

Legislative Analysis



REPEAL PRIVATE SECTOR RIGHT-TO-WORK LAW

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<http://www.house.mi.gov/hfa>

House Bill 4005 (H-2) as passed by the House

Sponsor: Rep. Regina Weiss

Committee: Labor

Complete to 3-15-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4005 would amend 1939 PA 176, the labor mediation act, to remove provisions added in 2012 commonly known as the “Right to Work” legislation pertaining to private sector employees. Right-to-work laws generally provide that an employee cannot be legally compelled to pay dues to a union in order to be covered under their workplace’s collective bargaining agreement.

Currently, the act prohibits an individual from being required to do any of the following to obtain or continue employment:

- Refrain from or resign from membership in, affiliation with, or financial support of a labor organization.
- Become or remain a member of a labor organization.
- Pay any dues, fees, or other charges to a labor organization.
- Pay a charitable organization or another third party an amount of money equivalent to dues, fees, or other charges that are required to be represented by a labor organization.

Violations are punishable by a civil fine of up to \$500, and individuals harmed by a real or threatened violation can bring a civil action for damages or injunctive relief, or both.

Additionally, employees and other persons¹ cannot use force, intimidation, or threats to compel a person to do any of the following, punishable by a civil fine of up to \$500:

- Become or remain a member of a labor organization.
- Affiliate with or financially support a labor organization.
- Refrain from engaging in employment, joining a labor organization, affiliating with a labor organization, or financially supporting a labor organization.
- Pay a charitable organization or another third party an amount of money equivalent to dues, fees, or other charges that are required to be represented by a labor organization.

The bill would remove the first set of provisions described above (pertaining to prohibited requirements for obtaining or continuing employment), as well as language declaring that it is in the best interest of the people of Michigan to protect the right to work.

The bill would amend the second set of provisions to prohibit employees and other persons from using force, intimidation, or threats to compel a person to do the following:

- Become or remain a member of a labor organization.

¹ The act defines *person* as including an individual, partnership, association, corporation, business trust, labor organization, or any other private entity.

- Affiliate with or financially support a labor organization.
- Refrain from joining a labor organization, affiliating with a labor organization, or financially supporting a labor organization.

This list would no longer include refraining from engaging in employment or making a payment to a charitable organization or other third party, and the \$500 maximum fine would be removed. However, the bill would not provide any other penalties or sanctions for violating the above prohibitions.

The bill would add a new provision stating that an employer and a labor organization may enter into a collective bargaining agreement that requires all employees represented by the labor organization to share fairly in the organization’s financial support. Neither the labor mediation act nor any local laws or policies could prohibit or limit any agreement that requires employees to pay dues or service fees to the labor organization as a condition of employment.

The bill would appropriate \$1.0 million to the Department of Labor and Economic Opportunity (LEO) for the 2023-24 fiscal year to do all of the following:

- Respond to public inquiries regarding the changes made to the labor mediation act by the bill.
- Provide the LEO Employment Relations Commission with sufficient staff and other resources for implementation of the bill.
- Inform public employers, public employees, and bargaining representatives about changes to their rights and responsibilities.
- Any other purpose that the director of LEO determines is necessary for implementation of the bill.

(This appropriation would have the effect of making the bill immune from referendum under section 9 of Article II of the state constitution.)

Finally, the definition of “employer” would be amended to no longer exclude entities subject to 1947 PA 336, the public employment relations act (PERA).

MCL 423.1 et seq.

BACKGROUND AND BRIEF DISCUSSION:

In 2012, Michigan became the twenty-fourth state to enact right-to-work legislation with the passage of 2012 PA 348 and 2012 PA 349, which prohibited mandatory union fees for private and public employees, respectively. House Bill 4005 would reverse the changes made to the labor mediation act by 2012 PA 348.

Opponents of right-to-work laws argue that the laws create a free-rider problem and the resulting financial impact on unions has reduced their ability to provide services, while supporters of right-to-work laws argue that they foster economic growth and job creation while allowing employees to opt out of supporting unions that do not align with their interests.

Twenty-seven states and Guam have adopted right-to-work laws, the most recent being Kentucky in 2017.²

² https://ballotpedia.org/Right-to-work_laws.

FISCAL IMPACT:

House Bill 4005 would have an indeterminate fiscal impact on the state and on local units of government. Violations that currently result in civil fines would result in misdemeanor convictions under the bill. The number of misdemeanor convictions that would result is not known. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

It is not possible to quantify what other fiscal impact, if any, the main provisions of the bill would have on state and local government.

The bill would appropriate \$1.0 million to the Department of Labor and Economic Opportunity in FY 2023-24 for certain administrative responsibilities.

POSITIONS:

Representatives of the following entities testified in support of the bill (3-8-23):

- American Federation of Labor and Congress of Industrial Organizations of Michigan (Michigan AFL-CIO)
- Clean Water Action
- International Union of Operating Engineers Local 324
- Michigan Laborers' District Council (LiUNA)
- Michigan Nurses Association
- Sierra Club Michigan Chapter
- United Food & Commercial Workers Local 876

The following entities indicated support for the bill (3-8-23):

- Department of Labor and Economic Opportunity (LEO)
- American Civil Liberties Union (ACLU) of Michigan
- American Federation of State, County and Municipal Employees (AFSCME) Council 25
- American Federation of Teachers Michigan
- Bakery, Confectionery, Tobacco Workers and Grain Millers International Union
- Communication Workers of America District 4
- Detroit Plumbers Union Local 98
- International Association of Machinists and Aerospace Workers Local 698
- International Brotherhood of Electrical Workers Locals 252, 665, and 948
- International Union of Elevator Constructors Local 85
- Michigan Association for Justice
- Michigan Building Trades Council
- Michigan League of Conservation Voters
- Michigan League for Public Policy

- Michigan Pipe Trades Association
- Michigan Regional Council of Carpenters
- Michigan Workforce Development Institute
- Office and Professional Employees International Union Local 459
- Retail, Wholesale and Department Store Union
- Service Employees International Union Michigan
- United Association of Employees Locals 174 and 636
- United Auto Workers (UAW) Coalition of Labor Union Women
- UAW Local 6000
- United Food & Commercial Workers Local 951
- United Steelworkers Locals 12923 and 2-585
- Utility Workers Union of America
- West Michigan Area Labor Council

A representative of Southwest Michigan First testified in opposition to the bill. (3-8-23)

The following entities indicated opposition to the bill (3-8-23):

- Associated Builders and Contractors of Michigan
- Cadillac Area Chamber of Commerce
- Detroit Regional Chamber of Commerce
- Grand Rapids Chamber of Commerce
- Great Lakes Education Project
- Heritage Action for America
- Home Builders Association of Michigan
- Mackinac Center for Public Policy
- Michigan Chamber of Commerce
- Michigan Farm Bureau
- Michigan Freedom Fund
- Michigan Manufacturers Association
- Michigan Retailers Association
- Michigan Restaurant and Lodging Association
- Michigan Right to Work Committee
- National Federation of Independent Business
- National Right to Work Committee
- Small Business Association of Michigan
- SpartanNash
- Southwest Michigan Regional Chamber
- West Michigan Policy Forum

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.