

# HOUSE BILL No. 5047

August 13, 2003, Introduced by Reps. Minore, Sak, Anderson, Woodward, Wojno, Accavitti, Paletko, Bieda, Plakas, Vagnozzi, Spade, Law, Zelenko, Byrum, Gillard, Whitmer, Brown, Tobocman, Gielegem, Farrah, Meisner, Jamnick, Williams, Reeves, Cheeks, Condino, Kolb, McConico, Rivet and Daniels and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 20176b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 20176b. (1) A health facility or agency that receives  
2 state funds shall not use state funds wholly or in part to  
3 interfere with or discourage unionization by its employees or the  
4 employees of any other health facility or agency. This section  
5 does not limit the right of a health facility or agency to engage  
6 in lawful activities relating to the negotiation and enforcement  
7 of a collective bargaining agreement.

8       (2) A health facility or agency that receives state funds  
9 shall maintain accurate and complete records of all expenditures  
10 of those state funds. The records shall be sufficient to  
11 demonstrate whether state funds have been expended to interfere

1 with or discourage unionization. If the state designates state  
2 funds for a specific use or expenditure, the health facility or  
3 agency shall account for the specific use or expenditure. If the  
4 state does not designate state funds for a specific use or  
5 expenditure, the health facility or agency shall allocate the  
6 funds on a pro rata basis to all expenditures of the health  
7 facility or agency that are related to the purpose for which the  
8 state funds are received.

9 (3) A health facility or agency subject to the record-keeping  
10 requirements of subsection (2) shall prepare and submit to the  
11 department 4 times per calendar year a quarterly report that  
12 specifies each expenditure of state funds. The health facility  
13 or agency shall file each report within 30 days after the end of  
14 each calendar quarter.

15 (4) On its own initiative or in response to a complaint that  
16 the department determines credible, the department may at any  
17 time audit the records of a health facility or agency to ensure  
18 compliance with this act.

19 (5) After an audit under subsection (4), the department shall  
20 determine if that health facility or agency has failed or refused  
21 to do any of the following:

22 (a) Comply with the record-keeping requirements of this  
23 section.

24 (b) Comply with the reporting requirements of this section.

25 (c) Provide the department with access to its records for an  
26 audit under this section.

27 (6) A health facility or agency that authorizes an

1 expenditure of state funds in violation of this section may be  
2 subject to civil liability as provided in this section. The  
3 attorney general or a person may, on behalf of this state, bring  
4 a civil action in a court of competent jurisdiction to recover  
5 the full value of the state funds that were expended in violation  
6 of this section. The damages collected under this section shall  
7 be deposited in the general fund. The court may award court  
8 costs and other expenses of litigation including attorney fees to  
9 a party who successfully brings an action pursuant to this  
10 section or to a person who successfully defends against an action  
11 brought under this section that the court determines is  
12 frivolous. A health facility or agency adjudicated to have  
13 violated this section is ineligible to receive state funds for a  
14 period of 3 years after the date the judgment against the health  
15 facility or agency is entered.

16 (7) As used in this section:

17 (a) "Interfere with or discourage unionization" includes, but  
18 is not limited to, all of the following:

19 (i) A communication in any form that advocates, directly or  
20 by implication, that an employee should vote against  
21 unionization.

22 (ii) Hiring or consulting persons to advise on means to deter  
23 unionization or impede a labor organization that represents  
24 employees from fulfilling its representation responsibilities.

25 (iii) Holding meetings to influence employees to refrain from  
26 unionizing.

27 (iv) Planning or engaging in employee-supervisor activities

1 to deter the lawful activities of a labor organization.

2 (b) "Person" means an individual, partnership, corporation,  
3 association, governmental entity, or other legal entity.

4 (c) "Receive state funds" means to acquire state funds in any  
5 form, including a grant, payment under contract, reimbursement,  
6 or other direct payment, and includes a subcontractor's receipt  
7 of payment for performance of any portion of a contract funded  
8 with state funds.

9 (d) "State funds" means any money drawn from the state  
10 treasury or other fund of the state, and any state resources,  
11 including a good or service or the value of a good or service,  
12 that is provided to a person.

13 (e) "Unionization" means the organization of employees for  
14 the purpose of collective bargaining.

15 (f) "Use state funds" means expenditure of state funds by a  
16 person who receives state funds. The expenditure may be for any  
17 purpose, including operating expenses, supplies, maintenance,  
18 utilities, capital facilities, or equipment.