



Senate Fiscal Agency  
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Senate Bill 185 (Substitute S-5 as passed by the Senate)  
Sponsor: Senator Jeff Irwin  
Committee: Labor

Date Completed: 8-23-23

### **RATIONALE**

In 2012, graduate student research assistants at the University of Michigan (UM) organized in support of improved working conditions. According to testimony, Public Act (PA) 45 of 2012 was enacted in response to the UM organization; the PA had a provision specifying that graduate student research assistants are not public employees and may not organize. Some people believe that graduate student research assistants should be allowed to organize and so, it has been suggested that the provision added by PA 45 be deleted.

### **CONTENT**

The bill would amend the public employment relations Act to delete a provision that excludes graduate student research assistants and other individuals who don't have sufficient indications of an employee-employer relationship from being considered a public employee. In addition, the bill specifies that the definition of "public employee" would include an individual serving as a graduate student research assistant or an equivalent position.

Generally, the Act prescribes certain rights and responsibilities of public employees. Among other things, public employees may organize for purposes of collective bargaining and may not strike.

Under the Act, "public employee" means an individual holding a position by appointment or employment in the government of the State, in the government of one or more of the political subdivisions of the State, in the public school service, in a public or special district, in the service of an authority, commission, or board, or in any other branch of the public service. The Act specifies that the following individuals are not included in this definition:

- An individual serving as a graduate student research assistant or equivalent position.
- Any individual whose position does not have sufficient indicia of an employer-employee relationship using the 20-factor test announced by the Internal Revenue Service in revenue ruling 87-41, 1997-1 C.B. 296.

The bill would delete the exceptions to the definition.

(According to the Unemployment Insurance Agency, the 20-factor test is a set of criteria used to determine if an individual is an employee or an independent contractor. The 20 factors are split between three general categories: Behavioral Control Factors, Financial Control Factors, and Relationship Factors.)

MCL 423.201

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

There is no legal recourse for some actions taken by school administrators if graduate student research assistants can't organize. According to testimony before the Senate Committee on Labor, graduate student research assistants are sometimes in situations where they work 40 hours to receive the same pay that graduate student lecturers make when they work 20 hours. Protections from overwork are sometimes non-existent. Graduate student research assistants should have the right to organize for legal recourse against administrative neglect.

### **Opposing Argument**

The bill could lead to stronger and more frequent organized strikes that have the potential to cancel classes. The University of Michigan, in particular, has a history of public employees engaging in organized strikes and walkouts. Students lose instruction time during strikes, which can detract from the quality of education they receive. In addition, students that lose instruction time may feel inclined to seek financial compensation for that lost time. Giving the ability to strike to another group of students would only exacerbate the issue of students' education being interrupted and potentially harm university finances.

### **Opposing Argument**

Allowing graduate student research assistants to organize would hurt higher education in the State. By switching the primary role of a graduate student research assistant from an educational to an employment role, the bill could create an adversarial relationship between assistants and administrators. Should labor disputes arise, the disruption would not be limited to professors engaged in research, but also assistants who chose to participate in the arbitration process, potentially reinforcing this adversarial relationship. An adversarial relationship would negatively affect the quality of the assistant's education and the research the assistant performs. Additionally, according to testimony before the Senate, costs on taxpayers and students would arise as a product of graduate student research assistants being allowed to unionize.

**Response:** Lecturers and graduate student instructors are already allowed to unionize, and it is only out of fairness that the State should allow graduate student research assistants to unionize too. Additionally, the salaries of graduate student research assistants are not paid from tuition. Instead, these individuals are compensated with grant money secured for the research with which they assist. Any effort to unionize would only increase financial burden on research grants, not tuition. Therefore, there would be no increase in tuition costs that directly burdens students if assistants were to unionize and demand more wages.

Legislative Analyst: Alex Krabill

### **FISCAL IMPACT**

The bill would have no direct fiscal impact on the State, local units of governments, or public universities. The provisions of the bill would allow certain workers to be defined as public employees, entitled to representation or collective bargaining rights under the Act. The bill does not mandate action to be taken; therefore, any fiscal impact would depend on the actions of those employees.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.