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BILL ANALYSIS

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Senate Bill 280 (Substitute S-1 as reported)
Sponsor: Senator Marty Knollenberg
Committee: Commerce

Date Completed: 11-6-15

RATIONALE

The public employment relations Act generally prohibits strikes by certain public employees, specifies the rights that public employees have within the scope of their employment, and prohibits public employers from engaging in certain conduct with regard to collective bargaining. In some instances, collective bargaining agreements include provisions that provide for employer-paid union release time. Such provisions allow an employee to take paid time from work to attend to union matters, e.g., addressing workplace grievances or labor contract administration. Because these provisions are negotiated within the collective bargaining process, they can vary considerably between employers. Some believe that this type of leave time by public employees is an inappropriate use of taxpayer money, and contend that unions or union members should pay for time that public employees spend conducting union business. To address those concerns, it has been suggested that the Act should prohibit public employers from paying for union release time.

CONTENT

The bill would amend the public employment relations Act to prohibit a public employer or an officer or agent of a public employer, on or after the bill's effective date, from entering into or renewing a bargaining agreement that required or allowed paid release time for a union officer or bargaining representative to conduct union business if the release time were paid by the public employer. The prohibition would not apply to a bargaining agreement for employees subject to compulsory arbitration under Public Act 312 of 1969, or for corrections officers employed by a county sheriff in a county jail, work camp, or other facility maintained by a county that houses adult prisoners.

(Public Act 312 of 1969 provides for compulsory arbitration of labor disputes in municipal police and fire departments, establishes the procedures for arbitration, and provides for the enforcement and review of arbitration awards.)

The bill would take effect 90 days after its enactment.

MCL 423.210

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Public employer-paid union release time allows public employees to be compensated for time not spent working for the taxpayers of the State or a local unit of government. The expense of conducting union business should be borne by the unions, not the public. In the case of public schools, employer-paid union release time removes money from the classroom, where it would do the most good. The bill would not prohibit release time for employees to attend to union business, so long as that time was not paid for by the public employer.

Opposing Argument

Collective bargaining is a collaborative process meant to better public sector working conditions. One item that can be negotiated is employer-paid union release time. Not all agreements include provisions granting employer-paid release time. Whenever this type of release time is allowed, it is granted as a part of a negotiated agreement between the parties in exchange for other concessions. Such arrangements exist where the parties to a collective bargaining agreement have deemed it a productive and cost-effective means of having personnel available to resolve labor issues, e.g., grievances and contract administration. Prompt settlement of issues can save time and money that would otherwise be wasted having to deal with complaints or grievances outside of work hours, and keeps problems from getting worse with time.

The bill would be harmful for several reasons. For instance, there are situations in which employees have the right to be represented by the union. The paid release time enables union representatives to be available during work hours to address issues quickly and with little expense. Absent paid release time, this representation could be diminished, eliminated, or delayed, which could expose the union to liability for failing to represent its members.

Another concern is that the bill would have drastic consequences for public sector workplaces that rely on a 24-hour schedule. University health systems, for example, are considered public employers and rely on collective bargaining agreements to address labor disputes and foster collaboration between management and staff, e.g., registered nurses. Creating a representative pool of workers from each shift to serve on a bargaining team would be difficult because at least one of the shifts would be working at the time of negotiations. In such situations, it could be that at least one of the shifts would be underrepresented in negotiations.

In addition, the bill would undermine local control. Within the scope of public education, many collective bargaining agreements are made at the local level between teachers and school boards. As discussed previously, employer-paid release time is an item that is negotiated, often at the expense of other benefits. These decisions are made at the local level to accommodate local needs. This bill would remove the discretion of a local school districts or other public employer to use employer-paid release time if the parties believed paid release time would be a benefit.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State and local units of government. Under the bill, employer-paid leave or release time for union officers would no longer be allowable as part of a collective bargaining agreement (CBA) between a union and a public employer. A total of 67 school districts in Michigan have these types of provisions in the collective bargaining agreements with their respective labor unions, and the cost associated totals about \$2.7 million per year. If these provisions were simply eliminated outright from future CBAs, school districts would see total cost savings of \$2.7 million on those contracts relative to otherwise identical contracts that contained the provisions in question. On the other hand, if other concessions were negotiated in lieu of union leave time provisions, the potential savings could be reduced or new costs could be created if the alternative concessions were more expensive than the union leave time provisions would have been.

Fiscal Analyst: Josh Sefton

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