

HOUSE BILL No. 4595

May 11, 2017, Introduced by Rep. Hornberger and referred to the Committee on Michigan Competitiveness.

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 the title and section 1 (MCL 423.201), the title as amended by 2012 PA 53 and section 1 as amended by 2014 PA 414, and by adding section 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

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

1 bargaining agreements; **TO ESTABLISH REPORTING REQUIREMENTS FOR**
2 **CERTAIN BARGAINING REPRESENTATIVES**; to prescribe means of
3 enforcement and penalties for the violation of ~~the provisions of~~
4 this act; and to make appropriations.

5 Sec. 1. (1) As used in this act:

6 (a) "Bargaining representative" means a labor organization
7 recognized by an employer or certified by the commission as the
8 sole and exclusive bargaining representative of certain employees
9 of the employer.

10 (b) "Commission" means the employment relations commission
11 created in section 3 of 1939 PA 176, MCL 423.3.

12 (c) "Intermediate school district" means that term as defined
13 in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

14 (d) "Lockout" means the temporary withholding of work from a
15 group of employees by shutting down the operation of the employer
16 to bring pressure upon the affected employees or the bargaining
17 representative, or both, to accept the employer's terms of
18 settlement of a labor dispute.

19 (e) "Public employee" means an individual holding a position
20 by appointment or employment in the government of this state, in
21 the government of 1 or more of the political subdivisions of this
22 state, in the public school service, in a public or special
23 district, in the service of an authority, commission, or board, or
24 in any other branch of the public service, subject to the following
25 exceptions:

26 (i) An individual employed by a private organization or entity
27 who provides services under a time-limited contract with this state

1 or a political subdivision of this state or who receives a direct
2 or indirect government subsidy in his or her private employment is
3 not an employee of this state or that political subdivision, and is
4 not a public employee. This provision ~~shall not be~~ **IS NOT**
5 superseded by any interlocal agreement, memorandum of
6 understanding, memorandum of commitment, or other document similar
7 to these.

8 ~~—— (ii) If, by April 9, 2000, a public school employer that is~~
9 ~~the chief executive officer serving in a school district of the~~
10 ~~first class under part 5A of the revised school code, 1976 PA 451,~~
11 ~~MCL 380.371 to 380.376, issues an order determining that it is in~~
12 ~~the best interests of the school district, then a public school~~
13 ~~administrator employed by that school district is not a public~~
14 ~~employee for purposes of this act. The exception under this~~
15 ~~subparagraph applies to public school administrators employed by~~
16 ~~that school district after the date of the order described in this~~
17 ~~subparagraph whether or not the chief executive officer remains in~~
18 ~~place in the school district. This exception does not prohibit the~~
19 ~~chief executive officer or board of a school district of the first~~
20 ~~class or its designee from having informal meetings with public~~
21 ~~school administrators to discuss wages and working conditions.~~

22 **(ii)** ~~(iii)~~ An individual serving as a graduate student
23 research assistant or in an equivalent position, a student
24 participating in intercollegiate athletics on behalf of a public
25 university in this state, or any individual whose position does not
26 have sufficient indicia of an employer-employee relationship using
27 the 20-factor test announced by the ~~internal revenue service~~

1 **INTERNAL REVENUE SERVICE** of the United States ~~department~~ **DEPARTMENT**
2 of ~~treasury~~ **TREASURY** in revenue ruling 87-41, 1987-1 C.B. 296, is
3 not a public employee entitled to representation or collective
4 bargaining rights under this act.

5 **(F) "PUBLIC EMPLOYER" MEANS AN EMPLOYER OF A PUBLIC EMPLOYEE.**

6 **(G)** ~~(f)~~—"Public school academy" means a public school academy
7 or strict discipline academy organized under the revised school
8 code, 1976 PA 451, MCL 380.1 to 380.1852.

9 **(H)** ~~(g)~~—"Public school administrator" means a superintendent,
10 assistant superintendent, chief business official, principal, or
11 assistant principal employed by a school district, intermediate
12 school district, or public school academy.

13 **(I)** ~~(h)~~—"Public school employer" means a public employer that
14 is the board of a school district, intermediate school district, or
15 public school academy ~~;~~ ~~is the chief executive officer of a school~~
16 ~~district in which a school reform board is in place under part 5A~~
17 ~~of the revised school code, 1976 PA 451, MCL 380.371 to 380.376;~~ or
18 is the governing board of a joint endeavor or consortium consisting
19 of any combination of school districts, intermediate school
20 districts, or public school academies.

21 **(J)** ~~(i)~~—"School district" means that term as defined in
22 section 6 of the revised school code, 1976 PA 451, MCL 380.6, or a
23 local act school district as defined in section 5 of the revised
24 school code, 1976 PA 451, MCL 380.5.

25 **(K)** ~~(j)~~—"Strike" means the concerted failure to report for
26 duty, the willful absence from one's position, the stoppage of
27 work, or the abstinence in whole or in part from the full,

1 faithful, and proper performance of the duties of employment for
2 the purpose of inducing, influencing, or coercing a change in
3 employment conditions, compensation, or the rights, privileges, or
4 obligations of employment. For employees of a public school
5 employer, strike also includes an action described in this
6 subdivision that is taken for the purpose of protesting or
7 responding to an act alleged or determined to be an unfair labor
8 practice committed by the public school employer.

9 (2) This act does not limit, impair, or affect the right of a
10 public employee to the expression or communication of a view,
11 grievance, complaint, or opinion on any matter related to the
12 conditions or compensation of public employment or their betterment
13 as long as the expression or communication does not interfere with
14 the full, faithful, and proper performance of the duties of
15 employment.

16 **SEC. 18. (1) A BARGAINING REPRESENTATIVE REPRESENTING PUBLIC**
17 **EMPLOYEES IN THIS STATE SHALL FILE A COPY OF ITS CONSTITUTION AND**
18 **BYLAWS WITH THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS,**
19 **TOGETHER WITH A REPORT, SIGNED BY THE BARGAINING REPRESENTATIVE'S**
20 **PRESIDENT AND SECRETARY OR CORRESPONDING PRINCIPAL OFFICERS, THAT**
21 **CONTAINS ALL OF THE FOLLOWING INFORMATION:**

22 (A) THE NAME OF THE BARGAINING REPRESENTATIVE, ITS MAILING
23 ADDRESS, AND ANY OTHER ADDRESS AT WHICH IT MAINTAINS ITS PRINCIPAL
24 OFFICE OR KEEPS ITS RECORDS.

25 (B) THE NAME AND TITLE OF EACH OF ITS OFFICERS.

26 (C) THE MEMBERSHIP FEE AND ANY OTHER FEE IT REQUIRES FROM A
27 NEW OR TRANSFERRED MEMBER, INCLUDING THE FEE FOR ANY WORK PERMIT IT

1 REQUIRES.

2 (D) THE REGULAR DUES, FEES, OR OTHER PERIODIC PAYMENTS
3 REQUIRED TO REMAIN A MEMBER OF THE BARGAINING REPRESENTATIVE.

4 (E) A DETAILED STATEMENT OF, OR REFERENCE TO, SPECIFIC
5 PROVISIONS IN DOCUMENTS FILED UNDER THIS SECTION THAT CONTAIN
6 INFORMATION REGARDING, PROVISION FOR, AND PROCEDURES FOLLOWED WITH
7 RESPECT TO ALL OF THE FOLLOWING:

8 (i) QUALIFICATIONS FOR OR RESTRICTIONS ON MEMBERSHIP.

9 (ii) LEVYING ASSESSMENTS.

10 (iii) PARTICIPATING IN INSURANCE OR OTHER BENEFIT PLANS.

11 (iv) AUTHORIZING DISBURSEMENT OF BARGAINING REPRESENTATIVE
12 FUNDS.

13 (v) AUDITING BARGAINING REPRESENTATIVE FINANCIAL TRANSACTIONS.

14 (vi) CALLING REGULAR AND SPECIAL MEETINGS.

15 (vii) SELECTING OFFICERS, STEWARDS, AND ANY REPRESENTATIVES TO
16 OTHER BODIES COMPOSED OF BARGAINING REPRESENTATIVES'
17 REPRESENTATIVES, INCLUDING A SPECIFIC STATEMENT OF THE MANNER IN
18 WHICH EACH CURRENT OFFICER WAS ELECTED, APPOINTED, OR OTHERWISE
19 SELECTED.

20 (viii) DISCIPLINING OR REMOVING OFFICERS OR AGENTS FOR
21 BREACHES OF TRUST.

22 (ix) IMPOSING A FINE OR SUSPENDING OR EXPELLING A MEMBER,
23 INCLUDING THE GROUNDS FOR THE ACTION AND ANY PROVISION FOR NOTICE,
24 HEARING, JUDGMENT ON THE EVIDENCE, OR APPEAL PROCEDURES.

25 (x) AUTHORIZING BARGAINING DEMANDS.

26 (xi) RATIFYING CONTRACT TERMS.

27 (xii) AUTHORIZING STRIKES.

1 (xiii) ISSUING WORK PERMITS.

2 (2) A BARGAINING REPRESENTATIVE SHALL FILE THE REPORT AND
3 DOCUMENTS UNDER SUBSECTION (1) BY 30 DAYS AFTER THE LATER OF THE
4 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION OR THE
5 DATE THE BARGAINING REPRESENTATIVE FIRST REPRESENTS EMPLOYEES IN
6 THIS STATE.

7 (3) A BARGAINING REPRESENTATIVE SHALL REPORT ANY CHANGE IN THE
8 INFORMATION REQUIRED UNDER SUBSECTION (1) TO THE DEPARTMENT OF
9 LICENSING AND REGULATORY AFFAIRS AT THE TIME THE REPORTING
10 BARGAINING REPRESENTATIVE FILES ITS ANNUAL FINANCIAL REPORT UNDER
11 SUBSECTION (4).

12 (4) A BARGAINING REPRESENTATIVE SHALL FILE AN ANNUAL FINANCIAL
13 REPORT WITH THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS ON
14 JULY 1 OF EACH YEAR. THE PRESIDENT AND TREASURER OF THE BARGAINING
15 REPRESENTATIVE, OR ITS CORRESPONDING PRINCIPAL OFFICERS, SHALL SIGN
16 THE FINANCIAL REPORT. THE FINANCIAL REPORT MUST CONTAIN ALL OF THE
17 FOLLOWING INFORMATION IN SUFFICIENT DETAIL TO ACCURATELY DISCLOSE
18 THE BARGAINING REPRESENTATIVE'S FINANCIAL CONDITION AND OPERATIONS
19 FOR ITS PRECEDING FISCAL YEAR:

20 (A) ASSETS AND LIABILITIES AT THE BEGINNING AND END OF THE
21 FISCAL YEAR.

22 (B) RECEIPTS OF ANY KIND AND THE SOURCES OF THOSE RECEIPTS.

23 (C) SALARY, ALLOWANCES, AND OTHER DIRECT OR INDIRECT
24 DISBURSEMENTS, INCLUDING REIMBURSED EXPENSES, PAID OR CREDITED TO
25 EACH OFFICER AND TO EACH EMPLOYEE WHO, DURING THE BARGAINING
26 REPRESENTATIVE'S FISCAL YEAR, RECEIVED MORE THAN \$10,000.00 IN THE
27 AGGREGATE FROM THE BARGAINING REPRESENTATIVE AND ANY OTHER

1 AFFILIATED LOCAL OR NATIONAL LABOR ORGANIZATION.

2 (D) DIRECT AND INDIRECT LOANS MADE TO ANY OFFICER, EMPLOYEE,
3 OR MEMBER, IF THE LOANS AGGREGATED TO MORE THAN \$250.00 DURING THE
4 FISCAL YEAR, AND A STATEMENT OF THE PURPOSE, ANY SECURITY, AND
5 ARRANGEMENTS FOR LOAN REPAYMENT.

6 (E) DIRECT AND INDIRECT LOANS TO ANY BUSINESS ENTERPRISE AND A
7 STATEMENT OF THE PURPOSE, ANY SECURITY, AND ARRANGEMENTS FOR
8 REPAYMENT.

9 (F) ANY OTHER DISBURSEMENTS AND THE PURPOSES FOR THOSE
10 DISBURSEMENTS AS THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND
11 REGULATORY AFFAIRS REQUIRES.

12 (5) A BARGAINING REPRESENTATIVE SHALL MAKE THE INFORMATION
13 REQUIRED TO BE SUBMITTED UNDER SUBSECTIONS (2) AND (3) AVAILABLE TO
14 ITS MEMBERS.

15 (6) A BARGAINING REPRESENTATIVE THAT VIOLATES THIS SECTION MAY
16 BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00. THE
17 ATTORNEY GENERAL OR A COUNTY PROSECUTOR MAY BRING AN ACTION TO
18 RECOVER A CIVIL FINE UNDER THIS SECTION. A CIVIL FINE IMPOSED UNDER
19 THIS SECTION IS PAYABLE TO THIS STATE AND SHALL BE CREDITED TO THE
20 GENERAL FUND.

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