

HOUSE BILL NO. 5815

February 23, 2022, Introduced by Reps. Hope, Weiss, Brenda Carter, Sabo, Clemente, Haadsma, Breen, Coleman, Stone, Neeley, Brabec, Sowerby, Garza, Liberati, O'Neal, Pohutsky, Steckloff, Cavanagh, Cherry, Steenland, Rabhi, Tyrone Carter, Manoogian, Bolden, Kuppa, Rogers, Sneller, Brixie, Anthony, Scott, Thanedar, Aiyash, Ellison, Peterson, Morse, Young, Koleszar, Hood, Jones, Shannon, Tate, Hertel and Whitsett and referred to the Committee on Workforce, Trades, and Talent.

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

1 public employer shall not do any of the following:

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

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

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

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

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

23 **(f) Cease or subcontract its operations or part of its**
24 **operations less than 1 year after its employees elect a bargaining**
25 **representative.**

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

28 (a) Restrain or coerce public employees in the exercise of the
29 rights guaranteed in section 9. This subdivision does not impair

1 the right of a labor organization to prescribe its own rules with
2 respect to the acquisition or retention of membership.

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

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

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

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

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

18 (b) Become or remain a member of a labor organization or
19 bargaining representative.

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

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

28 (4) The application of subsection (3) is subject to the
29 following:

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

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

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

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

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

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

29 (ii) Subdivision (b) does not apply to individuals described in

1 the invalid exclusion.

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

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

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

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

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

18 (c) Inform public employers, public employees, and labor
19 organizations concerning their rights and responsibilities under
20 2012 PA 349.

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

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

29 (9) By July 1 of each year, each exclusive bargaining

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

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