

# HOUSE BILL No. 5189

September 15, 2005, Introduced by Rep. Miller and referred to the Committee on Government Operations.

A bill to prohibit expenditures of state funds on activities that interfere with or discourage unionization; and to prescribe penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. As used in this act:

2           (a) "Department" means the department of labor and economic  
3 growth.

4           (b) "Interfere with or discourage unionization" includes, but  
5 is not limited to, all of the following:

6           (i) A communication in any form that advocates, directly or by  
7 implication, that an employee should vote against unionization.

8           (ii) Hiring or consulting persons to advise on means to deter

1 unionization or impede a labor organization that represents  
2 employees from fulfilling its representation responsibilities.

3 (iii) Holding meetings to influence employees to refrain from  
4 unionizing.

5 (iv) Planning or engaging in employee-supervisor activities to  
6 deter the lawful activities of a labor organization.

7 (c) "Person" means an individual, partnership, corporation,  
8 limited liability company, association, governmental entity, or  
9 other legal entity.

10 (d) "Receive state funds" means to acquire state funds in any  
11 form, including a grant, payment under contract, reimbursement, or  
12 other direct payment, and includes a subcontractor's receipt of  
13 payment for performance of any portion of a contract funded with  
14 state funds.

15 (e) "State funds" means any money drawn from the state  
16 treasury or other fund of the state, and any state resources,  
17 including a good or service or the value of a good or service, that  
18 is provided to a person.

19 (f) "Unionization" means the organization of employees for the  
20 purpose of collective bargaining.

21 (g) "Use of state funds" means expenditure of state funds by a  
22 person who receives state funds. The expenditure may be for any  
23 purpose, including operating expenses, supplies, maintenance,  
24 utilities, capital facilities, or equipment.

25 Sec. 2. (1) A person who receives state funds shall not use  
26 state funds wholly or in part to interfere with or discourage  
27 unionization by that person's employees or the employees of any

1 other employer.

2 (2) This section does not limit the right of an employer or  
3 labor organization to engage in lawful activities relating to the  
4 negotiation and enforcement of a collective bargaining agreement.

5 Sec. 3. The department shall promulgate rules in accordance  
6 with the administrative procedures act of 1969, 1969 PA 306, MCL  
7 24.201 to 24.328, to implement this act.

8 Sec. 4. (1) A person who receives state funds and who expends  
9 any funds to interfere with or discourage unionization shall  
10 maintain accurate and complete records of all expenditures. The  
11 records shall be sufficient to demonstrate whether state funds have  
12 been expended to interfere with or discourage unionization. If the  
13 state designates state funds for a specific use or expenditure, the  
14 person shall account for the specific use or expenditure. If the  
15 state does not designate state funds for a specific use or  
16 expenditure, the person shall allocate the funds on a pro rata  
17 basis to all expenditures of the person that are related to the  
18 purpose for which the state funds are received.

19 (2) A person subject to the record-keeping requirements of  
20 subsection (1) shall prepare and submit to the department 4 times  
21 per calendar year a quarterly report that specifies each  
22 expenditure of state funds and each expenditure of funds that have  
23 been used for the interference with or discouragement of  
24 unionization. The person shall file each report within 30 days  
25 after the end of each calendar quarter.

26 (3) The report required under subsection (2) shall include the  
27 person's certification, under oath, that state funds were not

1 expended to interfere with or discourage unionization. A person who  
2 provides a false certification under this subsection is guilty of  
3 perjury.

4 (4) On its own initiative or in response to a complaint that  
5 the department determines credible, the department may at any time  
6 audit the records of a person subject to the certification  
7 requirement of this section to ensure compliance with this act.

8 (5) The department shall certify a department determination  
9 that a person has failed or refused to do any of the following:

10 (a) Comply with the record-keeping requirements of this act.

11 (b) Comply with the reporting requirements of this act.

12 (c) Provide the department with access to the person's records  
13 for an audit under this act.

14 (6) A person who is subject to a certification described in  
15 subsection (5) is ineligible to receive state funds until the  
16 department certifies that the person is in full compliance with the  
17 requirements described in subsection (5).

18 Sec. 5. (1) A person who knowingly authorizes an expenditure  
19 of state funds in violation of this act is liable to the state for  
20 civil damages equal to twice the amount of the expenditure, plus  
21 attorney fees and costs.

22 (2) A taxpayer may bring a civil action on behalf of the state  
23 to recover the damages described in subsection (1). If the taxpayer  
24 prevails, he or she is entitled to 1/2 the amount recovered on  
25 behalf of the state, plus his or her attorney fees.

26 (3) A person adjudicated to have violated section 2 is  
27 ineligible to receive state funds for a period of 3 years after the

1 date the judgment against the person is entered.