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## NO USE OF STATE FUNDS TO DISCOURAGE UNIONIZATION

**House Bill 5305**

**Sponsor: Rep. Paul Gieleghem**

**Committee: Employment Relations,  
Training and Safety**

**Complete to 9-6-00**

### **A SUMMARY OF HOUSE BILL 5305 AS INTRODUCED 2-8-00**

The bill would create a new act to prohibit persons who received state funds from using state funds wholly or in part to interfere with or discourage unionization, either by that person's employees or any other employer's employees.

Definitions. The bill would define "state funds" to mean any money drawn from the state treasury or other state fund, and any state resources (including a good or a service or the value of a good or service) that was provided to a "person," that is, to an individual, partnership, corporation, association, governmental entity, or other legal entity. "Receive state funds" would mean to acquire state funds in any form, including a grant, payment under contract, reimbursement, or other direct payment, and would include a subcontractor's receipt of payment for performing any portion of a state-funded contract. "Use of state funds" would mean expenditures of state funds by a person who received state funds, where the expenditure may be for any purpose, including operating expenses, supplies, maintenance, utilities, capital facilities, or equipment. "Unionization" would mean the organization of employees for the purposes of collective bargaining. And "interfere with or discourage unionization" would include, but not be limited to, all of the following: Any form of communication that advocated, directly or by implication, that an employee should vote against unionization; hiring or consulting persons to advise on means to deter unionization or to impede a labor organization that represented employees from fulfilling its representation responsibilities; holding meetings to influence employees to refrain from unionizing; or planning or engaging in employee-supervisor activities to deter the lawful activities of labor organizations.

Record keeping. A person who received state funds and who spent any funds to interfere with or discourage unionization would be required to keep accurate and complete records of all expenditures sufficient to demonstrate whether state funds had been spent to interfere with or discourage unionization. If the state designated state funds for a specific use or expenditure, the person would be required to account for the specific use or expenditure. If the state did not designate state funds for a specific use or expenditure, the person would be required to allocate the funds on a pro rata basis to all the person's expenditures that were related to the purposed for which the state funds had been received.

Quarterly report. A person who was subject to the bill's record keeping requirements also would be required to prepare and submit a quarterly report to the Department of Consumer and Industry Services (DCIS) that specified each expenditure of state funds and each expenditure of funds that had been used for the interference with or discouragement of unionization and that included the person's certification, under oath, that state funds had not been spent to interfere with

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or discourage unionization. The reports would have to be filed four times each calendar year within 30 days after the end of each calendar quarter. A person who provided false certification under the bill would be guilty of perjury.

Departmental audits. To ensure compliance with the bill, the DCIS, on its own initiative or in response to a complaint that it determined to be credible, could at any time audit the records of a person subject to the bill's certification requirement.

Certification, eligibility for state funds. The DCIS would be required to certify a "department determination" if a person failed or refused to comply with the bill's record-keeping and reporting requirements or to provide the department with access to the person's records for an audit. A person who was "subject to certification" would be ineligible to receive state funds until the DCIS had certified that the person was in full compliance with the bill's record keeping, reporting, and access requirements.

Violations, penalties. A person who knowingly authorized an expenditure of state funds in violation of the bill would be liable to the state for civil damages equal to twice the amount of the expenditure, plus attorney fees and costs. A taxpayer could bring a civil action on behalf of the state to recover damages under the bill, and if he or she prevailed, would be entitled to half of the amount recovered on behalf of the state plus his or her attorney fees. A person who was adjudicated to have violated the bill's prohibition against using state funds to interfere with or to discourage unionization would be ineligible to receive state funds for three years after the date the judgment against the person were entered.

Right of collective bargaining. The bill would not limit the right of an employer or a labor organization to engage in lawful activities relating to the negotiation and enforcement of collective bargaining agreements.

Analyst: S. Ekstrom

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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.