



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

## BILL ANALYSIS



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

Senate Bill 796 (Substitute S-1 as reported)  
Sponsor: Senator Marty Knollenberg  
Committee: Education

Date Completed: 11-7-18

### **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. These 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 from entering into a bargaining agreement that required or allowed paid release time for a bargaining representative to conduct union business, if the public employer paid for the release time.**

Specifically, the bill would 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 any of the following:

- Employees subject to compulsory arbitration under Public Act 312 of 1969.
- Corrections officers employed by a county sheriff in a county jail, work camp, or other facility maintained by a county that housed adult prisoners.
- Corrections officers employed by the Department of Corrections.
- Employees of a State or local transit authority that sought or received Federal financial assistance in accordance with Federal labor standards.

(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.)

"Release time" would mean any of the following as defined in the Public School Employees Retirement Act:

- Employee organization professional services leave.
- Professional services leave.

- Employee organization professional services released time.
- Professional services released time.

(The Public School Employees Retirement Act defines "employee organization professional services leave" or "professional services leave" as a leave of absence that is renewed annually by the reporting unit (e.g., a public school district) so that a member may accept a position with a public school employee organization to which he or she belongs and that represents employees of a reporting unit in employment matters. "Employee organization professional services released time" or "professional services released time" means a portion of the school fiscal year during which a member is released by the reporting unit from his or her regularly assigned duties to engage in employment matters for a public school employee organization to which he or she belongs.)

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. It is inappropriate to use public tax dollars to pay for private sector employment. A union is a private organization and it should pay for its employees and operations with the money it collects from its members. In the case of schools, taxes meant for teachers' salaries and educational resources should not be used to pay for those costs.

Moreover, collective bargaining negotiations are inherently competitive; it is not proper for a school district to pay a union to compete against the district's and taxpayers' financial interests. Ultimately, 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 effectively restrict how and when administrators can meet with union leaders, and would make the arrangement of meetings between teachers and employers more challenging. As an employer, a school district must perform human resources functions for teachers. Much of the release time used by teachers is spent performing those human resources functions, such as conducting disciplinary proceedings, healthcare costs management, and managing community outreach. When a district delegates those functions to teachers, as opposed to developing larger human resources programs, it is able to meet its obligations as an employer while spending fewer resources on human resource programs overall. By holding meetings during school hours, the school saves money it otherwise would have to pay for human resources personnel and lawyers to work outside normal business hours.

The bill would be harmful for several other 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. Release time gives teachers access to leadership and allows them to cooperatively resolve employee grievance issues, employee discipline issues, and contract administration issues, saving the district time and money. Within a large school district with thousands of employees, those savings are invaluable. 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: Nathan Leaman

### **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. According to data collected in 2015, 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: Michael Siracuse

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