

**SUBSTITUTE FOR
SENATE BILL NO. 796**

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; to require certain provisions in collective bargaining agreements; to prescribe means of enforcement and penalties for the violation of the provisions of this act; and to make appropriations,"

by amending section 10 (MCL 423.210), as amended by 2014 PA 414.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) A public employer or an officer or agent of a
2 public employer shall not do any of the following:

3 (a) Interfere with, restrain, or coerce public employees in
4 the exercise of their rights guaranteed in section 9.

5 (b) Initiate, create, dominate, contribute to, or interfere
6 with the formation or administration of any labor organization. A
7 public school employer's use of public school resources to assist a

1 labor organization in collecting dues or service fees from wages of
2 public school employees is a prohibited contribution to the
3 administration of a labor organization. However, a public school
4 employer's collection of dues or service fees pursuant to a
5 collective bargaining agreement that is in effect on March 16, 2012
6 is not prohibited until the agreement expires or is terminated,
7 extended, or renewed. A public employer may permit employees to
8 confer with a labor organization during working hours without loss
9 of time or pay.

10 (c) Discriminate in regard to hire, terms, or other conditions
11 of employment to encourage or discourage membership in a labor
12 organization.

13 (d) Discriminate against a public employee because he or she
14 has given testimony or instituted proceedings under this act.

15 (e) Refuse to bargain collectively with the representatives of
16 its public employees, subject to section 11.

17 **(F) ON OR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
18 **ADDED THIS SUBDIVISION, ENTER INTO OR RENEW A BARGAINING AGREEMENT**
19 **THAT REQUIRES OR ALLOWS ANY PAID RELEASE TIME FOR A UNION OFFICER**
20 **OR BARGAINING REPRESENTATIVE TO CONDUCT UNION BUSINESS IF THE**
21 **RELEASE TIME IS PAID BY THE PUBLIC EMPLOYER. THIS SUBDIVISION DOES**
22 **NOT APPLY TO A BARGAINING AGREEMENT FOR ANY OF THE FOLLOWING:**

23 **(i) EMPLOYEES SUBJECT TO COMPULSORY ARBITRATION UNDER 1969 PA**
24 **312, MCL 423.231 TO 423.247.**

25 **(ii) CORRECTIONS OFFICERS EMPLOYED BY A COUNTY SHERIFF IN A**
26 **COUNTY JAIL, WORK CAMP, OR OTHER FACILITY MAINTAINED BY A COUNTY**
27 **THAT HOUSES ADULT PRISONERS.**

1 (iii) CORRECTIONS OFFICERS EMPLOYED BY THE DEPARTMENT OF
2 CORRECTIONS.

3 (iv) EMPLOYEES OF A STATE OR LOCAL TRANSIT AUTHORITY SEEKING
4 OR RECEIVING FEDERAL FINANCIAL ASSISTANCE IN ACCORDANCE WITH 49 USC
5 5333(B).

6 (2) A labor organization or its agents shall not do any of the
7 following:

8 (a) Restrain or coerce public employees in the exercise of the
9 rights guaranteed in section 9. This subdivision does not impair
10 the right of a labor organization to prescribe its own rules with
11 respect to the acquisition or retention of membership.

12 (b) Restrain or coerce a public employer in the selection of
13 its representatives for the purposes of collective bargaining or
14 the adjustment of grievances.

15 (c) Cause or attempt to cause a public employer to
16 discriminate against a public employee in violation of subsection
17 (1)(c).

18 (d) Refuse to bargain collectively with a public employer,
19 provided it is the representative of the public employer's
20 employees, subject to section 11.

21 (3) Except as provided in subsection (4), an individual shall
22 not be required as a condition of obtaining or continuing public
23 employment to do any of the following:

24 (a) Refrain or resign from membership in, voluntary
25 affiliation with, or voluntary financial support of a labor
26 organization or bargaining representative.

27 (b) Become or remain a member of a labor organization or

1 bargaining representative.

2 (c) Pay any dues, fees, assessments, or other charges or
3 expenses of any kind or amount, or provide anything of value to a
4 labor organization or bargaining representative.

5 (d) Pay to any charitable organization or third party any
6 amount that is in lieu of, equivalent to, or any portion of dues,
7 fees, assessments, or other charges or expenses required of members
8 of or public employees represented by a labor organization or
9 bargaining representative.

10 (4) The application of subsection (3) is subject to the
11 following:

12 (a) Subsection (3) does not apply to any of the following:

13 (i) A public police or fire department employee or any person
14 who seeks to become employed as a public police or fire department
15 employee as that term is defined under section 2 of 1969 PA 312,
16 MCL 423.232.

17 (ii) A state police trooper or sergeant who is granted rights
18 under section 5 of article XI of the state constitution of 1963 or
19 any individual who seeks to become employed as a state police
20 trooper or sergeant.

21 (b) Any person described in subdivision (a), or a labor
22 organization or bargaining representative representing persons
23 described in subdivision (a), and a public employer or this state
24 may agree that all employees in the bargaining unit shall share
25 fairly in the financial support of the labor organization or their
26 exclusive bargaining representative by paying a fee to the labor
27 organization or exclusive bargaining representative that may be

1 equivalent to the amount of dues uniformly required of members of
2 the labor organization or exclusive bargaining representative.
3 Section 9(2) ~~shall~~**DOES** not ~~be construed to~~ interfere with the
4 right of a public employer or this state and a labor organization
5 or bargaining representative to enter into or lawfully administer
6 such an agreement as it relates to the employees or persons
7 described in subdivision (a).

8 (c) If any of the exclusions in subdivision (a) (i) or (ii) are
9 found to be invalid by a court, the following apply:

10 (i) The individuals described in the exclusion found to be
11 invalid ~~shall~~**ARE** no longer ~~be~~ excepted from the application of
12 subsection (3).

13 (ii) Subdivision (b) does not apply to individuals described
14 in the invalid exclusion.

15 (5) An agreement, contract, understanding, or practice between
16 or involving a public employer, labor organization, or bargaining
17 representative that violates subsection (3) is unlawful and
18 unenforceable. This subsection applies only to an agreement,
19 contract, understanding, or practice that takes effect or is
20 extended or renewed after March 28, 2013.

21 (6) The court of appeals has exclusive original jurisdiction
22 over any action challenging the validity of subsection (3), (4), or
23 (5). The court of appeals shall hear the action in an expedited
24 manner.

25 (7) For fiscal year 2012-2013, \$1,000,000.00 is appropriated
26 to the department of licensing and regulatory affairs to be
27 expended to do all of the following regarding 2012 PA 349:

1 (a) Respond to public inquiries regarding 2012 PA 349.

2 (b) Provide the commission with sufficient staff and other
3 resources to implement 2012 PA 349.

4 (c) Inform public employers, public employees, and labor
5 organizations concerning their rights and responsibilities under
6 2012 PA 349.

7 (d) Any other purposes that the director of the department of
8 licensing and regulatory affairs determines in his or her
9 discretion are necessary to implement 2012 PA 349.

10 (8) A person, public employer, or labor organization that
11 violates subsection (3) is liable for a civil fine of not more than
12 \$500.00. A civil fine recovered under this section ~~shall~~**MUST** be
13 submitted to the state treasurer for deposit in the general fund of
14 this state.

15 (9) By July 1 of each year, each exclusive bargaining
16 representative that represents public employees in this state shall
17 have an independent examiner verify the exclusive bargaining
18 representative's calculation of all expenditures attributed to the
19 costs of collective bargaining, contract administration, and
20 grievance adjustment during the prior calendar year and shall file
21 that verification with the commission. The commission shall make
22 the exclusive bargaining representative's calculations available to
23 the public on the commission's website. The exclusive bargaining
24 representative shall also file a declaration identifying the local
25 bargaining units that are represented. Local bargaining units
26 identified in the declaration filed by the exclusive bargaining
27 representative are not required to file a separate calculation of

1 all expenditures attributed to the costs of collective bargaining,
2 contract administration, and grievance adjustment. ~~For fiscal year~~
3 ~~2011-2012, \$100,000.00 is appropriated to the commission for the~~
4 ~~costs of implementing this subsection. For fiscal year 2014-2015,~~
5 ~~\$100,000.00 is appropriated to the commission for the costs of~~
6 ~~implementing this subsection.~~

7 (10) Except for actions required to be brought under
8 subsection (6), a person who suffers an injury as a result of a
9 violation or threatened violation of subsection (3) may bring a
10 civil action for damages, injunctive relief, or both. In addition,
11 a court shall award court costs and reasonable attorney fees to a
12 plaintiff who prevails in an action brought under this subsection.
13 Remedies provided in this subsection are independent of and in
14 addition to other penalties and remedies prescribed by this act.

15 (11) **AS USED IN THIS SECTION, "RELEASE TIME" MEANS ANY OF THE**
16 **FOLLOWING AS DEFINED IN SECTION 4 OF THE PUBLIC SCHOOL EMPLOYEES**
17 **RETIREMENT ACT OF 1979, 1980 PA 300, MCL 38.1304, OR ANY OTHER TYPE**
18 **OF RELEASED TIME:**

- 19 (A) **EMPLOYEE ORGANIZATION PROFESSIONAL SERVICES LEAVE.**
20 (B) **PROFESSIONAL SERVICES LEAVE.**
21 (C) **EMPLOYEE ORGANIZATION PROFESSIONAL SERVICES RELEASED TIME.**
22 (D) **PROFESSIONAL SERVICES RELEASED TIME.**

23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.