

# HOUSE BILL NO. 5806

February 23, 2022, Introduced by Reps. Breen, Weiss, Brenda Carter, Sabo, Clemente, Hope, Stone, Coleman, Haadsma, Sowerby, Steckloff, Cavanagh, Cherry, Steenland, Neeley, Brabec, Garza, Liberati, O'Neal, Rabhi, Cynthia Johnson, Kuppa, Pohutsky, Tyrone Carter, Manoogian, Bolden, Shannon, Rogers, Aiyash, Scott, Thanedar, Ellison, Hood, Young, Peterson, Tate, Morse, Hertel, Jones and Whitsett and referred to the Committee on Education.

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 1 (MCL 423.201), as amended by 2014 PA 414.

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

**1**           Sec. 1. (1) As used in this act:

1 (a) "Bargaining representative" means a labor organization  
2 recognized by an employer or certified by the commission as the  
3 sole and exclusive bargaining representative of certain employees  
4 of the employer.

5 (b) "Commission" means the employment relations commission  
6 created in section 3 of 1939 PA 176, MCL 423.3.

7 (c) "Intermediate school district" means that term as defined  
8 in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

9 (d) "Lockout" means the temporary withholding of work from a  
10 group of employees by shutting down the operation of the employer  
11 to bring pressure upon the affected employees or the bargaining  
12 representative, or both, to accept the employer's terms of  
13 settlement of a labor dispute.

14 (e) "Public employee" means an individual holding a position  
15 by appointment or employment in the government of this state, in  
16 the government of 1 or more of the political subdivisions of this  
17 state, in the public school service, in a public or special  
18 district, in the service of an authority, commission, or board, or  
19 in any other branch of the public service, subject to the following  
20 exceptions:

21 (i) An individual employed by a private organization or entity  
22 who provides services under a time-limited contract with this state  
23 or a political subdivision of this state or who receives a direct  
24 or indirect government subsidy in his or her private employment is  
25 not an employee of this state or that political subdivision, and is  
26 not a public employee. This provision ~~shall not be superseded by~~  
27 **supersedes** any interlocal agreement, memorandum of understanding,  
28 memorandum of commitment, or other document similar to these.

29 ~~(ii) If, by April 9, 2000, a public school employer that is the~~

1 ~~chief executive officer serving in a school district of the first~~  
 2 ~~class under part 5A of the revised school code, 1976 PA 451, MCL~~  
 3 ~~380.371 to 380.376, issues an order determining that it is in the~~  
 4 ~~best interests of the school district, then a public school~~  
 5 ~~administrator employed by that school district is not a public~~  
 6 ~~employee for purposes of this act. The exception under this~~  
 7 ~~subparagraph applies to public school administrators employed by~~  
 8 ~~that school district after the date of the order described in this~~  
 9 ~~subparagraph whether or not the chief executive officer remains in~~  
 10 ~~place in the school district. This exception does not prohibit the~~  
 11 ~~chief executive officer or board of a school district of the first~~  
 12 ~~class or its designee from having informal meetings with public~~  
 13 ~~school administrators to discuss wages and working conditions.~~

14       (ii) ~~(iii)~~—An individual serving as a graduate student research  
 15 assistant or in an equivalent position, a student participating in  
 16 intercollegiate athletics on behalf of a public university in this  
 17 state, or any individual whose position does not have sufficient  
 18 indicia of an employer-employee relationship using the 20-factor  
 19 test announced by the ~~internal revenue service~~ **Internal Revenue**  
 20 **Service** of the United States ~~department~~ **Department** of ~~treasury~~  
 21 **Treasury** in revenue ruling 87-41, 1987-1 C.B. 296 is not a public  
 22 employee entitled to representation or collective bargaining rights  
 23 under this act.

24       (f) **"Public employer" means the employer of a public employee.**

25       (g) ~~(f)~~—"Public school academy" means a public school academy  
 26 or strict discipline academy organized under the revised school  
 27 code, 1976 PA 451, MCL 380.1 to 380.1852.

28       (h) ~~(g)~~—"Public school administrator" means a superintendent,  
 29 assistant superintendent, **or** chief business official ~~, principal,~~

1 ~~or assistant principal~~ employed by a school district, intermediate  
2 school district, or public school academy.

3 (i) ~~(h)~~ "Public school employer" means a public employer that  
4 is **any of** the **following**:

5 (i) **The** board of a school district, intermediate school  
6 district, or public school academy. ~~;~~ ~~is the chief executive~~  
7 ~~officer of a school district in which a school reform board is in~~  
8 ~~place under part 5A of the revised school code, 1976 PA 451, MCL~~  
9 ~~380.371 to 380.376; or is the~~

10 (ii) **The** governing board of a joint endeavor or consortium  
11 consisting of any combination of school districts, intermediate  
12 school districts, or public school academies.

13 (j) ~~(i)~~ "School district" means that term as defined in  
14 section 6 of the revised school code, 1976 PA 451, MCL 380.6, or a  
15 local act school district as defined in section 5 of the revised  
16 school code, 1976 PA 451, MCL 380.5.

17 (k) ~~(j)~~ "Strike" means the concerted failure to report for  
18 duty, the willful absence from one's position, the stoppage of  
19 work, or the abstinence in whole or in part from the full,  
20 faithful, and proper performance of the duties of employment for  
21 the purpose of inducing, influencing, or coercing a change in  
22 employment conditions, compensation, or the rights, privileges, or  
23 obligations of employment. For employees of a public school  
24 employer, strike also includes an action described in this  
25 subdivision that is taken for the purpose of protesting or  
26 responding to an act alleged or determined to be an unfair labor  
27 practice committed by the public school employer.

28 (2) This act does not limit, impair, or affect the right of a  
29 public employee to the expression or communication of a view,

1 grievance, complaint, or opinion on any matter related to the  
2 conditions or compensation of public employment or their betterment  
3 as long as the expression or communication does not interfere with  
4 the full, faithful, and proper performance of the duties of  
5 employment.