

Legislative Analysis



PUBLIC EMPLOYER CONTRACTS

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House Bill 4059

Sponsor: Rep. Marty Knollenberg

Committee: Oversight, Reform, and Ethics

Complete to 3-7-11

A SUMMARY OF HOUSE BILL 4059 AS INTRODUCED 1-13-11

House Bill 4059 would amend the Public Employment Relations Act (Public Act 336 of 1947) to prohibit public employer contracts that pay union officials for time conducting union business.

More specifically, after the effective date of the legislation, the bill would prohibit a public employer from entering into or renewing a bargaining agreement that requires or allows paid release time for union officers or bargaining representatives to conduct union business, if the release time is paid by the public employer.

MCL 423.210

FISCAL IMPACT:

The bill would have no direct impact on the expenditures of the several state departments, as the Public Employment Relations Act does not apply to the state classified workforce. The PERA implements Article IV, Section 48 of the State Constitution, which states that "the legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service." Moreover, Article XI, Section 5 of the State Constitution grants the Civil Service Commission plenary authority over the civil service system. The issue of union leave is addressed in several collective bargaining agreements between the state and its employees' unions as well as in Civil Service rules.

The bill would have varying impacts on municipalities. Smaller, rural municipalities would likely not be materially impacted, while larger municipalities could realize some cost savings to the extent they no longer provide paid leave time for union business. A review of selected municipal contracts doesn't immediately indicate how prevalent paid union leave is as a feature of municipal employee contracts, or whether it is a feature of certain contracts (e.g., police and fire) but not others (e.g. clerical staff). Many contracts already allow unpaid time off for union officials to attend to union business (except when participating in grievance issues), while others generally prohibit employees from spending time on union business during regular working hours. At the other end, however, some municipal contracts provide for full-time union officials.

As background information, the collective bargaining agreements for state government departments generally provide for unpaid time off for union officials to tend to union business provided that the time off "does not substantially interfere" with the departmental operations. During that time, the employee shall not earn annual, sick, or length of service credits. However, union officials are free to use leave time they have available to them. The

union is permitted to "buy back" up to 120 hours of that leave time – in effect returning that leave time to the employee – by paying the department for the cost of that time.

Employees are permitted time off with pay to attend grievance hearings, labor-management meetings, and certain other meetings, and may also utilize "administrative leave" to attend "authorized union functions," with prior notice, and "subject to the operational needs" of the department.¹

Civil Service rules expressly provide that "[a] classified employee shall not engage in union activities during actual-duty time. A classified employee may engage in union activities only while on approved union leave or on off-duty time."² The granting of union leave time is further conditioned on the following:

- A classified employee is prohibited from engaging in union activities or political activities during actual-duty time. An appointing authority shall discipline any employee who engages in union activities or political activities during actual-duty time.
- A manager or supervisor is prohibited from permitting a classified employee to engage in union activities or political activities during actual-duty time. The appointing authority shall discipline a manager or supervisor who permits an employee to engage in union activities or political activities during actual-duty time.
- The state employer or an appointing authority are prohibited from entering into any formal or informal written or unwritten agreements permitting classified employees to engage in union activities on actual-duty time or to receive any compensation, benefit, or benefit accrual paid in whole or in part by the state for union activities, unless expressly included in a collective bargaining agreement approved by the civil service commission.

Of note, Civil Service rules require that the "state employer shall report annually to the civil service commission on the state subsidy for union activities. The report must include the amount, type, and value of all state-paid union leave, administrative leave banks, administrative union officer leave, and any other arrangement by which an employee receives any compensation, benefit, or benefit accrual paid in whole or in part by the state for union activities." This report, however, has apparently never been completed.

The fiscal impact statement will be updated as information becomes available.

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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.

¹ This description is taken from the current contract with the Michigan State Employees Association (MSEA), Safety and Regulatory Unit. Copies of the several collective bargaining agreements are available on the website of the Office of the State Employer, <http://www.michigan.gov/ose>.

² See Chapter 6 (Employer-Employee Relations) of the Civil Service Rules.