

Legislative Analysis



MASS PICKETING PENALTIES

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

House Bill 5024

Sponsor: Rep. Tom McMillin

Committee: Oversight, Reform, and Ethics

Complete to 1-17-12

A SUMMARY OF HOUSE BILL 5024 AS INTRODUCED 9-28-11

House Bill 5024 would amend Public Act 176 of 1939, which created the Employment Relations Commission, to modify the penalties for mass picketing.

Currently under the law, a person cannot hinder or prevent the pursuit of any lawful work or employment by mass picketing, unlawful threats, or force; obstruct or interfere with entrance to or egress from any place of employment; obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways airports, or other ways of travel or conveyance; or engage in picketing a private residence by any means or methods whatever (unless this picketing is authorized under the state or federal constitutions).

Injunctive Relief

House Bill 5024 would retain these provisions. In addition, the bill specifies that an employer or other person or entity that was subject to any of the activities noted above could bring an action to enjoin the prohibited activity in the circuit court where they are located. Under the bill, the court having jurisdiction would be required to grant injunctive relief if it found that any person, union, or organization had engaged in (or was engaging in) any of the prohibited conduct, without regard to other remedies, demonstration of irreparable harm, or other factors.

The bill would require the court to award court costs and reasonable attorney fees to a plaintiff who prevailed in an action.

The bill specifies that an employer that was the subject of picketing could obtain injunctive relief against picketers without a showing of irreparable harm, if the court found the picketing to be in violation of the prohibitions noted above.

Contempt

Under the bill, failure to comply with an order of the court could be punished as contempt.

Penalties

Any person who violated the prohibitions, and who had previously been enjoined for a violation, would be subject to a civil fine of \$1,000 for each day of the violation. If a union or organization continued to sponsor or assist in the prohibited activity in violation of an injunction, then the union or organization would be subject to a civil fine of

\$10,000 for each day of the violation. The bill specifies that the civil fine assessed would be paid to the court, and upon a showing of damages to business sales, business opportunities, or property, the employer, union, organization, or other entity that was the subject of the prohibited activity would be compensated from the payment made to the court.

MCL 423.9f

FISCAL IMPACT:

This bill would have an indeterminate fiscal impact on local courts. Courts may face costs due to an increased caseload from new actions created by this bill. The exact cost to local courts would depend on the number of new filings that would occur under this proposal.

For those who have previously violated these prohibitions, an additional fine is assessed. A fine of \$1,000 per day for an individual or \$10,000 per day for a union or organization is paid to local courts, which could partially or fully offset the costs related to the court's increased caseload. As employers that are subjected to picketing will receive compensation out of this fine, the exact amount a court will receive per violation is indeterminate.

Legislative Analyst: J. Hunault
Fiscal Analyst: Erik Jonasson

■ 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.