



HOUSE BILL No. 5305

February 8, 2000, Introduced by Reps. Gielegghem, Wojno, Bovin, Callahan, Martinez, Daniels, Jacobs, Dennis, Mans, Switalski and Lemmons and referred to the Committee on Employment Relations, Training and Safety.

A bill to prohibit expenditures of state funds on activities that interfere with or discourage unionization; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Department" means the department of consumer and indus-
3 try services.

4 (b) "Interfere with or discourage unionization" includes,
5 but is not limited to, all of the following:

6 (i) A communication in any form that advocates, directly or
7 by implication, that an employee should vote against
8 unionization.

9 (ii) Hiring or consulting persons to advise on means to
10 deter unionization or impede a labor organization that represents
11 employees from fulfilling its representation responsibilities.

1 (iii) Holding meetings to influence employees to refrain
2 from unionizing.

3 (iv) Planning or engaging in employee-supervisor activities
4 to deter the lawful activities of a labor organization.

5 (c) "Person" means an individual, partnership, corporation,
6 association, governmental entity, or other legal entity.

7 (d) "Receive state funds" means to acquire state funds in
8 any form, including a grant, payment under contract, reimburse-
9 ment, or other direct payment, and includes a subcontractor's
10 receipt of payment for performance of any portion of a contract
11 funded with state funds.

12 (e) "State funds" means any money drawn from the state trea-
13 sury or other fund of the state, and any state resources, includ-
14 ing a good or service or the value of a good or service, that is
15 provided to a person.

16 (f) "Unionization" means the organization of employees for
17 the purpose of collective bargaining.

18 (g) "Use of state funds" means expenditure of state funds by
19 a person who receives state funds. The expenditure may be for
20 any purpose, including operating expenses, supplies, maintenance,
21 utilities, capital facilities, or equipment.

22 Sec. 2. (1) A person who receives state funds shall not use
23 state funds wholly or in part to interfere with or discourage
24 unionization by that person's employees or the employees of any
25 other employer.

26 (2) This section does not limit the right of an employer or
27 labor organization to engage in lawful activities relating to the

1 negotiation and enforcement of a collective bargaining
2 agreement.

3 Sec. 3. The department shall promulgate rules in accordance
4 with the administrative procedures act of 1969, 1969 PA 306, MCL
5 24.201 to 24.328, to implement this act.

6 Sec. 4. (1) A person who receives state funds and who
7 expends any funds to interfere with or discourage unionization
8 shall maintain accurate and complete records of all
9 expenditures. The records shall be sufficient to demonstrate
10 whether state funds have been expended to interfere with or dis-
11 courage unionization. If the state designates state funds for a
12 specific use or expenditure, the person shall account for the
13 specific use or expenditure. If the state does not designate
14 state funds for a specific use or expenditure, the person shall
15 allocate the funds on a pro rata basis to all expenditures of the
16 person that are related to the purpose for which the state funds
17 are received.

18 (2) A person subject to the record-keeping requirements of
19 subsection (1) shall prepare and submit to the department 4 times
20 per calendar year a quarterly report that specifies each expendi-
21 ture of state funds and each expenditure of funds that have been
22 used for the interference with or discouragement of
23 unionization. The person shall file each report within 30 days
24 after the end of each calendar quarter.

25 (3) The report required under subsection (2) shall include
26 the person's certification, under oath, that state funds were not
27 expended to interfere with or discourage unionization. A person

1 who provides a false certification under this subsection is
2 guilty of perjury.

3 (4) On its own initiative or in response to a complaint that
4 the department determines credible, the department may at any
5 time audit the records of a person subject to the certification
6 requirement of this section to ensure compliance with this act.

7 (5) The department shall certify a department determination
8 that a person has failed or refused to do any of the following:

9 (a) Comply with the record-keeping requirements of this
10 act.

11 (b) Comply with the reporting requirements of this act.

12 (c) Provide the department with access to the person's
13 records for an audit under this act.

14 (6) A person who is subject to a certification described in
15 subsection (5) is ineligible to receive state funds until the
16 department certifies that the person is in full compliance with
17 the requirements described in subsection (5).

18 Sec. 5. (1) A person who knowingly authorizes an expendi-
19 ture of state funds in violation of this act is liable to the
20 state for civil damages equal to twice the amount of the expendi-
21 ture, plus attorney fees and costs.

22 (2) A taxpayer may bring a civil action on behalf of the
23 state to recover the damages described in subsection (1). If the
24 taxpayer prevails, he or she is entitled to 1/2 the amount recov-
25 ered on behalf of the state, plus his or her attorney fees.

1 (3) A person adjudicated to have violated section 2 is
2 ineligible to receive state funds for a period of 3 years after
3 the date the judgment against the person is entered.