



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5387 (Substitute H-2 as passed by the House)
Sponsor: Representative Daniela Garcia
House Committee: Appropriations
Senate Committee: Committee of the Whole

CONTENT

The bill would amend Public Act 336 of 1947, which prohibits strikes by various public employees, to do the following:

- Require the Superintendent of Public Instruction to notify the Michigan Employment Relations Commission (MERC) of the full or partial days a public school employee was engaged in a strike, and allow a parent of a student in the school district to give that notice if the public school employer had not notified MERC of an allegation of a strike.
- Require MERC to conduct a hearing to determine if there had been a violation of the Act within two days, instead of 60 days, of receiving notice of a strike or lockout, and allow the bargaining representative, public school employer, Superintendent of Public Instruction, an affected public school employee, and a parent who notified MERC an opportunity to present testimony to support or contest the allegation of a strike or lockout.
- Remove the penalty assessed against a bargaining representative when MERC finds that a strike occurred (but retain penalties on public school employees engaged in a strike, equal to one day of pay for each full or partial day of engaging in the strike).
- Allow the Superintendent or Attorney General to bring an action to enjoin a strike by a public school employee.
- Require a court having jurisdiction of an action to enjoin a strike to impose the same sanctions that MERC would be required to order, if they would not be duplicative.
- Require a court, if it found that an illegal lockout had occurred, to fine the public school employer \$5,000 and each member of its governing board \$250 for each day of the lockout, unless the fines would duplicate MERC-imposed sanctions.
- Require a court to award costs and attorney fees to a prevailing plaintiff, and to order other equitable relief it found appropriate.
- Require a public employer to commence a proceeding to determine whether a public employee violated the Act within five (rather than 10) days of receiving a request for a hearing, and to issue a decision within two (rather than 10) days after the proceeding.
- Allow a public employer to consolidate employee hearings unless an employee demonstrated manifest injustice from the consolidation.
- Specify that a public school employer that became a community district (i.e., Detroit Public Schools) would not be the successor employer to any existing collective bargaining agreement of the public school employer and would not be subject to a collective bargaining agreement that applied to the public school employer from which functions and responsibilities were transferred.
- Specify that a community district would not be a successor employer for any purpose.
- Specify that a community district would not be considered the employer of any employee who worked at a public school from which functions and responsibilities were transferred to the community district.

- Specify that any rights and obligations under existing collective bargaining agreements or individual contracts entered into by the public school employer would remain the sole responsibility of that employer and would not be the responsibility of the community district.

The bill would take effect 90 days after its enactment. The bill is tie-barred to House Bill 5384, which would provide for the creation of a community district.

MCL 423.202a et al.

FISCAL IMPACT

The bill would have an indeterminate, though likely small, fiscal impact on the State and could have a negative impact on public school employers that were required to pay fines for a lockout in violation of the Act. By requiring courts, as well as the Commission, to impose sanctions, the bill could increase the number of entities fined for violations. These entities would include public school employers that were subject to a court-ordered fine of \$5,000 per day of a lockout ruled to be in violation of the Act, if the fine did not duplicate a fine ordered by the Commission. The bill also would remove the existing fine for the bargaining representative of a public school employee or employees found to have engaged in a strike in violation of the Act.

It is not known whether the combination of these changes would lead to an increase or decrease of fines levied under the Act. For fines ordered by a court on a public school employer and members of its governing board for a lockout, the proceeds would be deposited in the School Aid Fund.

Regarding the provisions under which a community district would not assume the collective bargaining agreements (CBAs) of the original district or be the successor employer for any purpose, the fiscal impact is indeterminate. The community district could choose to enter into CBAs identical to the existing CBAs, or could work on negotiating new terms, and the decision and resulting terms would determine the fiscal impact on the community district.

Date Completed: 5-11-16

Fiscal Analyst: Kathryn Summers

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.