

HOUSE BILL No. 5398

February 24, 2016, Introduced by Rep. Kosowski and referred to the Committee on
Commerce and Trade.

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 14 (MCL 423.14), as amended by 2012 PA 348, and by adding section 14a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14. (1) ~~An~~ **EXCEPT AS PROVIDED IN SECTION 14A, AN**
2 individual shall not be required as a condition of obtaining or
3 continuing employment to do any of the following:

4 (a) Refrain or resign from membership in, voluntary
5 affiliation with, or voluntary financial support of a labor

1 organization.

2 (b) Become or remain a member of a labor organization.

3 (c) Pay any dues, fees, assessments, or other charges or
4 expenses of any kind or amount or provide anything of value to a
5 labor organization.

6 (d) Pay to any charitable organization or third party an
7 amount that is in lieu of, equivalent to, or any portion of dues,
8 fees, assessments, or other charges or expenses required of members
9 of or employees represented by a labor organization.

10 (2) An agreement, contract, understanding, or practice between
11 or involving an employer and a labor organization that violates
12 subsection (1) is unlawful and unenforceable. This subsection
13 applies only to an agreement, contract, understanding, or practice
14 that takes effect or is extended or renewed after ~~the effective~~
15 ~~date of the 2012 amendatory act that amended this section.~~ **MARCH 28,**
16 **2013.**

17 (3) Subsections (1) and (2) shall be implemented to the
18 maximum extent permitted by the United States constitution and
19 federal law.

20 (4) The court of appeals has exclusive original jurisdiction
21 over any action challenging the validity of subsection (1), (2), or
22 (3). The court of appeals shall hear the action in an expedited
23 manner.

24 (5) A person, employer, or labor organization that violates
25 subsection (1) is liable for a civil fine of not more than \$500.00.
26 A civil fine recovered under this section shall be submitted to the
27 state treasurer for deposit in the general fund of this state.

1 (6) Except for actions required to be brought under subsection
2 (4), a person who suffers an injury as a result of a violation or
3 threatened violation of subsection (1) may bring a civil action for
4 damages, injunctive relief, or both. In addition, a court shall
5 award court costs and reasonable attorney fees to a plaintiff who
6 prevails in an action brought under this subsection. Remedies
7 provided for in this subsection are independent of and in addition
8 to other penalties and remedies prescribed by this act.

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

13 ~~—— (a) Respond to public inquiries regarding the amendatory act.~~

14 ~~—— (b) Provide the commission with sufficient staff and other~~
15 ~~resources to implement the amendatory act.~~

16 ~~—— (c) Inform employers, employees, and labor organizations~~
17 ~~concerning their rights and responsibilities under the amendatory~~
18 ~~act.~~

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 the amendatory act.~~

22 **SEC. 14A. (1) AN EMPLOYER MAY ENTER INTO AN ALL-UNION**
23 **AGREEMENT WITH THE REPRESENTATIVES OF THE EMPLOYER'S EMPLOYEES IN A**
24 **RECOGNIZED OR CERTIFIED COLLECTIVE BARGAINING UNIT WITHIN THIS**
25 **STATE ONLY AS PROVIDED IN THIS SECTION. AN ALL-UNION AGREEMENT IS**
26 **NOT EFFECTIVE UNLESS THE AGREEMENT IS APPROVED BY AN AFFIRMATIVE**
27 **VOTE OF A MAJORITY OF ALL THE EMPLOYEES ELIGIBLE TO VOTE OR 3/4 OF**

1 THE EMPLOYEES WHO ACTUALLY VOTE, WHICHEVER IS GREATER, AND IS FILED
2 WITH THE COMMISSION. THE EMPLOYER, THE LABOR ORGANIZATION, OR 20%
3 OR MORE OF THE EMPLOYEES COVERED BY THE ALL-UNION AGREEMENT MAY
4 FILE A PETITION DEMANDING AN ELECTION ON RATIFICATION OF THE
5 AGREEMENT. THE VOTE MUST BE BY SECRET BALLOT IN AN ELECTION
6 CONDUCTED UNDER THE SUPERVISION OF THE COMMISSION AS SOON AS
7 PRACTICABLE AFTER THE PETITION IS FILED. ONLY EMPLOYEES IN THE
8 BARGAINING UNIT ARE ELIGIBLE TO VOTE IN THE ELECTION. IF THE
9 COLLECTIVE BARGAINING UNIT INVOLVED IS CERTIFIED UNDER SECTION 9E
10 OR BY THE NATIONAL LABOR RELATIONS BOARD, FURTHER RECOGNITION OR
11 CERTIFICATION BY ELECTION IS NOT NECESSARY FOR THE COLLECTIVE
12 BARGAINING UNIT BEFORE CONDUCTING AN ELECTION UNDER THIS
13 SUBSECTION.

14 (2) THE COMMISSION SHALL TERMINATE AN ALL-UNION AGREEMENT IF
15 ANY OF THE FOLLOWING CIRCUMSTANCES EXIST:

16 (A) THE COMMISSION FINDS THAT THE LABOR ORGANIZATION
17 UNREASONABLY REFUSED TO RECEIVE AS A MEMBER ANY EMPLOYEE OF THE
18 EMPLOYER. ANY INTERESTED PERSON MAY RAISE THIS ISSUE BEFORE THE
19 COMMISSION.

20 (B) THE EMPLOYER OR 20% OF THE EMPLOYEES COVERED BY AN ALL-
21 UNION AGREEMENT FILE A PETITION WITH THE COMMISSION ON A FORM
22 PROVIDED BY THE COMMISSION SEEKING TO TERMINATE THE ALL-UNION
23 AGREEMENT, AND AN ELECTION IS HELD ON THE PETITION UNDER THE
24 SUPERVISION OF THE COMMISSION AT WHICH A MAJORITY OF ALL THE
25 EMPLOYEES ELIGIBLE TO VOTE OR 3/4 OF THE EMPLOYEES WHO ACTUALLY
26 VOTE, WHICHEVER IS GREATER, DO NOT VOTE TO RETAIN THE ALL-UNION
27 AGREEMENT. A PETITION UNDER THIS SUBDIVISION MAY ONLY BE FILED 120

1 TO 105 DAYS BEFORE EITHER THE END OF THE COLLECTIVE BARGAINING
2 AGREEMENT OR THE END OF A TRIENNIAL ANNIVERSARY DATE OF THE
3 COLLECTIVE BARGAINING AGREEMENT, AS APPLICABLE.

4 (3) THE COMMISSION SHALL PROVIDE MEANS FOR DOING ALL OF THE
5 FOLLOWING AS TO AN EMPLOYEE PETITION UNDER SUBSECTION (1) OR
6 (2) (B) :

7 (A) SUBMITTING A CONFIDENTIAL EMPLOYEE PETITION FOR AN
8 ELECTION ON AN ALL-UNION AGREEMENT.

9 (B) VERIFYING THE EMPLOYMENT, STATUS, AND ELIGIBILITY OF
10 PETITIONERS.

11 (C) DETERMINING THE SUFFICIENCY OF THE PETITIONS AS TO THE 20%
12 SIGNATURE REQUIREMENT.

13 (4) THE COMMISSION MUST COMPLETE THE ELECTION ON A PETITION
14 UNDER SUBSECTION (2) (B) BY 60 DAYS BEFORE EITHER THE END OR THE
15 TRIENNIAL ANNIVERSARY OF THE COLLECTIVE BARGAINING AGREEMENT, AS
16 APPLICABLE. THE COMMISSION SHALL NOT CONDUCT AN ELECTION ON A
17 PETITION UNDER SUBSECTION (2) (B) MORE THAN ONCE DURING ANY
18 COLLECTIVE BARGAINING AGREEMENT WITH A DURATION OF 3 YEARS OR LESS,
19 OR MORE THAN ONCE EVERY 3 YEARS FOR AN AGREEMENT WITH A DURATION
20 THAT EXCEEDS 3 YEARS.

21 (5) THE IDENTITY OF AN EMPLOYEE WHO CASTS A BALLOT IN AN
22 ELECTION OR SIGNS A PETITION SUBMITTED TO THE COMMISSION UNDER THIS
23 SECTION SHALL BE KEPT CONFIDENTIAL AND IS EXEMPT FROM DISCLOSURE
24 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
25 15.246.

26 (6) SECTION 17(1) SHALL NOT BE CONSTRUED TO INTERFERE WITH THE
27 RIGHT OF AN EMPLOYER AND A LABOR ORGANIZATION TO ENTER INTO OR

1 LAWFULLY ADMINISTER AN ALL-UNION AGREEMENT AS PROVIDED IN THIS
2 SECTION.

3 (7) AS USED IN THIS SECTION, "ALL-UNION AGREEMENT" MEANS A
4 CONTRACTUAL PROVISION BETWEEN AN EMPLOYER OR GROUP OF EMPLOYERS AND
5 A COLLECTIVE BARGAINING UNIT REPRESENTING SOME OR ALL OF THE
6 EMPLOYEES OF THE EMPLOYER OR GROUP OF EMPLOYERS PROVIDING FOR ANY
7 TYPE OF UNION SECURITY AND COMPELLING AN EMPLOYEE'S FINANCIAL
8 SUPPORT OR ALLEGIANCE TO A LABOR ORGANIZATION. ALL-UNION AGREEMENT
9 INCLUDES, BUT IS NOT LIMITED TO, A CONTRACTUAL PROVISION FOR A
10 UNION SHOP, A MODIFIED UNION SHOP, AN AGENCY SHOP PROVIDING
11 PERIODIC PAYMENT OF A SUM IN LIEU OF UNION DUES, A MODIFIED AGENCY
12 SHOP, A PRE-HIRE AGREEMENT, MAINTENANCE OF DUES, OR MAINTENANCE OF
13 MEMBERSHIP.

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.