

HOUSE BILL NO. 4821

August 06, 2019, Introduced by Reps. Greig, Rabhi, Brixie, Cherry, Tyrone Carter, Tate, Cynthia Johnson, Pohutsky, Kennedy, Manoogian, Camilleri, Coleman, Garza, Bolden, Yancey and Hammoud and referred to the Committee on Education.

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 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 employees to
15 confer with a labor organization during working hours without loss
16 of time or pay.

17 (c) Discriminate in regard to hire, terms, or other conditions
18 of employment to encourage or discourage membership in a labor
19 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 (2) A labor organization or its agents shall not do any of the
25 following:

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



1 (b) Restrain or coerce a public employer in the selection of
2 its representatives for the purposes of collective bargaining or
3 the adjustment of grievances.

4 (c) Cause or attempt to cause a public employer to
5 discriminate against a public employee in violation of subsection
6 (1)(c).

7 (d) Refuse to bargain collectively with a public employer ~~7~~
8 ~~provided it~~ **that** is the representative of the public employer's
9 employees, subject to section 11.

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

13 (a) Refrain or resign from membership in, voluntary
14 affiliation with, or voluntary financial support of a labor
15 organization or bargaining representative.

16 (b) Become or remain a member of a labor organization or
17 bargaining representative.

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

21 (d) Pay to any charitable organization or third party any
22 amount that is in lieu of, equivalent to, or any portion of dues,
23 fees, assessments, or other charges or expenses required of members
24 of or public employees represented by a labor organization or
25 bargaining representative.

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

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

29 (i) A public police or fire department employee or any person



1 who seeks to become employed as a public police or fire department
2 employee as that term is defined under section 2 of 1969 PA 312,
3 MCL 423.232.

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

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

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

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

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

29 (5) An agreement, contract, understanding, or practice between



1 or involving a public employer, labor organization, or bargaining
2 representative that violates subsection (3) is unlawful and
3 unenforceable. This subsection applies only to an agreement,
4 contract, understanding, or practice that takes effect or is
5 extended or renewed after 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 2012 PA 349:

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

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

16 (c) Inform public employers, public employees, and labor
17 organizations concerning their rights and responsibilities under
18 2012 PA 349.

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

22 (8) A person, public employer, or labor organization that
23 violates subsection (3) is liable for a civil fine of not more than
24 \$500.00. A civil fine recovered under this section ~~shall~~**must** be
25 submitted to the state treasurer for deposit in the general fund of
26 this state.

27 (9) By July 1 of each year, each exclusive bargaining
28 representative that represents public employees in this state shall
29 have an independent examiner verify the exclusive bargaining



1 representative's calculation of all expenditures attributed to the
2 costs of collective bargaining, contract administration, and
3 grievance adjustment during the prior calendar year and shall file
4 that verification with the commission. The commission shall make
5 the exclusive bargaining representative's calculations available to
6 the public on the commission's website. The exclusive bargaining
7 representative shall also file a declaration identifying the local
8 bargaining units that are represented. Local bargaining units
9 identified in the declaration filed by the exclusive bargaining
10 representative are not required to file a separate calculation of
11 all expenditures attributed to the costs of collective bargaining,
12 contract administration, and grievance adjustment. ~~For fiscal year~~
13 ~~2011-2012, \$100,000.00 is appropriated to the commission for the~~
14 ~~costs of implementing this subsection. For fiscal year 2014-2015,~~
15 ~~\$100,000.00 is appropriated to the commission for the costs of~~
16 ~~implementing this subsection.~~

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

