

SENATE BILL No. 725

December 12, 2017, Introduced by Senators BIEDA, HOPGOOD, HOOD, GREGORY, JOHNSON, WARREN, KNEZEK, HERTEL, YOUNG, ANANICH and ROCCA and referred to the Committee on Government Operations.

A bill to amend 1939 PA 176, entitled

"An act to create a commission relative to labor disputes, and to prescribe its powers and duties; to provide for the mediation and arbitration of labor disputes, and the holding of elections thereon; to regulate the conduct of parties to labor disputes and to require the parties to follow certain procedures; to regulate and limit the right to strike and picket; to protect the rights and privileges of employees, including the right to organize and engage in lawful concerted activities; to protect the rights and privileges of employers; to make certain acts unlawful; to make appropriations; and to prescribe means of enforcement and penalties for violations of this act,"

by amending sections 1, 2, 8, 14, 17, and 22 (MCL 423.1, 423.2, 423.8, 423.14, 423.17, and 423.22), as amended by 2012 PA 348.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. It is hereby declared as the public policy of this
2 state that the best interests of the people of ~~the~~**THIS** state are
3 served by ~~protecting their right to work in a manner consistent~~
4 ~~with section 14(b) of the national labor relations act, 29 USC~~
5 ~~164(b), and preventing or promptly settling~~**THE PREVENTION OR**

1 **PROMPT SETTLEMENT OF** labor disputes; that strikes and lockouts and
2 other forms of industrial strife, regardless of where the merits of
3 the controversy lie, are forces productive ultimately of economic
4 waste; that the interests and rights of the consumers and the
5 people of ~~the~~**THIS** state, while not direct parties ~~thereto,~~**TO**
6 **LABOR DISPUTES**, should always be considered, respected and
7 protected; and that the voluntary mediation of ~~such~~**LABOR** disputes
8 under the guidance and supervision of a governmental agency will
9 tend to promote permanent industrial peace and the health, welfare,
10 comfort, and safety of the people of ~~the~~**THIS** state.

11 Sec. 2. As used in this act:

12 (a) "Company union" ~~includes any~~**MEANS AN** employee
13 association, committee, agency, or representation plan, formed or
14 existing for the purpose, in whole or in part, of dealing with
15 employers concerning grievances or terms and conditions of
16 employment, which in any manner or to any extent, and by any form
17 of participation, interference, or assistance, financial or
18 otherwise, ~~either~~ in its organization, operation, or
19 administration, is dominated or controlled, sponsored, ~~or~~
20 supervised, maintained, directed, or financed by the employer.

21 (b) "Dispute" and "labor dispute" include but are not
22 ~~restricted~~**LIMITED** to any controversy concerning terms, tenure, or
23 conditions of employment, or concerning the association or
24 representation of employees in negotiating, fixing, maintaining, or
25 changing terms or conditions of employment, regardless of whether
26 the disputants stand in the proximate relation of employer and
27 employee.

1 (c) "Commission" means the employment relations commission
2 created by section 3.

3 (d) "Person" includes an individual, partnership, association,
4 corporation, business trust, labor organization, or any other
5 private entity.

6 (e) "Employee" ~~includes~~ **MEANS** any employee, and is not limited
7 to the employees of a particular employer, unless the act
8 explicitly provides otherwise, and includes ~~any~~ **AN** individual whose
9 work has ceased as a consequence of, or in connection with, any
10 current labor dispute or because of ~~any~~ **AN** act that is ~~illegal~~
11 ~~under~~ **PROHIBITED BY** this act, and who has not obtained any other
12 regular and substantially equivalent employment. ~~, but~~ **HOWEVER,**
13 **EMPLOYEE** does not include ~~any~~ **AN** individual employed as an
14 agricultural laborer ~~, or~~ in the domestic service of ~~any~~ **A** family
15 or ~~any~~ person at his **OR HER** home, ~~or any~~ **AN** individual employed by
16 his **OR HER** parent or spouse, ~~or any~~ **AN** individual employed as an
17 executive or supervisor, or ~~any~~ **AN** individual employed by an
18 employer subject to the railway labor act, 45 USC 151 to 188, or by
19 any other person who is not an employer as defined in this act.

20 (f) "Employer" ~~means~~ **IS LIMITED TO** a person and includes ~~any~~ **A**
21 person acting as an agent of an employer, but does not include the
22 United States or ~~any~~ **A** corporation wholly owned by the United
23 States; ~~any~~ **A** federal reserve bank; ~~any~~ **AN** employer subject to the
24 railway labor act, 45 USC 151 to 188; ~~the~~ **THIS** state or ~~any~~ **A**
25 political subdivision thereof; ~~any~~ **OF THIS STATE; OR A** labor
26 organization, or anyone acting in the capacity of officer or agent
27 of ~~such~~ **A** labor organization, other than when acting as an

1 employer. ~~; or any entity subject to 1947 PA 336, MCL 423.201 to~~
 2 ~~423.217.~~

3 (g) "Labor organization" means ~~any~~ **AN** organization, ~~of any~~
 4 ~~kind, or any agency,~~ or employee representation committee or plan,
 5 in which employees participate and that exists for the purpose, in
 6 whole or in part, of dealing with employers concerning grievances,
 7 labor disputes, wages, rates of pay, hours of employment, or
 8 conditions of work.

9 Sec. 8. Employees may ~~do any of the following:~~

10 ~~—— (a) Organize~~ **ORGANIZE** together or form, join, or assist in
 11 labor organization; engage in lawful concerted activities for the
 12 purpose of collective negotiation or bargaining or other mutual aid
 13 and protection; or negotiate or bargain collectively with their
 14 employers through representatives of their own free choice.

15 ~~—— (b) Refrain from any or all of the activities identified in~~
 16 ~~subdivision (a).~~

17 Sec. 14. ~~(1) An individual shall not be required as a~~
 18 ~~condition of obtaining or continuing employment to do any of the~~
 19 ~~following:~~

20 ~~—— (a) Refrain or resign from membership in, voluntary~~
 21 ~~affiliation with, or voluntary financial support of a labor~~
 22 ~~organization.~~

23 ~~—— (b) Become or remain a member of a labor organization.~~

24 ~~—— (c) Pay any dues, fees, assessments, or other charges or~~
 25 ~~expenses of any kind or amount or provide anything of value to a~~
 26 ~~labor organization.~~

27 ~~—— (d) Pay to any charitable organization or third party an~~

1 ~~amount that is in lieu of, equivalent to, or any portion of dues,~~
2 ~~fees, assessments, or other charges or expenses required of members~~
3 ~~of or employees represented by a labor organization.~~

4 ~~—— (2) An agreement, contract, understanding, or practice between~~
5 ~~or involving an employer and a labor organization that violates~~
6 ~~subsection (1) is unlawful and unenforceable. This subsection~~
7 ~~applies only to an agreement, contract, understanding, or practice~~
8 ~~that takes effect or is extended or renewed after the effective~~
9 ~~date of the 2012 amendatory act that amended this section.~~

10 ~~—— (3) Subsections (1) and (2) shall be implemented to the~~
11 ~~maximum extent permitted by the United States constitution and~~
12 ~~federal law.~~

13 ~~—— (4) The court of appeals has exclusive original jurisdiction~~
14 ~~over any action challenging the validity of subsection (1), (2), or~~
15 ~~(3). The court of appeals shall hear the action in an expedited~~
16 ~~manner.~~

17 ~~—— (5) A person, employer, or labor organization that violates~~
18 ~~subsection (1) is liable for a civil fine of not more than \$500.00.~~
19 ~~A civil fine recovered under this section shall be submitted to the~~
20 ~~state treasurer for deposit in the general fund of this state.~~

21 ~~—— (6) Except for actions required to be brought under subsection~~
22 ~~(4), a person who suffers an injury as a result of a violation or~~
23 ~~threatened violation of subsection (1) may bring a civil action for~~
24 ~~damages, injunctive relief, or both. In addition, a court shall~~
25 ~~award court costs and reasonable attorney fees to a plaintiff who~~
26 ~~prevails in an action brought under this subsection. Remedies~~
27 ~~provided for in this subsection are independent of and in addition~~

1 ~~to other penalties and remedies prescribed by this act.~~

2 ~~—— (7) For fiscal year 2012-2013, \$1,000,000.00 is appropriated~~
 3 ~~to the department of licensing and regulatory affairs to be~~
 4 ~~expended to do all of the following regarding the amendatory act~~
 5 ~~that added this subsection:~~

6 ~~—— (a) Respond to public inquiries regarding the amendatory act.~~

7 ~~—— (b) Provide the commission with sufficient staff and other~~
 8 ~~resources to implement the amendatory act.~~

9 ~~—— (c) Inform employers, employees, and labor organizations~~
 10 ~~concerning their rights and responsibilities under the amendatory~~
 11 ~~act.~~

12 ~~—— (d) Any other purposes that the director of the department of~~
 13 ~~licensing and regulatory affairs determines in his or her~~
 14 ~~discretion are necessary to implement the amendatory act.~~ THIS ACT

15 DOES NOT INTERFERE WITH THE RIGHT OF AN EMPLOYER TO ENTER INTO AN
 16 ALL-UNION AGREEMENT WITH EITHER OF THE FOLLOWING:

17 (A) ONE LABOR ORGANIZATION, IF IT IS THE ONLY ORGANIZATION
 18 ESTABLISHED AMONG THE EMPLOYER'S EMPLOYEES AND IS RECOGNIZED BY THE
 19 EMPLOYER, BY CONSENT, AS THE REPRESENTATIVE OF A MAJORITY OF HIS OR
 20 HER EMPLOYEES.

21 (B) MORE THAN 1 LABOR ORGANIZATION ESTABLISHED AMONG THE
 22 EMPLOYER'S EMPLOYEES, IF THE EMPLOYER RECOGNIZES THOSE
 23 ORGANIZATIONS, BY CONSENT, AS THE REPRESENTATIVES OF A MAJORITY OF
 24 HIS OR HER EMPLOYEES.

25 Sec. 17. (1) An employee or other person shall not by force,
 26 intimidation, or unlawful threats compel or attempt to compel any
 27 person to do any of the following:

1 (a) Become or remain a member of a labor organization. ~~or~~
 2 ~~otherwise affiliate with or financially support a labor~~
 3 ~~organization.~~

4 (b) Refrain from engaging in employment. ~~or refrain from~~
 5 ~~joining a labor organization or otherwise affiliating with or~~
 6 ~~financially supporting a labor organization.~~

7 ~~— (c) Pay to any charitable organization or third party an~~
 8 ~~amount that is in lieu of, equivalent to, or any portion of dues,~~
 9 ~~fees, assessments, or other charges or expenses required of members~~
 10 ~~of or employees represented by a labor organization.~~

11 (2) ~~A person who violates this section is liable for a civil~~
 12 ~~fine of not more than \$500.00. A civil fine recovered under this~~
 13 ~~section shall be submitted to the state treasurer for deposit in~~
 14 ~~the general fund of this state.~~ **A PERSON WHO VIOLATES THIS SECTION**
 15 **IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE**
 16 **THAN 90 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.**

17 Sec. 22. (1) ~~It shall be unlawful for an employer to~~ **AN**
 18 **EMPLOYER SHALL NOT** engage in a lockout ~~or for~~ **AND** a labor
 19 organization ~~to~~ **SHALL NOT** engage in or instigate a strike without
 20 first having served notice as required in section 9.

21 (2) ~~It shall be unlawful for any~~ **AN** individual ~~to~~ **SHALL NOT**
 22 instigate a lockout or strike that is ~~unlawful~~ **PROHIBITED** under
 23 this section.

24 (3) ~~Any~~ **A** person may pursue any appropriate legal or equitable
 25 remedy or other relief in ~~any circuit~~ **A** court having jurisdiction
 26 with respect to ~~any~~ **AN** act or conduct ~~in violation of any of the~~
 27 ~~provisions of~~ **THAT VIOLATES** this act, except subsection (1) and

1 sections ~~14(4), 16, 16~~ and 17a. The existence of a criminal penalty
2 with respect to any such act or conduct does not preclude
3 appropriate equitable relief.

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