



SENATE BILL No. 366

February 9, 1993, Introduced by Senators DI NELLO, WELBORN, WARTNER, DUNASKISS, HONIGMAN, MC MANUS, EMMONS and GEAKE and referred to the Committee on Labor.

A bill to regulate the use of certain dues and fees for certain purposes; to prescribe the powers and duties and to require certain reports by certain organizations; to prescribe certain powers and duties of the secretary of state; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "worker political independence act".

3 Sec. 3. As used in this act:

4 (a) "Collective bargaining activities" means the negotiation
5 between 2 or more parties regarding the terms and conditions of
6 employment, the administration of a contract between 2 or more
7 parties, or for adjustment of grievances between the parties to a
8 collectively bargained contract.

1 (b) "Contribution" means that term as defined in section 4
2 of the Michigan campaign finance act, Act No. 388 of the Public
3 Acts of 1976, being section 169.204 of the Michigan Compiled
4 Laws. For purposes of this act, "contribution" includes, but is
5 not limited to, volunteer personal services, telephone banks,
6 voter registration drives, get out the vote drives, and member-
7 ship endorsements provided by the labor organization or profes-
8 sional workers organization if the membership dues or fees paid
9 to the organization are used to subsidize those types of
10 activities.

11 (c) "Labor organization" means an organization or an agency
12 or employee representation committee or plan in which employees
13 participate and which exists for the purpose, in whole or in
14 part, of dealing with employers concerning collective bargaining
15 activities.

16 (d) "Lobbying activities" means communicating directly or
17 indirectly through an affiliate or subsidiary organization with
18 an official in the executive branch of state government or an
19 official in the legislative branch of state government for the
20 purpose of influencing legislative or administrative action.
21 Lobbying activities do not include the providing of technical
22 information when appearing before an officially convened legisla-
23 tive committee or executive department hearing panel. As used in
24 this subdivision, "technical information" means empirically veri-
25 fiable data provided by a person recognized as an expert in the
26 subject area to which the information provided is related.

1 (e) "Noncollective bargaining activities" means any activity
2 which is not germane to collective bargaining activities as
3 defined in subdivision (a), including, but not limited to:

4 (i) Lobbying activities.

5 (ii) Electoral politics, including ballot, bond, and millage
6 issues.

7 (iii) Public relations.

8 (iv) Litigation.

9 (v) Offensive and defensive organizing, including member
10 recruitment, retention, and member-only benefits.

11 (vi) Charitable contributions and activities.

12 (vii) Collective bargaining in other bargaining units and
13 other states wholly unrelated to the employee's bargaining unit
14 and incapable of enuring to the benefit of the employee's bar-
15 gaining unit.

16 (viii) Any other activity prohibited by law.

17 (f) "Organization" means both a labor organization and a
18 professional workers organization.

19 (g) "Professional employee" means an employee engaged in
20 work that is predominately intellectual and varied in character
21 as opposed to routine mental, manual, mechanical, or physical
22 work; that involves the consistent exercise of discretion and
23 judgment in its performance; that is of such a character that the
24 output produced or the result accomplished cannot be standardized
25 in relation to a given period of time; and that requires knowl-
26 edge of an advanced type in a field of science or learning
27 customarily acquired by a prolonged course of specialized

1 intellectual instruction and study in an institution of higher
2 learning or a hospital, as distinguished from a general academic
3 education or from an apprenticeship or from training in the per-
4 formance of routine mental, manual, or physical processes; or an
5 employee who has completed the courses of specialized intellec-
6 tual instruction and study described in this subdivision and is
7 performing related work under the supervision of a professional
8 person to qualify himself or herself to become a professional
9 employee as defined in this subdivision.

10 (h) "Professional workers organization" means an association
11 of professional employees that may perform both collective and
12 noncollective bargaining activities for its members, that
13 requires the professional employees to join the organization as a
14 precondition to engage in that particular occupation, and that
15 requires dues or fees from each individual member for the per-
16 formance of the collective and noncollective bargaining
17 activities.

18 Sec. 5. (1) A labor organization shall not use all or a
19 part of the fee or dues charged by the organization for noncol-
20 lective bargaining activities.

21 (2) Nothing in this act shall prohibit a labor organization
22 from soliciting funds on a voluntary contribution basis from its
23 members or from persons who are not members for collective bar-
24 gaining or noncollective bargaining activities. However, a
25 solicitation for a voluntary contribution shall not be in the
26 form of a payroll deduction or at the same time or on the same

1 form as the payment of the dues or fees for membership in the
2 organization.

3 (3) A labor organization shall not require a person, as a
4 condition of employment or as a condition precedent to engaging
5 in a particular occupation, to contribute dues or fees to the
6 organization for use for noncollective bargaining activities. A
7 labor organization shall not disclose either directly or indi-
8 rectly whether a member has or has not made a voluntary contribu-
9 tion to the organization for use in noncollective bargaining
10 activities. A labor organization shall not harass, threaten, or
11 intimidate a member who does not make a voluntary contribution to
12 the labor organization for use in noncollective bargaining
13 activities.

14 (4) A labor organization subject to this act shall separate
15 into segregated funds the dues or fees, or both, used for collec-
16 tive bargaining activities and the voluntary contributions
17 received for use in noncollective bargaining activities.

18 Sec. 7. (1) A professional workers organization in which
19 membership is required either as a condition after obtaining
20 employment with an employer or as a condition precedent to the
21 practice of an occupation shall not use all or a part of the fee
22 or dues charged by the professional workers organization for lob-
23 bying activities.

24 (2) Nothing in this act shall prohibit a professional work-
25 ers organization from soliciting funds on a voluntary contribu-
26 tion basis from its members or from persons who are not members
27 for noncollective bargaining activities. However, a solicitation

1 for a voluntary contribution shall not be in the form of a
2 checkoff at the same time or on the same form as the payment of
3 the dues or fees for membership in the organization.

4 (3) A professional workers organization shall not require a
5 person, as a condition of employment or as a condition precedent
6 to engaging in a particular occupation, to contribute dues or
7 fees to the professional workers organization for use for lobby-
8 ing activities.

9 (4) A professional workers organization subject to this act
10 shall separate into segregated funds the dues or fees, or both,
11 used for noncollective bargaining activities not otherwise pro-
12 hibited by this act and the dues, fees, or voluntary contribu-
13 tions designated for use by the professional employee in noncol-
14 lective bargaining activities not otherwise prohibited by this
15 act.

16 Sec. 9. (1) Each organization subject to this act shall
17 file a report with the secretary of state by August 31 covering
18 the period from January 1 to July 31 and by January 31 covering
19 the period from August 1 to December 31 each year.

20 (2) The report shall be on a form prescribed by the secre-
21 tary of state and shall include the following information:

22 (a) The name and address of the organization.

23 (b) The name and address of each individual or organization
24 that received contributions from the organization's lobbying
25 activities of \$25.00 or more and the amount of each
26 contribution.

1 (c) The total dollar amount of all contributions made by the
2 organization in its lobbying activities, including the name and
3 address of each individual or organization that received contri-
4 butions from the organization's lobbying activities of \$25.00 or
5 more, and the amount of each contribution.

6 (d) A brief description of the lobbying activities engaged
7 in during the previous reporting period.

8 (e) The total amount spent during the reporting period on
9 all collective bargaining activities, the name and address of
10 each individual or organization that received \$25.00 or more as a
11 consequence of the organization's collective bargaining activi-
12 ties, and the amount of each disbursement.

13 (f) The total amount spent during the reporting period on
14 all noncollective bargaining activities not germane to a collec-
15 tive bargaining agreement to which the organization is a party
16 for each of the individual categories listed in section 3(e), the
17 name and address of each individual or organization that received
18 \$25.00 or more as a consequence of the organization's noncollec-
19 tive bargaining activities, and the amount of each disbursement.

20 Sec. 11. An organization subject to this act shall post
21 notices in each place of employment, shall give each new employee
22 hired after the effective date of this act a written summary, and
23 shall use any other appropriate means to inform its employees of
24 their rights and protections under this act.

25 Sec. 13. (1) An organization that fails to file a report
26 required by section 9 is subject to a civil fine of \$1,000.00 for
27 each day the report is not filed.

1 (2) An organization that knowingly conceals information
2 required to be disclosed in a report required by section 9 is
3 subject to a civil fine of not to exceed \$10,000.00 each day.

4 (3) Either the secretary of state or an employee or class of
5 employees may maintain an action for a violation of this
6 section.

7 Sec. 15. (1) Except as otherwise provided in this section
8 and section 13, an organization that violates this act is subject
9 to a civil fine of not to exceed \$1,000.00 plus actual attorney
10 fees.

11 (2) An organization that violates section 5(3) is subject to
12 a civil fine of not to exceed \$1,000.00 or 3 times the actual
13 damages sustained, whichever is greater, plus actual attorney
14 fees.

15 (3) The civil fine less costs assessed pursuant to an action
16 brought by an employee or a group or class of employees under
17 this act shall be returned to the employee or pro rata to the
18 group or class of employees.

19 Sec. 17. (1) An action may be brought under this act in the
20 circuit court for the county in which the individual resides, in
21 which the organization has a resident office, or in the county of
22 Ingham.

23 (2) Upon appropriate application, the court may issue a pre-
24 liminary injunction to restrain continuing violations of this
25 act.

1 (3) An employee or group of employees may bring a class
2 action on behalf of all employees affected by a violation of this
3 act according to Michigan court rule.