

# HOUSE BILL No. 4312

March 5, 2015, Introduced by Reps. Glenn, Hooker, Franz, Yonker, Lauwers, Courser and Gamrat and referred to the Committee on Government Operations.

A bill to amend 1947 PA 336, entitled

"An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; to require certain provisions in collective bargaining agreements; to prescribe means of enforcement and penalties for the violation of the provisions of this act; and to make appropriations,"

by amending section 10 (MCL 423.210), as amended by 2014 PA 414.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 10. (1) A public employer or an officer or agent of a  
2 public employer shall not do any of the following:

3           (a) Interfere with, restrain, or coerce public employees in  
4 the exercise of their rights guaranteed in section 9.

5           (b) Initiate, create, dominate, contribute to, or interfere  
6 with the formation or administration of any labor organization. A

1 public school employer's use of public school resources to assist a  
2 labor organization in collecting dues or service fees from wages of  
3 public school employees is a prohibited contribution to the  
4 administration of a labor organization. However, a public school  
5 employer's collection of dues or service fees pursuant to a  
6 collective bargaining agreement that is in effect on March 16, 2012  
7 is not prohibited until the agreement expires or is terminated,  
8 extended, or renewed. A public employer may permit employees to  
9 confer with a labor organization during working hours without loss  
10 of time or pay.

11 (c) Discriminate in regard to hire, terms, or other conditions  
12 of employment to encourage or discourage membership in a labor  
13 organization.

14 (d) Discriminate against a public employee because he or she  
15 has given testimony or instituted proceedings under this act.

16 (e) Refuse to bargain collectively with the representatives of  
17 its public employees, subject to section 11.

18 (2) A labor organization or its agents shall not do any of the  
19 following:

20 (a) Restrain or coerce public employees in the exercise of the  
21 rights guaranteed in section 9. This subdivision does not impair  
22 the right of a labor organization to prescribe its own rules with  
23 respect to the acquisition or retention of membership.

24 (b) Restrain or coerce a public employer in the selection of  
25 its representatives for the purposes of collective bargaining or  
26 the adjustment of grievances.

27 (c) Cause or attempt to cause a public employer to

1 discriminate against a public employee in violation of subsection  
2 (1) (c).

3 (d) Refuse to bargain collectively with a public employer,  
4 provided it is the representative of the public employer's  
5 employees, subject to section 11.

6 (3) ~~Except as provided in subsection (4), an~~ AN individual  
7 shall not be required as a condition of obtaining or continuing  
8 public employment to do any of the following:

9 (a) Refrain or resign from membership in, voluntary  
10 affiliation with, or voluntary financial support of a labor  
11 organization or bargaining representative.

12 (b) Become or remain a member of a labor organization or  
13 bargaining representative.

14 (c) Pay any dues, fees, assessments, or other charges or  
15 expenses of any kind or amount, or provide anything of value to a  
16 labor organization or bargaining representative.

17 (d) Pay to any charitable organization or third party any  
18 amount that is in lieu of, equivalent to, or any portion of dues,  
19 fees, assessments, or other charges or expenses required of members  
20 of or public employees represented by a labor organization or  
21 bargaining representative.

22 ~~—— (4) The application of subsection (3) is subject to the~~  
23 ~~following:~~

24 ~~—— (a) Subsection (3) does not apply to any of the following:~~

25 ~~—— (i) A public police or fire department employee or any person~~  
26 ~~who seeks to become employed as a public police or fire department~~  
27 ~~employee as that term is defined under section 2 of 1969 PA 312,~~

1 ~~MCL 423.232.~~

2 ~~—— (ii) A state police trooper or sergeant who is granted rights~~  
3 ~~under section 5 of article XI of the state constitution of 1963 or~~  
4 ~~any individual who seeks to become employed as a state police~~  
5 ~~trooper or sergeant.~~

6 (4) ~~(b) Any person described in subdivision (a), or a labor~~  
7 ~~organization or bargaining representative representing persons~~  
8 ~~described in subdivision (a) and a public employer or this state~~  
9 ~~may agree that all employees in the bargaining unit shall share~~  
10 ~~fairly in the financial support of the labor organization or their~~  
11 ~~exclusive bargaining representative by paying a fee to the labor~~  
12 ~~organization or exclusive bargaining representative that may be~~  
13 ~~equivalent to the amount of dues uniformly required of members of~~  
14 ~~the labor organization or exclusive bargaining representative.~~  
15 Section 9(2) shall not be construed to interfere with the right of  
16 a public employer or this state and a labor organization or  
17 bargaining representative to enter into or lawfully administer such  
18 an agreement as it relates to the employees. ~~or persons described~~  
19 ~~in subdivision (a).~~

20 ~~—— (c) If any of the exclusions in subdivision (a) (i) or (ii) are~~  
21 ~~found to be invalid by a court, the following apply:~~

22 ~~—— (i) The individuals described in the exclusion found to be~~  
23 ~~invalid shall no longer be excepted from the application of~~  
24 ~~subsection (3).~~

25 ~~—— (ii) Subdivision (b) does not apply to individuals described in~~  
26 ~~the invalid exclusion.~~

27 (5) An agreement, contract, understanding, or practice between

1 or involving a public employer, labor organization, or bargaining  
2 representative that violates subsection (3) is unlawful and  
3 unenforceable. This subsection applies only to an agreement,  
4 contract, understanding, or practice that takes effect or is  
5 extended or renewed after March 28, 2013.

6 (6) The court of appeals has exclusive original jurisdiction  
7 over any action challenging the validity of subsection (3), (4), or  
8 (5). The court of appeals shall hear the action in an expedited  
9 manner.

10 (7) For fiscal year 2012-2013, \$1,000,000.00 is appropriated  
11 to the department of licensing and regulatory affairs to be  
12 expended to do all of the following regarding 2012 PA 349:

13 (a) Respond to public inquiries regarding 2012 PA 349.

14 (b) Provide the commission with sufficient staff and other  
15 resources to implement 2012 PA 349.

16 (c) Inform public employers, public employees, and labor  
17 organizations concerning their rights and responsibilities under  
18 2012 PA 349.

19 (d) Any other purposes that the director of the department of  
20 licensing and regulatory affairs determines in his or her  
21 discretion are necessary to implement 2012 PA 349.

22 (8) A person, public employer, or labor organization that  
23 violates subsection (3) is liable for a civil fine of not more than  
24 \$500.00. A civil fine recovered under this section shall be  
25 submitted to the state treasurer for deposit in the general fund of  
26 this state.

27 (9) By July 1 of each year, each exclusive bargaining

1 representative that represents public employees in this state shall  
2 have an independent examiner verify the exclusive bargaining  
3 representative's calculation of all expenditures attributed to the  
4 costs of collective bargaining, contract administration, and  
5 grievance adjustment during the prior calendar year and shall file  
6 that verification with the commission. The commission shall make  
7 the exclusive bargaining representative's calculations available to  
8 the public on the commission's website. The exclusive bargaining  
9 representative shall also file a declaration identifying the local  
10 bargaining units that are represented. Local bargaining units  
11 identified in the declaration filed by the exclusive bargaining  
12 representative are not required to file a separate calculation of  
13 all expenditures attributed to the costs of collective bargaining,  
14 contract administration, and grievance adjustment. ~~For fiscal year~~  
15 ~~2011-2012, \$100,000.00 is appropriated to the commission for the~~  
16 ~~costs of implementing this subsection.~~ For fiscal year 2014-2015,  
17 \$100,000.00 is appropriated to the commission for the costs of  
18 implementing this subsection.

19 (10) Except for actions required to be brought under  
20 subsection (6), a person who suffers an injury as a result of a  
21 violation or threatened violation of subsection (3) may bring a  
22 civil action for damages, injunctive relief, or both. In addition,  
23 a court shall award court costs and reasonable attorney fees to a  
24 plaintiff who prevails in an action brought under this subsection.  
25 Remedies provided in this subsection are independent of and in  
26 addition to other penalties and remedies prescribed by this act.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.