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BILL ANALYSIS

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Senate Bill 169 (Substitute S-2 as passed by the Senate)
Sponsor: Senator John Cherry
Committee: Labor

Date Completed: 8-22-23

RATIONALE

Some people believe collective bargaining representatives have trouble communicating effectively with employees that they represent because of out-of-date employment and contact information. According to testimony before the Senate Committee on Labor, current employment and contact information ensures unions can meet their legal obligations to certain members and that contracts are followed. Accordingly, it has been suggested that public employers be required to regularly provide specified information of public employees to labor organizations that represent the employees.

CONTENT

The bill would add Section 11a to the public employment relations Act to require a public employer to provide specified employment and contact information of public employees to the labor organization responsible for representing the public employees in collective bargaining agreements, except in cases where a public employee's address was a confidential address. It also would require a public employer to inform an affected public employee before entering into a collective bargaining agreement. If the employer had already entered into an agreement, the employer would have to inform a prospective employee who would be affected by such an agreement.

The public employment relations Act requires that each unit of public employees votes (by majority) for a labor organization to represent them in collective bargaining disputes and agreements (referred to as a 'representative'). The representative has exclusive rights to represent the public employees in respect to rates of pay, wages, and hours of employment, among other conditions of employment.

Specifically, under the bill, a public employer would have to share with the appropriate representative the following information about each employee, within 30 days of hiring an employee and every 90 days:

-- First, middle, and last name.
-- Department or agency.
-- Classification.
-- Address of primary work location.
-- Home address; however, if the public employee's home address was a confidential address, the public employer would instead provide the individual's designated address.
-- Personal telephone number.
-- Personal e-mail address.
-- Work e-mail address.
-- Date of hire.
-- Employee identification number, if applicable.
-- Full-time or part-time employment status.
-- Wage.

As used above, "confidential address" would mean that term as defined in Section 3 of the Address Confidentiality Program Act: the address of an Address Confidentiality Program participant's residence, as specified on an application to be a Program participant or on a notice of change of information that is classified confidential by the Department of the Attorney General. "Designated address" would mean the mailing address at which the Department of Technology, Management, and Budget receives mail to forward to Program participants.

Before a public employer entered into a collective bargaining agreement with a bargaining representative, the public employer would have to inform each of its public employees to whom the agreement would apply that the public employer intended to enter into the agreement. If a public employer had entered into a collective bargaining agreement that was in effect or had yet to take effect, the public employer would have to inform the individual that the public employer had entered into the agreement before the employer hired the individual as a public employee to whom the agreement would apply.

Proposed MCL 423.211a

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

The bill is a reintroduction of Senate Bill 899 from the 2021-2022 Legislative Session.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would help to ensure that unions can meet their obligations to their members. Unions often have a limited time window in which they can contact those they represent, such as break or lunch hours at work. Up-to-date contact information is essential to performing this job effectively.

Supporting Argument

Employers should not have a monopoly on an employee's up-to-date contact information because unions have a duty to make sure contracts are being followed. According to testimony before the Senate Committee on Labor, current contact information is important because administrators don't always follow contract stipulations meant to improve workplace safety and the value of employees' work. Unions should be able to call their members to be notified when a contract isn't being followed so that they may hold the administration accountable.

Opposing Argument

Public employees should not have to give their contact information out involuntarily. The bill's requirements could allow union leaders to attempt to recruit and harass public employees who are not yet members of their public-sector union every three months. Reportedly, in a 2007 congressional hearing, a former United Steelworkers union organizer testified that he was instructed to threaten migrant workers with being reported to immigration officials if they refused to support the union. That same organizer described other aggressive union tactics, such as making multiple visits to employees' homes to frustrate them or cause them to fear for their safety. In addition, the regular release of contact information would break down the barrier of privacy between public employees who have chosen to not be members of the union and union management. This could be abused by a bad actor with access to the public employees' contact information. The bill should allow employees to opt-out of information sharing, and it should have safeguards to make certain that current contact information isn't misused.

Response: According to testimony before the Senate Committee on Labor, current statute offers safeguards to ensure that contact information isn't misused. For example, restraint or coercion by a union is illegal and includes threats to retaliate against employees who will not join the union or threats to the employees if they refuse to support union activities.[1]

Opposing Argument

Asking employees to distribute private contact information is an overreach because unions often work in the same facilities as the employees they represent. If unions want to contact an employee, they can meet with the employee during a lunch or break.

Response: Many unions do not have employees who work in the same facility as the members they represent.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have an indeterminate but likely minor cost to the State and local units of government. The additional reporting cost would apply only if the State or local unit of government did not currently report new or existing employees to their representatives. Local units of government would include counties, cities, villages, townships, intermediate school districts, and school districts.

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[1] Michigan Employment Relations Commission, *Guide to Public Sector Labor Relations Law in Michigan*, Pg. 18, December 2013

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.