

SENATE BILL No. 884

March 20, 2014, Introduced by Senator ANANICH and referred to the Committee on Reforms, Restructuring and Reinventing.

A bill to amend 1939 PA 176, entitled

"An act to create a commission relative to labor disputes, and to prescribe its powers and duties; to provide for the mediation and arbitration of labor disputes, and the holding of elections thereon; to regulate the conduct of parties to labor disputes and to require the parties to follow certain procedures; to regulate and limit the right to strike and picket; to protect the rights and privileges of employees, including the right to organize and engage in lawful concerted activities; to protect the rights and privileges of employers; to make certain acts unlawful; to make appropriations; and to prescribe means of enforcement and penalties for violations of this act,"

by amending section 27 (MCL 423.27) and by adding sections 27a, 27b, 27c, and 27d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27. (1) ~~When~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 27A,**
2 **THE COMMISSION SHALL PROCEED AS DESCRIBED IN SUBSECTION (2) IF** a
3 petition is filed, in accordance with rules prescribed by the
4 commission, **BY ANY OF THE FOLLOWING:**

1 (a) ~~By an~~ **AN** employee or group of employees, or an individual
2 or labor organization acting in their behalf, alleging that 30% or
3 more of the employees within a unit claimed to be appropriate for
4 such purpose wish to be represented for collective bargaining and
5 that their employer declines to recognize their representative as
6 the representative ~~defined~~ **DESCRIBED** in section 26, or assert that
7 the individual or labor organization, which was certified or is
8 being currently recognized by their employer as the bargaining
9 representative, is no longer a representative ~~as defined~~ **DESCRIBED**
10 in section 26. ~~or~~

11 (b) ~~By an~~ **AN** employer or his **OR HER** representative alleging
12 that 1 or more individuals or labor organizations have presented to
13 him **OR HER** a claim to be recognized as the representative ~~defined~~
14 **DESCRIBED** in section 26. ~~the~~

15 (2) **THE** commission shall investigate the petition and, if it
16 has reasonable cause to believe that a question of representation
17 exists, shall provide an appropriate hearing after due notice. If
18 the commission finds upon the record of the hearing that a question
19 of representation exists, it shall direct an election by secret
20 ballot and shall certify the results thereof. ~~Nothing in this~~
21 ~~section shall be construed to~~ **THIS SECTION DOES NOT** prohibit the
22 waiving ~~of~~ hearings by stipulation for the purpose of a consent
23 election in conformity with the rules of the commission.

24 **SEC. 27A. (1) IF AN EMPLOYEE OR GROUP OF EMPLOYEES OR ANY**
25 **INDIVIDUAL OR LABOR ORGANIZATION ACTING ON THEIR BEHALF FILES A**
26 **PETITION WITH THE COMMISSION ALLEGING THAT A MAJORITY OF EMPLOYEES**
27 **IN A UNIT APPROPRIATE FOR THE PURPOSES OF COLLECTIVE BARGAINING**

1 WISH TO BE REPRESENTED BY AN INDIVIDUAL OR LABOR ORGANIZATION FOR
2 COLLECTIVE BARGAINING PURPOSES, THE COMMISSION SHALL INVESTIGATE
3 THE PETITION. IF THE COMMISSION FINDS THAT A MAJORITY OF THE
4 EMPLOYEES IN A UNIT APPROPRIATE FOR BARGAINING HAVE SIGNED VALID
5 AUTHORIZATIONS DESIGNATING THE INDIVIDUAL OR LABOR ORGANIZATION
6 SPECIFIED IN THE PETITION AS THEIR BARGAINING REPRESENTATIVE AND
7 THAT NO OTHER INDIVIDUAL OR LABOR ORGANIZATION IS CURRENTLY
8 CERTIFIED OR RECOGNIZED AS THE EXCLUSIVE REPRESENTATIVE OF ANY OF
9 THE EMPLOYEES IN THE UNIT, THE COMMISSION SHALL NOT DIRECT AN
10 ELECTION BUT SHALL CERTIFY THE INDIVIDUAL OR LABOR ORGANIZATION AS
11 THE REPRESENTATIVE DESCRIBED IN SECTION 26.

12 (2) THE COMMISSION SHALL DEVELOP GUIDELINES AND PROCEDURES FOR
13 EMPLOYEES TO DESIGNATE A BARGAINING REPRESENTATIVE IN THE MANNER
14 DESCRIBED IN SUBSECTION (1). THE GUIDELINES AND PROCEDURES SHALL
15 INCLUDE ALL OF THE FOLLOWING:

16 (A) MODEL BARGAINING REPRESENTATIVE DESIGNATION LANGUAGE THAT
17 MAY BE USED FOR PURPOSES OF MAKING THE DESIGNATIONS DESCRIBED IN
18 SUBSECTION (1).

19 (B) PROCEDURES FOR THE COMMISSION TO USE TO ESTABLISH THE
20 VALIDITY OF SIGNED AUTHORIZATIONS DESIGNATING BARGAINING
21 REPRESENTATIVES.

22 SEC. 27B. IF COLLECTIVE BARGAINING IS FOR THE PURPOSE OF
23 ESTABLISHING AN INITIAL AGREEMENT FOLLOWING CERTIFICATION OR
24 RECOGNITION OF A BARGAINING REPRESENTATIVE, ALL OF THE FOLLOWING
25 APPLY:

26 (A) NOT LATER THAN 10 DAYS AFTER RECEIVING A WRITTEN REQUEST
27 FOR COLLECTIVE BARGAINING FROM AN INDIVIDUAL OR LABOR ORGANIZATION

1 THAT HAS BEEN NEWLY ORGANIZED OR CERTIFIED AS A REPRESENTATIVE AS
2 DESCRIBED IN SECTION 26, OR WITHIN ANY FURTHER PERIOD TO WHICH THE
3 PARTIES AGREE, THE PARTIES SHALL MEET AND COMMENCE TO BARGAIN
4 COLLECTIVELY AND SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE AND
5 SIGN A COLLECTIVE BARGAINING AGREEMENT.

6 (B) IF AFTER THE EXPIRATION OF THE 90-DAY PERIOD BEGINNING ON
7 THE DATE ON WHICH BARGAINING IS COMMENCED, OR ANY ADDITIONAL PERIOD
8 TO WHICH THE PARTIES AGREE, THE PARTIES HAVE FAILED TO REACH AN
9 AGREEMENT, EITHER PARTY MAY NOTIFY THE COMMISSION OF THE EXISTENCE
10 OF A DISPUTE AND REQUEST MEDIATION. UPON RECEIPT OF THE REQUEST,
11 THE COMMISSION SHALL PROMPTLY COMMUNICATE WITH THE PARTIES AND USE
12 ITS BEST EFFORTS, BY MEDIATION AND CONCILIATION, TO BRING THEM TO
13 AGREEMENT.

14 (C) IF AFTER THE EXPIRATION OF THE 30-DAY PERIOD BEGINNING ON
15 THE DATE ON WHICH THE REQUEST FOR MEDIATION IS MADE UNDER
16 SUBDIVISION (B), OR ANY ADDITIONAL PERIOD TO WHICH THE PARTIES
17 AGREE, THE COMMISSION IS NOT ABLE TO BRING THE PARTIES TO AGREEMENT
18 BY CONCILIATION, THE COMMISSION SHALL REFER THE DISPUTE TO AN
19 ARBITRATION BOARD ESTABLISHED IN ACCORDANCE WITH REGULATIONS
20 PRESCRIBED BY THE COMMISSION. THE ARBITRATION PANEL SHALL RENDER A
21 DECISION SETTLING THE DISPUTE, AND THE DECISION IS BINDING UPON THE
22 PARTIES FOR A PERIOD OF 2 YEARS, UNLESS AMENDED DURING THAT PERIOD
23 BY WRITTEN CONSENT OF THE PARTIES.

24 SEC. 27C. (1) THE COMMISSION SHALL IMMEDIATELY INVESTIGATE ANY
25 OF THE FOLLOWING THAT ARE ALLEGED TO HAVE OCCURRED WHILE EMPLOYEES
26 WERE SEEKING REPRESENTATION BY A LABOR ORGANIZATION OR DURING THE
27 PERIOD AFTER A LABOR ORGANIZATION WAS RECOGNIZED AS A

1 REPRESENTATIVE DESCRIBED IN SECTION 26 UNTIL THE FIRST COLLECTIVE
2 BARGAINING CONTRACT IS ENTERED INTO WITH THE EMPLOYER:

3 (A) A CHARGE THAT AN EMPLOYER DID ANY OF THE FOLLOWING:

4 (i) DISCHARGED OR OTHERWISE DISCRIMINATED AGAINST AN EMPLOYEE
5 IN VIOLATION OF SECTION 16.

6 (ii) THREATENED TO DISCHARGE OR TO OTHERWISE DISCRIMINATE
7 AGAINST AN EMPLOYEE IN VIOLATION OF SECTION 16.

8 (iii) ENGAGED IN ANY OTHER UNFAIR LABOR PRACTICE PROHIBITED
9 UNDER SECTION 16 THAT SIGNIFICANTLY INTERFERES WITH, RESTRAINS, OR
10 COERCES EMPLOYEES IN THE EXERCISE OF THE RIGHTS GUARANTEED IN
11 SECTION 8.

12 (B) A CHARGE THAT ANY PERSON HAS ENGAGED IN AN UNFAIR LABOR
13 PRACTICE PROHIBITED UNDER SECTION 16.

14 (2) A CHARGE UNDER SUBSECTION (1) SHALL BE GIVEN PRIORITY OVER
15 ALL OTHER CASES EXCEPT CASES OF LIKE CHARACTER IN THE OFFICE WHERE
16 IT IS FILED OR TO WHICH IT IS REFERRED.

17 SEC. 27D. (1) IF THE COMMISSION FINDS THAT AN EMPLOYER HAS
18 DISCRIMINATED AGAINST AN EMPLOYEE IN VIOLATION OF SECTION 16 WHILE
19 EMPLOYEES OF THE EMPLOYER WERE SEEKING REPRESENTATION BY A LABOR
20 ORGANIZATION, OR DURING THE PERIOD AFTER A LABOR ORGANIZATION WAS
21 RECOGNIZED AS A REPRESENTATIVE DESCRIBED IN SECTION 26 UNTIL THE
22 FIRST COLLECTIVE BARGAINING CONTRACT WAS ENTERED INTO BETWEEN THE
23 EMPLOYER AND THE REPRESENTATIVE, THE COMMISSION SHALL AWARD THE
24 EMPLOYEE BACK PAY AND, IN ADDITION, 2 TIMES THAT AMOUNT AS
25 LIQUIDATED DAMAGES IN ADDITION TO ANY OTHER DAMAGES ALLOWED UNDER
26 THIS ACT.

27 (2) AN EMPLOYER WHO WILLFULLY OR REPEATEDLY COMMITS ANY UNFAIR

1 LABOR PRACTICE WITHIN THE MEANING OF SECTION 16 WHILE EMPLOYEES OF
2 THE EMPLOYER ARE SEEKING REPRESENTATION BY A LABOR ORGANIZATION OR
3 DURING THE PERIOD AFTER A LABOR ORGANIZATION HAS BEEN RECOGNIZED AS
4 A REPRESENTATIVE DESCRIBED IN SECTION 26 UNTIL THE FIRST COLLECTIVE
5 BARGAINING CONTRACT IS ENTERED INTO BETWEEN THE EMPLOYER AND THE
6 REPRESENTATIVE SHALL, IN ADDITION TO ANY MAKE-WHOLE REMEDY ORDERED,
7 BE SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$20,000.00 FOR EACH
8 VIOLATION. IN DETERMINING THE AMOUNT OF ANY FINE UNDER THIS
9 SECTION, THE COMMISSION SHALL CONSIDER THE GRAVITY OF THE UNFAIR
10 LABOR PRACTICE AND THE IMPACT OF THE UNFAIR LABOR PRACTICE ON THE
11 CHARGING PARTY, ON OTHER PERSONS SEEKING TO EXERCISE RIGHTS
12 GUARANTEED BY THIS ACT, AND ON THE PUBLIC INTEREST.