

Legislative Analysis



MASS PICKETING PENALTIES

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House Bill 4643

Sponsor: Rep. Tom McMillin

Committee: Oversight

Complete to 9-16-13

A SUMMARY OF HOUSE BILL 4643 AS INTRODUCED 4-30-13

House Bill 4643 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. (These prohibitions do not apply to picketing authorized under the state or federal constitution.)

Injunctive Relief

House Bill 4643 would retain the provisions described above. In addition, the bill specifies that an employer or other person 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. The court having jurisdiction would be required to grant injunctive relief if it found that any person 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. A union or organization that continued to sponsor or assist in the prohibited activity in violation of an injunction 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 would be assessed to "a person" who had been previously enjoined. A fine of \$10,000 per day would be assessed to "a union or organization" that continued to sponsor or assist in the prohibited activity in violation of an injunction. The fines are 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.

House Bill 4643 would not have a significant fiscal impact on the Bureau of Employment Relations (BER) within the Department of Licensing and Regulatory Affairs (LARA).

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■ 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.