

HOUSE BILL NO. 4236

March 09, 2023, Introduced by Reps. Mentzer, Rheingans, Byrnes, Churches, Neeley, Brenda Carter, Brixie, Hood, Grant, Scott, Hoskins, Skaggs, Edwards, Tsernoglou, Fitzgerald, Dievendorf, Morgan, Wilson, Hope, O'Neal, Price, Brabec, Stone, Steckloff, Andrews, Young, Tyrone Carter, Hill, Liberati, Martus, Conlin, Koleszar, Snyder, MacDonell, Shannon, Puri, Rogers, Haadsma, Glanville, Miller, Coleman, Aiyash and Whitsett and referred to the Committee on Labor.

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

17 (c) Discriminate in regard to ~~hire,~~**hiring,** terms, or other
18 conditions of employment to encourage or discourage membership in a
19 labor organization.

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

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

24 **(f) Subject to subsection (11), discriminate against a public**
25 **employee for either of the following reasons:**

26 **(i) A public employee does not or refuses to attend or**
27 **participate in a meeting or communication sponsored by the public**
28 **employer if a purpose of the meeting or communication is to**
29 **communicate the opinion of the public employer regarding any of the**

1 following:

2 (A) A religious matter.

3 (B) A political matter.

4 (C) A matter related to the formation or administration of a
5 labor organization.

6 (ii) To coerce a public employee to attend or participate in a
7 meeting or communication described in subparagraph (i).

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

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

14 (b) Restrain or coerce a public employer in the selection of
15 its representatives for the purposes of collective bargaining or
16 the adjustment of grievances.

17 (c) Cause or attempt to cause a public employer to
18 discriminate against a public employee in violation of subsection
19 (1) (c).

20 (d) Refuse to bargain collectively with a public employer ~~7~~
21 ~~provided it if the labor organization~~ is the representative of the
22 public employer's employees, subject to section 11.

23 (3) Except as provided in subsection (4), an individual ~~shall~~
24 **must** not be required as a condition of obtaining or continuing
25 public employment to do any of the following:

26 (a) Refrain or resign from membership in, voluntary
27 affiliation with, or voluntary financial support of a labor
28 organization or bargaining representative.

29 (b) Become or remain a member of a labor organization or

1 bargaining representative.

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

5 (d) Pay to any charitable organization or third party any
6 amount that is in ~~lieu~~**place** of, equivalent to, or any portion of
7 dues, fees, assessments, or other charges or expenses required of
8 members of or public employees represented by a labor organization
9 or bargaining representative.

10 (4) ~~The application of subsection~~**Subsection** (3) is subject to
11 the following:

12 (a) Subsection (3) does not apply to any of the following:

13 (i) A public police or fire department employee or ~~any person~~
14 **an individual** who seeks to become employed as a public police or
15 fire department employee as that term is defined under section 2 of
16 1969 PA 312, MCL 423.232.

17 (ii) A state police trooper or sergeant who is granted rights
18 under section 5 of article XI of the state constitution of 1963 or
19 any individual who seeks to become employed as a state police
20 trooper or sergeant.

21 (b) ~~Any person~~**An individual** described in subdivision (a), or
22 a labor organization or bargaining representative representing
23 ~~persons~~**individuals** described in subdivision (a) and a public
24 employer or this state may agree that all employees in the
25 bargaining unit shall share fairly in the financial support of the
26 labor organization or their exclusive bargaining representative by
27 paying a fee to the labor organization or exclusive bargaining
28 representative that may be equivalent to the amount of dues
29 uniformly required of members of the labor organization or

1 exclusive bargaining representative. Section 9(2) ~~shall~~**must** not be
2 construed to interfere with the right of a public employer or this
3 state and a labor organization or bargaining representative to
4 enter into or lawfully administer such an agreement as it relates
5 to the employees or persons described in subdivision (a).

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

8 (i) The individuals described in the exclusion found to be
9 invalid ~~shall~~**are** no longer ~~be~~ excepted from the application of
10 subsection (3).

11 (ii) Subdivision (b) does not apply to individuals described in
12 the invalid exclusion.

13 (5) An agreement, contract, understanding, or practice between
14 or involving a public employer, labor organization, or bargaining
15 representative that violates subsection (3) is unlawful and
16 unenforceable. This subsection applies only to an agreement,
17 contract, understanding, or practice that takes effect or is
18 extended or renewed after March 28, 2013.

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

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

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

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

29 (c) Inform public employers, public employees, and labor

1 organizations concerning their rights and responsibilities under
2 2012 PA 349.

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

6 (8) A person, public employer, or labor organization that
7 violates subsection (3) is ~~liable for~~ **subject to** a civil fine of
8 not more than \$500.00. A civil fine recovered under this section
9 ~~shall~~ **must** be submitted to the state treasurer for deposit in the
10 general fund of this state.

11 (9) By July 1 of each year, each exclusive bargaining
12 representative that represents public employees in this state shall
13 have an independent examiner verify the exclusive bargaining
14 representative's calculation of all expenditures attributed to the
15 costs of collective bargaining, contract administration, and
16 grievance adjustment during the prior calendar year and shall file
17 that verification with the commission. The commission shall make
18 the exclusive bargaining representative's calculations available to
19 the public on the commission's website. The exclusive bargaining
20 representative shall also file a declaration identifying the local
21 bargaining units that are represented. Local bargaining units
22 identified in the declaration filed by the exclusive bargaining
23 representative are not required to file a separate calculation of
24 all expenditures attributed to the costs of collective bargaining,
25 contract administration, and grievance adjustment. For fiscal year
26 2011-2012, \$100,000.00 is appropriated to the commission for the
27 costs of implementing this subsection. For fiscal year 2014-2015,
28 \$100,000.00 is appropriated to the commission for the costs of
29 implementing this subsection.

1 (10) Except for actions ~~required to be brought under~~ **described**
2 **in** subsection (6), a person who suffers an injury as a result of a
3 violation or threatened violation of subsection (3) may bring a
4 civil action for damages, injunctive relief, or both. In addition,
5 a court shall award court costs and reasonable attorney fees to a
6 plaintiff who prevails in an action brought under this subsection.
7 Remedies provided in this subsection are independent of and in
8 addition to other penalties and remedies prescribed by this act.

9 **(11) Subsection (1) (f) (i) does not apply to either of the**
10 **following:**

11 **(a) A meeting or communication regarding information that a**
12 **public employer is required by law to communicate to its public**
13 **employees.**

14 **(b) A meeting or communication regarding information that a**
15 **public employer must communicate to its public employees to fulfill**
16 **the public employer's duties under law, including this act.**