

HOUSE BILL NO. 4233

March 09, 2023, Introduced by Reps. Churches, Rheingans, Neeley, Brixie, Byrnes, Brenda Carter, Hoskins, Grant, Scott, Hood, Morse, Morgan, Edwards, Fitzgerald, Tsernoglou, Hope, Wilson, Dievendorf, O'Neal, Mentzer, Price, Brabec, Stone, Steckloff, Andrews, Skaggs, Tyrone Carter, Young, Hill, Liberati, Conlin, Martus, Koleszar, MacDonell, Snyder, Shannon, Puri, Rogers, Haadsma, Glanville, Miller, Coleman, Aiyash and Whitsett and referred to the Committee on Labor.

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 a~~ labor organization. ~~A~~
7 ~~public school employer's use of public school resources to assist a~~
8 ~~labor organization in collecting dues or service fees from wages of~~
9 ~~public school employees is a prohibited contribution to the~~
10 ~~administration of a labor organization. However, a public school~~
11 ~~employer's collection of dues or service fees pursuant to a~~
12 ~~collective bargaining agreement that is in effect on March 16, 2012~~
13 ~~is not prohibited until the agreement expires or is terminated,~~
14 ~~extended, or renewed.~~ A public employer may ~~permit~~ **allow** employees
15 to confer with a labor organization during working hours without
16 loss of time or pay.

17 (c) Discriminate in regard to ~~hire,~~ **hiring**, terms, or ~~other~~
18 conditions of employment to encourage or discourage membership in a
19 labor organization.

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

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

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

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

1 (b) Restrain or coerce a public employer in the selection of
2 its representatives for the purposes of collective bargaining or
3 the adjustment of grievances.

4 (c) Cause or attempt to cause a public employer to
5 discriminate against a public employee in violation of subsection
6 (1)(c).

7 (d) Refuse to bargain collectively with a public employer ~~7~~
8 ~~provided it~~ **if the labor organization** is the representative of the
9 public employer's employees, subject to section 11.

10 (3) Except as provided in subsection (4), an individual ~~shall~~
11 **must** not be required as a condition of obtaining or continuing
12 public employment to do any of the following:

13 (a) Refrain or resign from membership in, voluntary
14 affiliation with, or voluntary financial support of a labor
15 organization or bargaining representative.

16 (b) Become or remain a member of a labor organization or
17 bargaining representative.

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

21 (d) Pay to any charitable organization or third party any
22 amount that is in ~~lieu~~ **place** of, equivalent to, or any portion of
23 dues, fees, assessments, or other charges or expenses required of
24 members of or public employees represented by a labor organization
25 or bargaining representative.

26 (4) The application of subsection (3) is subject to the
27 following:

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

29 (i) A public police or fire department employee or ~~any person~~

1 **an individual** who seeks to become employed as a public police or
2 fire department employee as that term is defined under section 2 of
3 1969 PA 312, MCL 423.232.

4 (ii) A state police trooper or sergeant who is granted rights
5 under section 5 of article XI of the state constitution of 1963 or
6 ~~any~~**an** individual who seeks to become employed as a state police
7 trooper or sergeant.

8 (b) Any ~~person~~**individual** described in subdivision (a), or a
9 labor organization or bargaining representative representing
10 ~~persons~~**individuals** described in subdivision (a), and a public
11 employer or this state may agree that all employees in the
12 bargaining unit shall share fairly in the financial support of the
13 labor organization or their exclusive bargaining representative by
14 paying a fee to the labor organization or exclusive bargaining
15 representative that may be equivalent to the amount of dues
16 uniformly required of members of the labor organization or
17 exclusive bargaining representative. Section 9(2) ~~shall~~**must** not be
18 construed to interfere with the right of a public employer or this
19 state and a labor organization or bargaining representative to
20 enter into or lawfully administer such an agreement as it relates
21 to the employees or ~~persons~~**individuals** described in subdivision
22 (a).

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

25 (i) The individuals described in the ~~exclusion found to be~~
26 ~~invalid shall~~**invalid exclusion are** no longer ~~be~~ excepted from the
27 application of subsection (3).

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

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

7 (6) The court of appeals has exclusive original jurisdiction
8 over any action challenging the validity of subsection (3), (4), or
9 (5). The court of appeals shall hear the action in an expedited
10 manner.

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

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

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

17 (c) Inform public employers, public employees, and labor
18 organizations concerning their rights and responsibilities under
19 2012 PA 349.

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

23 (8) A person, public employer, or labor organization that
24 violates subsection (3) is ~~liable for~~ **subject to** a civil fine of
25 not more than \$500.00. A civil fine recovered under this section
26 ~~shall~~ **must** be submitted to the state treasurer for deposit in the
27 general fund of this state.

28 (9) By July 1 of each year, each exclusive bargaining
29 representative that represents public employees in this state shall

1 have an independent examiner verify the exclusive bargaining
2 representative's calculation of all expenditures attributed to the
3 costs of collective bargaining, contract administration, and
4 grievance adjustment during the prior calendar year and shall file
5 that verification with the commission. The commission shall make
6 the exclusive bargaining representative's calculations available to
7 the public on the commission's website. The exclusive bargaining
8 representative shall also file a declaration identifying the local
9 bargaining units that are represented. Local bargaining units
10 identified in the declaration filed by the exclusive bargaining
11 representative are not required to file a separate calculation of
12 all expenditures attributed to the costs of collective bargaining,
13 contract administration, and grievance adjustment. ~~For fiscal year~~
14 ~~2011-2012, \$100,000.00 is appropriated to the commission for the~~
15 ~~costs of implementing this subsection. For fiscal year 2014-2015,~~
16 ~~\$100,000.00 is appropriated to the commission for the costs of~~
17 ~~implementing this subsection.~~

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