

Legislative Analysis



STRIKES AND LOCKOUTS: IMPOSE PENALTIES FOR ALL PUBLIC EMPLOYEES & EMPLOYERS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5023

Sponsor: Rep. Lisa Posthumus Lyons

Committee: Oversight, Reform, and Ethics

Complete to 1-17-12

A SUMMARY OF HOUSE BILL 5023 AS INTRODUCED 9-28-11

House Bill 5023 would amend the Public Employment Relations Act (PERA), which prohibits strikes by public school employees and lockouts by public school employers (MCL 423.202), to extend those prohibitions to all public employees and all public employers. Under the bill, "public employer" is defined to mean a county, township, village, city, authority, school district, or other political subdivisions of this state and includes any entity jointly created by two or more public employers. A more detailed description of the bill follows.

The bill would add Section 2b to PERA, a new section that would be substantially similar to the existing Section 2a, which prohibits strikes and lockouts by public school employers and public school employees, respectively.

The chief differences between the two sections are as follows: First, under the section of PERA concerning public schools, each school board member can be assessed a \$250 daily fine for a lockout (in addition to a daily \$5,000 fine for the school employer), and a school employer is prohibited from reimbursing a school board member for any monetary penalty imposed under the act. Under House Bill 5023, no comparable penalty exists for the governing board members of non-school public employers. Second, under the section of PERA concerning public schools, any fines collected by the Employment Relations Commission are deposited in the School Aid Fund. Under House Bill 5023, any fines collected from non-school public employers and employees would be deposited in the state General Fund.

Finally, House Bill 5023 requires that within 60 days of receiving a notice of a strike or lockout, the Public Relations Commission conduct a hearing to determine if there has been a violation of the law, and also to issue its decision in the form of an order (a process that is now in place for public school strikes or lockouts). House Bill 5023 also specifies that this hearing would be separate and distinct from, and would not be subject to the procedures and timelines of, a proceeding conducted under Section 6 of PERA (also a provision in the existing law that pertains to public schools). Under Section 6 of the act, public employees are afforded individual due process hearings. That section provides that before a public employer may discipline or discharge a public employee for engaging in a strike, the public employee, upon request, is entitled to a determination as to whether he or she violated the act. The request must be filed in writing, within 10 days

after regular compensation has stopped, or other discipline has been imposed. If a request is filed, the officer or body having power to remove or discipline the employee must, within 10 days, begin a proceeding that is held in accord with the law and regulations, and then a decision must be rendered within 10 days. If the employee involved is found to have violated the act and his or her employment is terminated or other discipline is imposed, the employee has the right of review to the circuit court within 30 days, to determine whether the decision was supported by competent, material, and substantial evidence on the whole record. Under House Bill 5023, this subsection would not apply to a penalty imposed under Section 2b (that is, the new section of law created by the bill).

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: J. Hunault
Fiscal Analyst: Paul Holland

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