

SENATE BILL NO. 897

February 24, 2022, Introduced by Senators HERTEL, ALEXANDER, HOLLIER, GEISS, MOSS, BAYER, CHANG, BULLOCK, MCMORROW, POLEHANKI, IRWIN, BRINKS, WOJNO and MCCANN 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 section 23 (MCL 423.23) and by adding section 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 18. An employer shall not relocate, cease, or subcontract its operations or part of its operations less than 1 year after its employees elect a bargaining representative.

Sec. 23. (1) Rulings or orders promulgated by the commission shall be reviewable only by the supreme court and on petition for writ of certiorari or such other process as may be appropriate, except as provided in this section.

(2) Violations of the provisions of sections 16, 17a, **18**, and 22(a) of this act only, shall be deemed to be unfair labor practices remediable by the commission in the following manner:

(a) When it is charged that any person has engaged in or is engaging in any such unfair labor practice, the commission, or any agent designated by the commission for such purposes, may issue and cause to be served upon the person a complaint stating the charges in that respect, and containing a notice of hearing before the commission or a commissioner, or before a designated agent, at a place therein fixed, not less than 5 days after the serving of the complaint. No complaint shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge with the commission and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the 6-month period shall be computed from the day of his **or her** discharge. Any complaint may be amended by the commissioner or agent conducting the hearing or the commission, at any time prior to the issuance of an order based thereon. The person upon whom the complaint is

1 served may file an answer to the original or amended complaint and
2 appear in person or otherwise and give testimony at the place and
3 time fixed in the complaint. In the discretion of the commissioner
4 or agent conducting the hearing or the commission, any other person
5 may be allowed to intervene in the proceeding and to present
6 testimony. Any proceeding shall be conducted pursuant to chapter 4
7 of ~~Act No. 306 of the Public Acts of 1969, as amended, being~~
8 ~~sections 24.271 to 24.287 of the Michigan Compiled Laws.~~**the**
9 **administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to**
10 **24.288.**

11 (b) The testimony taken by the commissioner, agent or the
12 commission shall be reduced to writing and filed with the
13 commission. Thereafter the commission upon notice may take further
14 testimony or hear argument. If upon the preponderance of the
15 testimony taken the commission is of the opinion that any person
16 named in the complaint has engaged in or is engaging in the unfair
17 labor practice, then it shall state its findings of fact and shall
18 issue and cause to be served on such person an order requiring that
19 person to cease and desist from the unfair labor practice, and to
20 take such affirmative action including reinstatement of employees
21 with or without back pay, as will effectuate the policies of this
22 act. The order may further require the person to make reports from
23 time to time showing the extent to which that person has complied
24 with the order. If, upon the preponderance of the testimony taken
25 the commission is not of the opinion that the person named in the
26 complaint has engaged in or is engaging in the unfair labor
27 practice, then the commission shall state its findings of fact and
28 shall issue an order dismissing the complaint. No order of the
29 commission shall require the reinstatement of any individual as an

1 employee who has been suspended or discharged, or the payment to
2 him of any back pay, if the individual was suspended or discharged
3 for cause. If the evidence is presented before a commissioner, or
4 before examiners thereof, the commissioner, or examiners shall
5 issue and cause to be served on the parties to the proceeding a
6 proposed report, together with a recommended order, which shall be
7 filed with the commission, and if exceptions are not filed within
8 20 days after service thereof upon the parties, or within such
9 further period as the commission may authorize, the recommended
10 order shall become the order of the commission and become effective
11 as prescribed in the order.

12 (c) Until the record in a case has been filed in a court, the
13 commission at any time, upon reasonable notice and in such manner
14 as it deems proper, may modify or set aside, in whole or in part,
15 any finding or order made or issued by it.

16 (d) The commission or any prevailing party may petition the
17 court of appeals for the enforcement of the order and for
18 appropriate temporary relief or restraining order, and shall file
19 in the court the record in the proceedings. Upon the filing of the
20 petition, the court shall cause notice thereof to be served upon
21 the person, and thereupon shall have jurisdiction of the proceeding
22 and shall summarily grant such temporary or permanent relief or
23 restraining order as it deems just and proper, enforcing,
24 modifying, enforcing as so modified, or setting aside in whole or
25 in part the order of the commission. No objection that has not been
26 urged before the commission, its commissioner or agent, shall be
27 considered by the court, unless the failure or neglect to urge the
28 objection is excused because of extraordinary circumstances. The
29 findings of the commission with respect to questions of fact if

1 supported by competent, material, and substantial evidence on the
2 record considered as a whole shall be conclusive. If either party
3 applies to the court for leave to present additional evidence and
4 shows to the satisfaction of the court that the additional evidence
5 is material and that there were reasonable grounds for the failure
6 to present it in the hearing before the commission, its
7 commissioner or agent, the court may order the additional evidence
8 to be taken before the commission, its commissioner or agent, and
9 to be made a part of the record. The commission may modify its
10 findings as to the facts, or make new findings, by reason of
11 additional evidence so taken and filed, and it shall file the
12 modifying or new findings, which findings with respect to questions
13 of fact if supported by competent, material, and substantial
14 evidence on the record considered as a whole shall be conclusive,
15 and shall file its recommendations, if any, for the modification or
16 setting aside of its original order. Upon the filing of the record
17 with it the jurisdiction of the court shall be exclusive and its
18 judgment and decree shall be final, except that the same shall be
19 subject to review by the supreme court in accordance with the
20 general court rules.

21 (e) Any party aggrieved by a final order of the commission
22 granting or denying in whole or in part the relief sought may
23 within 20 days of such order as a matter of right obtain a review
24 of the order in the court of appeals by filing in the court a
25 petition praying that the order of the commission be modified or
26 set aside, with copy of the petition filed on the commission, and
27 thereupon the aggrieved party shall file in the court the record in
28 the proceeding, certified by the commission. Upon the timely filing
29 of the petition, the court shall proceed in the same manner as in

1 the case of an application by the commission under subsection (d),
2 and shall summarily grant to the commission or to any prevailing
3 party such temporary relief or restraining order as it deems just
4 and proper, enforcing, modifying, enforcing as so modified, or
5 setting aside in whole or in part the order of the commission. The
6 findings of the commission with respect to questions of fact if
7 supported by competent, material, and substantial evidence on the
8 record considered as a whole shall be conclusive. If a timely
9 petition for review is not filed under this subdivision by an
10 aggrieved party, it shall be conclusively presumed that the
11 commission's order is supported by competent, material and
12 substantial evidence on the record considered as a whole, and the
13 commission or any prevailing party shall be entitled, upon
14 application therefor, to a summary order enforcing the commission's
15 order.

16 (f) The commencement of proceedings under subdivision (d) or
17 (e), shall not, unless specifically ordered by the court, operate
18 as a stay of the commission's order.

19 (g) Petitions filed under subdivisions (d) and (e) shall be
20 heard expeditiously by the courts to which presented, and for good
21 cause shown shall take precedence over all other civil matters
22 except earlier matters of the same character.

23 (h) The commission and/or any charging party shall have power,
24 upon issuance of complaint as provided in subdivision (a) charging
25 that any person has engaged in or is engaging in an unfair labor
26 practice, shall have power to petition any circuit court within any
27 circuit where the unfair labor practice in question is alleged to
28 have occurred or where the person resides or transacts business,
29 for appropriate temporary relief or restraining order, in

1 accordance with the general court rules, and the court shall have
2 jurisdiction to grant to the commission and/or any charging party
3 such temporary relief or restraining order as it deems just and
4 proper.

5 (i) For the purpose of all hearings and investigations, which,
6 in the opinion of the commission, are necessary and proper for the
7 exercise of the powers vested in it under this section, the
8 provisions of section 11 shall be applicable, except that subpoenas
9 may issue as provided in section 11 without regard to whether
10 mediation shall have been undertaken.

11 (j) The labor relations and mediation functions of this act
12 shall be separately administered by the commission.