

HOUSE BILL No. 6528

September 14, 2006, Introduced by Reps. Pavlov, Acciavatti and Garfield 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; and to prescribe means of enforcement and penalties for the violation of the provisions of this act,"

by amending section 2a (MCL 423.202a), as added by 1994 PA 112.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2a. (1) If a public school employer alleges that there is
2 a strike by 1 or more public school employees in violation of
3 section 2, **THE PUBLIC SCHOOL EMPLOYER SHALL IMMEDIATELY NOTIFY THE**
4 **COMMISSION OF THE ALLEGED STRIKE. IN ADDITION, IF A PUBLIC SCHOOL**
5 **EMPLOYER FAILS TO NOTIFY THE COMMISSION OF AN ALLEGED STRIKE BY 1**
6 **OR MORE OF ITS PUBLIC SCHOOL EMPLOYEES WITHIN 24 HOURS AFTER A**

1 STRIKE IS ALLEGED TO HAVE COMMENCED, A PERSON WHO IS A PARENT OR
2 LEGAL GUARDIAN OF A PUPIL ENROLLED IN A SCHOOL OR PROGRAM OPERATED
3 BY THE PUBLIC SCHOOL EMPLOYER AND WHO BELIEVES THAT A STRIKE BY 1
4 OR MORE PUBLIC SCHOOL EMPLOYEES OF THAT EMPLOYER HAS OCCURRED MAY
5 NOTIFY THE COMMISSION OF THE ALLEGED STRIKE. UPON REQUEST BY THE
6 COMMISSION, the public school employer OR OTHER PERSON MAKING THE
7 ALLEGATION shall notify the commission of the full or partial days
8 a public school employee was **ALLEGEDLY** engaged in the ~~alleged~~
9 strike.

10 (2) If a bargaining representative alleges that there is a
11 lockout by a public school employer in violation of section 2, the
12 bargaining representative shall notify the commission of the full
13 or partial days of the alleged lockout.

14 (3) Within ~~60~~ 7 days after receipt of a notice made pursuant
15 to subsection (1) or (2), the commission shall conduct a hearing to
16 determine if there has been a violation and shall issue its
17 decision and order. A hearing conducted under this subsection is
18 separate and distinct from, and is not subject to the procedures
19 and timelines of, a proceeding conducted under section 6.

20 (4) If, after a hearing under subsection (3), a majority of
21 the commission finds that 1 or more public school employees engaged
22 in a strike in violation of section 2, the commission shall fine
23 each public school employee an amount equal to 1 day of pay for
24 that public school employee for each full or partial day that he or
25 she engaged in the strike and shall fine the bargaining
26 representative of the public school employee or employees \$5,000.00
27 for each full or partial day the public school employee or

1 employees engaged in the strike.

2 (5) If, after a hearing under subsection (3), a majority of
3 the commission finds that a public school employer instituted a
4 lockout in violation of section 2, the commission shall fine the
5 public school employer \$5,000.00 for each full or partial day of
6 the lockout and shall fine each member of the public school
7 employer's governing board \$250.00 for each full or partial day of
8 the lockout.

9 (6) If the commission imposes a fine against a public school
10 employee under subsection (4) and the public school employee
11 continues to be employed by a public school employer, the
12 commission shall order the public school employer to deduct the
13 fine from the public school employee's annual salary. The public
14 school employee's annual salary is the annual salary that is
15 established in the applicable contract in effect at the time of the
16 strike or, if no applicable contract is in effect at the time of
17 the strike, in the applicable contract in effect at the time of the
18 decision and order. However, if no applicable contract is in effect
19 at either of those times, the public school employee's annual
20 salary shall be considered to be the annual salary that applied or
21 would have applied to the public school employee in the most recent
22 applicable contract in effect before the strike. A public school
23 employer shall comply promptly with an order under this subsection.
24 A deduction under this subsection is not a demotion for the
25 purposes of ~~Act No. 4 of the Extra Session of 1937, being sections~~
26 ~~38.71 to 38.191 of the Michigan Compiled Laws 1937 (EX SESS) PA 4,~~
27 **MCL 38.71 TO 38.191.**

1 (7) The commission shall transmit money received from fines
2 imposed under this section, and a public school employer shall
3 transmit money deducted pursuant to an order under subsection (6),
4 to the state treasurer for deposit in the state school aid fund
5 established under section 11 of article IX of the state
6 constitution of 1963.

7 (8) If the commission does not receive payment of a fine
8 imposed under this section within 30 days after the imposition of
9 the fine, or if a public school employer does not deduct a fine
10 from a public school employee's pay pursuant to an order under
11 subsection (6), the commission shall institute collection
12 proceedings.

13 (9) Fines imposed under this section are in addition to all
14 other penalties prescribed by this act and by law.

15 (10) A public school employer may bring an action to enjoin a
16 strike by public school employees in violation of section 2, and a
17 bargaining representative may bring an action to enjoin a lockout
18 by a public school employer in violation of section 2, in the
19 circuit court for the county in which the affected public school is
20 located. A court having jurisdiction of an action brought under
21 this subsection shall grant injunctive relief if the court finds
22 that a strike or lockout has occurred, without regard to the
23 existence of other remedies, demonstration of irreparable harm, or
24 other factors. Failure to comply with an order of the court may be
25 punished as contempt. In addition, the court shall award court
26 costs and reasonable attorney fees to a plaintiff who prevails in
27 an action brought under this subsection.

1 (11) A public school employer shall not provide to a public
2 school employee or to a board member any compensation or additional
3 work assignment that is intended to reimburse the public school
4 employee or board member for a monetary penalty imposed under this
5 section or that is intended to allow the public school employee or
6 board member to recover a monetary penalty imposed under this
7 section.

8 (12) As used in this section, "public school employee" means a
9 person employed by a public school employer.