability of funds, and absent economic crises. To advance their work, the unions charge each member an annual membership fee, known as "dues."

In many places of work, including those that employ members of public sector unions, the employers have agreed to deduct the annual union dues from the employees' paychecks each pay period through electronic payroll deduction, in much the same way that employees make contributions to financial institutions for regular payment on their mortgages and to make contributions to charitable organizations (such as the United Way).

In 2010, newly elected state legislators in some states, including Florida and Alabama, introduced bills that would ban payroll deduction of public sector union dues, requiring the leaders of public sector unions to collect their members' dues in other ways. For examples, see *Bloomberg Businessweek*, (3-25-11)

While union membership is voluntary in Michigan schools (see **Background Information**) many teachers and other school personnel including bus drivers, operating engineers, and food service employees, are among those workers who often belong to

public sector unions, generally represented by the Michigan Education Association, the American Federation of Teachers and Related School Personnel, or other unions such as the American Federation of State, County, and Municipal Employees (AFSCME), the International Union of Operating Engineers (IUOE), the United Auto Workers (UAW), and the Steelworkers. According to committee testimony from an AFT-Michigan spokesperson, the majority of their members opt for payroll deduction to pay their annual dues, as a matter of convenience.

Some have argued that Michigan should follow the lead of Florida and Alabama and ban payroll deduction of all public sector union dues; others have argued that the ban should apply only to public school employees. Recently, legislation was introduced in Michigan to prohibit the collection of union dues by all public school employers.

THE CONTENT OF THE BILL:

The bill would amend the Public Employment Relations Act (PERA), which deals with labor organizations and collective bargaining for public employees, to prohibit the collection of union dues by a public school employer.*

Specifically, the bill would say that *a public school employer's use of public school resources to assist a labor organization in collecting dues or service fees from wages of public school employees is a prohibited contribution to the administration of a labor organization.*

The bill specifies that if a collective bargaining agreement requiring the collection of dues or service fees is in effect on the bill's effective date, then this prohibition would not go into effect until that agreement expires, or is terminated, extended, or renewed.

[The law now lists a number of actions that public employers and labor organizations are prohibited from engaging in. House Bill 4929 would retain those prohibitions, but delete the language that "*it shall be unlawful*" to take such actions. Instead, the bill specifies that public employers and labor organizations "*shall not do*" any of these things.]

*Note: Under PERA, the term "public school employer" is defined at MCL 423.201(1)(h) to mean a public employer that is the board of a school district, intermediate school district or public school academy; is the chief executive officer of a school district in which a school reform board is in place under Part 5A of the Revised School Code; or is the governing board of a joint endeavor or consortium consisting of any combination of school districts, intermediate school districts, or public school academies.

MCL 423.210

BACKGROUND INFORMATION:

Union membership is voluntary in Michigan schools. If, for example, a school faculty votes to unionize, and individual members of the faculty do not wish to become members, they can resign their membership by writing a letter to the union that was selected by the majority of teachers to represent them. Teachers who are not members

are accorded many rights afforded to their colleagues who remain in the union, while their annual union dues are reduced.

In their brochure entitled *Teachers: You Don't Have to Pay for Union Political Spending*, the Mackinac Center for Public Policy says: "Teachers who do not join the union or who resign their membership only pay for the union's representation duties, such as bargaining, contract administration, and grievance processing. All other non-bargaining activities, including political, social, and ideological functions, are not legally chargeable to nonunion teachers who object to funding them." The brochure also says that in the case of resignation on religious grounds, "religious objectors may have the right to redirect their entire union fee to a nonunion nonreligious charity."

To read the Mackinac Center for Public Policy 7-page brochure in its entirety, visit <http://www.mackinac.org/4098>

ARGUMENTS:

For:

The proponents of this legislation offer three arguments. First, they say the bill to ban automatic payroll deductions for school employees would save school districts administrative costs, since it requires financial resources, provided by taxpayers, to set up and monitor a payroll deduction system. It ought to be the responsibility of the unions themselves to bear the burden of collecting these dues directly from their members, not that of the school districts.

Second, some proponents of the bill say that if annual union dues are not deducted from their paychecks, school employees will have larger paychecks, and then be able to exercise more control over their personal finances. That way, individual responsibility will be enhanced, the cost of their union's services will be more apparent, and the union leaders will be held more accountable by the union's members.

Third, some proponents, such as the spokesperson for the National Federation of Independent Business-Michigan, say that this bill is an "important check on union power," and that without this legislation, "unsustainable public employee benefits and compensation will continue to threaten the financial integrity of our public institutions." They claim that with regard to public sector unions, the management team that negotiates with employees during collective bargaining is often made up of elected officials, some of whom have won their elected offices with the assistance--both personal and financial--of public sector union members. Compromised in this manner, the management team, beholden to union supporters, does not take a tough stance when negotiating levels of compensation and working conditions. Then, compensation levels for school workers increase beyond the ability of taxpayers to pay.

Response:

These arguments above (and the third argument in particular) assume that locally elected school boards are not capable of carrying out their responsibilities and should not be trusted with making basic decisions at the local level. It assumes school boards and representatives of teachers cannot be trusted to work together effectively to make decisions collectively without micromanaging by the legislature. Those who favor worker organizing and oppose this bill note that historically, in Michigan, workers and

managers have long demonstrated the ability to work together to solve common problems and achieve the common good. Throughout the state, unionized public sector employees, including teachers, have made wage and benefit concessions, and helped local elected officials, including school board members, to downsize their organizations, privatize services, and to consolidate operations. In the challenges Michigan confronts, the citizens who are organized middle-class teachers are key assets, and not liabilities.

Against:

Those opposed to the legislation offer three principal arguments. First, they say the bill will not save much, if any, money in administrative costs, as acknowledged even by proponents of the bill. They note that payroll deduction plans are offered as a convenience by many employers, and employees use them, among other things, to send money to pay home and car loans, to pay insurance premiums, and to make charitable contributions. Because payroll deduction systems are set up electronically, they are extremely inexpensive to create and maintain. Consequently, school employers will not realize any savings when just one field in the software design—the field dedicated to earmark union dues—is eliminated.

Second, opponents of the bill say that this legislation is educationally unwise, since it threatens the state's efforts to lift academic achievement. Opponents note that the bill singles out school personnel—and in particular, the teachers of Michigan's 1.5 million students—for inconvenient harassment. It does so, they believe, in order to silence the voices of teachers and their union representatives, by making it more difficult for them to participate in the political process. The narrow focus of the bill (on school employees only) causes many to ask if this proposal is "payback" because teachers have resisted recently enacted educational "reform" measures, nearly all of which teachers believe diminish their status as valued professionals who care deeply about the growth and success of their students? Opponents argue that this bill further erodes the dignity of public school teachers who feel "besieged" as they enter classrooms to begin the 2011-2012 academic year. Substantive educational reform to lift academic achievement cannot occur in schools where teachers are demoralized.

Third, some opponents of the bill say that it is economically short-sighted. They see it as part of a nationwide attack on organized labor, as an assault on working people and public sector unions because those unions give workers a voice in democracy. Public sector unions enable workers to join the middle class, by earning living wages for their families—wages that have historically increased due to collective bargaining. Policies to make worker organizing more difficult thwart the steady, incremental advance of middle-income workers and their families. Some economists, in the wake of the recent "Great Recession", have said: "Arguably, the most important economic trend in the United States over the past couple of generations has been the ever more distinct sorting of Americans into winner and losers, and the slow hollowing-out of the middle class" (For a fuller discussion, see the *Atlantic Monthly*, September 2011.) Attacks on public sector unions and teachers only make matters worse.

POSITIONS:

The Michigan Chamber of Commerce supports the bill. (9-13-11)

The Federation of Independent Businesses supports the bill. (9-13-11)

The International Union of Operating Engineers #324 opposes the bill. (9-13-11)

The American Federation of Teachers - Michigan opposes the bill. (9-13-11)

The Michigan AFL-CIO opposes the bill. (9-13-11)

The Michigan State Employees Association opposes the bill. (9-13-11)

The Michigan Building and Construction Trades oppose the bill. (9-13-11)

The United Auto Workers oppose the bill. (9-13-11)

The International Brotherhood of Electrical Workers opposes the bill. (9-13-11)

The Michigan Education Association opposes the bill. (9-13-11)

The American Federation of State, County, and Municipal Employees (AFSCME) Council 25 opposes the bill. (9-13-11)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.