

HOUSE BILL No. 5846

September 23, 2014, Introduced by Reps. Daley, Lauwers, Kurtz, Kelly, Price, Shirkey,
Denby, Rogers, Lori, Lund and Haveman and referred to the Committee on Commerce.

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 2012 PA 349.

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 labor organization. A
7 public school employer's use of public school resources to assist a

1 labor organization in collecting dues or service fees from wages of
2 public school employees is a prohibited contribution to the
3 administration of a labor organization. However, a public school
4 employer's collection of dues or service fees pursuant to a
5 collective bargaining agreement that is in effect on March 16, 2012
6 is not prohibited until the agreement expires or is terminated,
7 extended, or renewed. A public employer may permit employees to
8 confer with a labor organization during working hours without loss
9 of time or pay.

10 (c) Discriminate in regard to hire, terms, or other conditions
11 of employment to encourage or discourage membership in a labor
12 organization.

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

15 (e) Refuse to bargain collectively with the representatives of
16 its public employees, subject to ~~the provisions of~~ section 11.

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

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

23 (b) Restrain or coerce a public employer in the selection of
24 its representatives for the purposes of collective bargaining or
25 the adjustment of grievances.

26 (c) Cause or attempt to cause a public employer to
27 discriminate against a public employee in violation of subsection

1 (1) (c) .

2 (d) Refuse to bargain collectively with a public employer,
3 ~~provided~~ ~~IF~~ it is the representative of the public employer's
4 employees subject to section 11.

5 (3) Except as provided in subsection (4), an individual shall
6 not be required as a condition of obtaining or continuing public
7 employment to do any of the following:

8 (a) Refrain or resign from membership in, voluntary
9 affiliation with, or voluntary financial support of a labor
10 organization or bargaining representative.

11 (b) Become or remain a member of a labor organization or
12 bargaining representative.

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

16 (d) Pay to any charitable organization or third party any
17 amount that is in lieu of, equivalent to, or any portion of dues,
18 fees, assessments, or other charges or expenses required of members
19 of or public employees represented by a labor organization or
20 bargaining representative.

21 (4) The application of subsection (3) is subject to the
22 following:

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

24 (i) A public police or fire department employee or any person
25 who seeks to become employed as a public police or fire department
26 employee as that term is defined under section 2 of 1969 PA 312,
27 MCL 423.232.

1 (ii) A state police trooper or sergeant who is granted rights
2 under section 5 of article XI of the state constitution of 1963 or
3 any individual who seeks to become employed as a state police
4 trooper or sergeant.

5 (b) Any person described in subdivision (a), or a labor
6 organization or bargaining representative representing persons
7 described in subdivision (a) and a public employer or this state
8 may agree that all employees in the bargaining unit shall share
9 fairly in the financial support of the labor organization or their
10 exclusive bargaining representative by paying a fee to the labor
11 organization or exclusive bargaining representative that may be
12 equivalent to the amount of dues uniformly required of members of
13 the labor organization or exclusive bargaining representative.
14 Section 9(2) shall not be construed to interfere with the right of
15 a public employer or this state and a labor organization or
16 bargaining representative to enter into or lawfully administer such
17 an agreement as it relates to the employees or persons described in
18 subdivision (a).

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

21 (i) The individuals described in the exclusion found to be
22 invalid shall no longer be excepted from the application of
23 subsection (3).

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

26 (5) An agreement, contract, understanding, or practice between
27 or involving a public employer, labor organization, or bargaining

1 representative that violates subsection (3) is unlawful and
2 unenforceable. This subsection applies only to an agreement,
3 contract, understanding, or practice that takes effect or is
4 extended or renewed after ~~the effective date of the amendatory act~~
5 ~~that added this subsection.~~ **MARCH 28, 2013.**

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

10 (7) For fiscal year 2012-2013, \$1,000,000.00 is appropriated
11 to the department of licensing and regulatory affairs to be
12 expended to do all of the following: ~~regarding the amendatory act~~
13 ~~that added this subsection:~~

14 (a) Respond to public inquiries regarding ~~the amendatory~~
15 ~~act.~~ **CHANGES TO THIS ACT MADE BY 2012 PA 349.**

16 (b) Provide the commission with sufficient staff and other
17 resources to implement the ~~amendatory act.~~ **CHANGES TO THIS ACT MADE**
18 **BY 2012 PA 349.**

19 (c) Inform public employers, public employees, and labor
20 organizations concerning their rights and responsibilities under
21 the ~~amendatory act.~~ **CHANGES TO THIS ACT MADE BY 2012 PA 349.**

22 (d) Any other purposes that the director of the department of
23 licensing and regulatory affairs determines in his or her
24 discretion are necessary to implement the ~~amendatory act.~~ **CHANGES TO**
25 **THIS ACT MADE BY 2012 PA 349.**

26 (8) A person, public employer, or labor organization that
27 violates subsection (3) is liable for a civil fine of not more than

1 \$500.00. A civil fine recovered under this section shall be
2 submitted to the state treasurer for deposit in the general fund of
3 this state.

4 (9) By March 1 of each year, each exclusive bargaining
5 representative that represents public employees in this state shall
6 file with the commission an independent audit of all expenditures
7 attributed to the costs of collective bargaining, contract
8 administration, and grievance adjustment during the prior calendar
9 year. The commission shall make the audits available to the public
10 on the commission's website. For fiscal year 2011-2012, \$100,000.00
11 is appropriated to the commission for the costs of implementing
12 this subsection.

13 (10) Except for actions required to be brought under
14 subsection (6), a person who suffers an injury as a result of a
15 violation or threatened violation of subsection (3) may bring a
16 civil action for damages, injunctive relief, or both. In addition,
17 a court shall award court costs and reasonable attorney fees to a
18 plaintiff who prevails in an action brought under this subsection.
19 Remedies provided in this subsection are independent of and in
20 addition to other penalties and remedies prescribed by this act.

21 **(11) SUBSECTION (1) DOES NOT REQUIRE A PUBLIC EMPLOYER TO**
22 **ALLOW PUBLIC POSTING IN THE WORKPLACE OF NAMES OF INDIVIDUALS WHO**
23 **ELECT NOT TO JOIN A UNION.**