

SENATE BILL No. 1339

May 18, 2010, Introduced by Senators HARDIMAN and JANSEN and referred to the Committee on Commerce and Tourism.

A bill to amend 1947 PA 336, entitled

"An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act,"

by amending section 12 (MCL 423.212).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. ~~When a petition is filed, in accordance with rules~~
2 ~~promulgated by the commission.~~

3 ~~— (a) By a public employee or group of public employees, or an~~
4 ~~individual or labor organization acting in their behalf, alleging~~
5 ~~that 30% or more of the public employees within a unit claimed to~~
6 ~~be appropriate for such purpose wish to be represented for~~
7 ~~collective bargaining and that their public employer declines to~~
8 ~~recognize their representative as the representative defined in~~

1 ~~section 11, or assert that the individual or labor organization,~~
2 ~~which is certified or is being currently recognized by their public~~
3 ~~employer as the bargaining representative, is no longer a~~
4 ~~representative as defined in section 11; or~~

5 ~~—— (b) By a public employer or his representative alleging that 1~~
6 ~~or more individuals or labor organizations have presented to him a~~
7 ~~claim to be recognized as the representative defined in section 11;~~
8 ~~The commission shall investigate the petition and, if it has~~
9 ~~reasonable cause to believe that a question of representation~~
10 ~~exists, shall provide an appropriate hearing after due notice. If~~
11 ~~the commission finds upon the record of the hearing that such a~~
12 ~~question of representation exists, it shall direct an election by~~
13 ~~secret ballot and shall certify the results thereof. Nothing in~~
14 ~~this section shall be construed to prohibit the waiving of hearings~~
15 ~~by stipulation for the purpose of a consent election in conformity~~
16 ~~with the rules of the commission.~~

17 **(1) TO INITIATE A HEARING ON A QUESTION OF REPRESENTATION, A**
18 **PETITION SHALL BE FILED UNDER THE RULES OF THE COMMISSION AS**
19 **FOLLOWS:**

20 **(A) BY A PUBLIC EMPLOYEE, A GROUP OF PUBLIC EMPLOYEES, OR AN**
21 **INDIVIDUAL OR LABOR ORGANIZATION ACTING ON BEHALF OF A PUBLIC**
22 **EMPLOYEE OR GROUP OF PUBLIC EMPLOYEES THAT ALLEGES 1 OF THE**
23 **FOLLOWING:**

24 **(i) THIRTY PERCENT OR MORE OF THE PUBLIC EMPLOYEES WITHIN AN**
25 **APPROPRIATE UNIT WISH TO BE REPRESENTED FOR COLLECTIVE BARGAINING**
26 **AND THEIR PUBLIC EMPLOYER DECLINES TO RECOGNIZE THEIR**
27 **REPRESENTATIVE AS THE REPRESENTATIVE DESCRIBED IN SECTION 11.**

1 (ii) THE INDIVIDUAL OR LABOR ORGANIZATION THAT IS CERTIFIED OR
2 CURRENTLY RECOGNIZED BY THE PUBLIC EMPLOYER AS THE BARGAINING
3 REPRESENTATIVE IS NO LONGER A REPRESENTATIVE AS DESCRIBED IN
4 SECTION 11.

5 (B) BY A PUBLIC EMPLOYER OR ITS REPRESENTATIVE THAT ALLEGES
6 THAT 1 OR MORE INDIVIDUALS OR LABOR ORGANIZATIONS HAVE PRESENTED A
7 CLAIM TO BE RECOGNIZED AS THE REPRESENTATIVE DESCRIBED IN SECTION
8 11.

9 (2) UPON RECEIPT OF A PETITION DESCRIBED IN SUBSECTION (1),
10 THE COMMISSION SHALL INVESTIGATE AND, IF IT HAS REASONABLE CAUSE TO
11 BELIEVE THAT A QUESTION OF REPRESENTATION EXISTS, SHALL PROVIDE AN
12 APPROPRIATE HEARING AFTER DUE NOTICE.

13 (3) IF THE COMMISSION FINDS UPON THE RECORD OF THE HEARING
14 THAT A QUESTION OF REPRESENTATION EXISTS, THAT THE BARGAINING UNIT
15 IS APPROPRIATE, AND THAT THE RELATIONSHIP OF PUBLIC EMPLOYER AND
16 PUBLIC EMPLOYEE EXISTS, IT SHALL DIRECT AN ELECTION BY SECRET
17 BALLOT AND SHALL CERTIFY THE RESULTS OF THE ELECTION.

18 (4) THIS SECTION SHALL NOT PROHIBIT THE WAIVER OF A HEARING BY
19 STIPULATION FOR THE PURPOSE OF A CONSENT ELECTION IN CONFORMITY
20 WITH THE RULES OF THE COMMISSION. THAT WAIVER, HOWEVER, DOES NOT
21 PRECLUDE A SUBSEQUENT CHALLENGE TO THE VALIDITY OF THE BARGAINING
22 UNIT BASED ON THE LACK OF PUBLIC EMPLOYER AND PUBLIC EMPLOYEE
23 RELATIONSHIP.