

HOUSE BILL NO. 5677

April 25, 2024, Introduced by Reps. Beeler, Kuhn, Maddock, Schuette, Hall, Outman, BeGole, Borton, Kunse, DeBoyer, Rigas, Harris, Markkanen, Wozniak, Smit, Carra, Zorn, Alexander, Bierlein, Paquette, Bezotte, VanderWall, Fox, Martin and Beson and referred to the Committee on Government Operations.

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 sections 9, 10, and 15 (MCL 423.209, 423.210, and 423.215), section 9 as amended by 2023 PA 9, section 10 as amended by 2023 PA 114, and section 15 as amended by 2023 PA 143.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. **(1)** Public employees may ~~organize~~ **do any of the**

1 following:

2 (a) **Organize** together or form, join, or assist in labor
3 organizations; engage in lawful concerted activities for the
4 purpose of collective negotiation or bargaining or other mutual aid
5 and protection; or negotiate or bargain collectively with their
6 public employers through representatives of their own free choice.

7 (b) **Refrain from any or all of the activities identified in**
8 **subdivision (a).**

9 (2) A person shall not by force, intimidation, or unlawful
10 threats compel or attempt to compel a public employee to do any of
11 the following:

12 (a) Become or remain a member of a labor organization or
13 bargaining representative or otherwise affiliate with or
14 financially support a labor organization or bargaining
15 representative.

16 (b) Refrain from engaging in employment or refrain from
17 joining a labor organization or bargaining representative or
18 otherwise affiliating with or financially supporting a labor
19 organization or bargaining representative.

20 (c) Pay to any charitable organization or third party an
21 amount that is in lieu of, equivalent to, or any portion of dues,
22 fees, assessments, or other charges or expenses required of members
23 of or public employees represented by a labor organization or
24 bargaining representative.

25 (d) Pay the costs of an independent examiner verification as
26 described in section 10(9).

27 (3) A person who violates subsection (2) is subject to a civil
28 fine of not more than \$500.00. The prosecutor of the county in
29 which the violation occurred or the attorney general may bring an

1 **action to collect the fine. A fine collected under this subsection**
2 **must be deposited in the general fund.**

3 Sec. 10. (1) A public employer or an officer or agent of a
4 public employer shall not do any of the following:

5 (a) Interfere with, restrain, or coerce public employees in
6 the exercise of their rights guaranteed in section 9.

7 (b) Initiate, create, dominate, contribute to, or interfere
8 with the formation or administration of a labor organization. A
9 public employer may allow employees to confer with a labor
10 organization during working hours without loss of time or pay.

11 (c) Discriminate in regard to hiring, terms, or other
12 conditions of employment to encourage or discourage membership in a
13 labor organization. ~~However, this act or any other law of this~~
14 ~~state does not preclude a public employer from making an agreement~~
15 ~~with an exclusive bargaining representative as described in section~~
16 ~~11 to require as a condition of employment that all other employees~~
17 ~~in the bargaining unit pay to the exclusive bargaining~~
18 ~~representative a service fee equivalent to the amount of dues~~
19 ~~uniformly required of members of the exclusive bargaining~~
20 ~~representative.~~

21 (d) Discriminate against a public employee because the public
22 employee has given testimony or instituted proceedings under this
23 act.

24 (e) Refuse to bargain collectively with the representatives of
25 its public employees, subject to section 11.

26 ~~(2) It is the purpose of 1973 PA 25 to reaffirm the continuing~~
27 ~~public policy of this state that the stability and effectiveness of~~
28 ~~labor relations in the public sector require, if the requirement is~~
29 ~~negotiated with the public employer, that all other employees in~~

1 ~~the bargaining unit share fairly in the financial support of their~~
2 ~~exclusive bargaining representative by paying to the exclusive~~
3 ~~bargaining representative a service fee that may be equivalent to~~
4 ~~the amount of dues uniformly required of members of the exclusive~~
5 ~~bargaining representative.~~

6 **(2)** ~~(3)~~ A labor organization or its agents shall not do any of
7 the following:

8 (a) Restrain or coerce public employees in the exercise of the
9 rights guaranteed in section 9. This subdivision does not impair
10 the right of a labor organization to prescribe its own rules with
11 respect to the acquisition or retention of membership.

12 (b) Restrain or coerce a public employer in the selection of
13 its representatives for the purposes of collective bargaining or
14 the adjustment of grievances.

15 (c) Cause or attempt to cause a public employer to
16 discriminate against a public employee in violation of subsection
17 (1) (c).

18 (d) Refuse to bargain collectively with a public employer, if
19 ~~it~~ **the labor organization** is the representative of the public
20 employer's employees, subject to section 11.

21 **(3) Except as provided in subsection (4), an individual must**
22 **not be required as a condition of obtaining or continuing public**
23 **employment to do any of the following:**

24 (a) **Refrain or resign from membership in, voluntary**
25 **affiliation with, or voluntary financial support of a labor**
26 **organization or bargaining representative.**

27 (b) **Become or remain a member of a labor organization or**
28 **bargaining representative.**

29 (c) **Pay any dues, fees, assessments, or other charges or**

1 expenses of any kind or amount, or provide anything of value to a
2 labor organization or bargaining representative.

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

8 (4) The application of subsection (3) is subject to the
9 following:

10 (a) Subsection (3) does not apply to any of the following:

11 (i) A public police or fire department employee or an
12 individual who seeks to become employed as a public police or fire
13 department employee as that term is defined under section 2 of 1969
14 PA 312, MCL 423.232.

15 (ii) A state police trooper or sergeant who is granted rights
16 under section 5 of article XI of the state constitution of 1963 or
17 an individual who seeks to become employed as a state police
18 trooper or sergeant.

19 (b) An individual described in subdivision (a), or a labor
20 organization or bargaining representative that represents
21 individuals described in subdivision (a), and a public employer or
22 this state may enter into an agreement that requires all employees
23 in the bargaining unit to share fairly in the financial support of
24 the labor organization or their exclusive bargaining representative
25 by paying a fee to the labor organization or exclusive bargaining
26 representative that may be equivalent to the amount of dues
27 uniformly required of members of the labor organization or
28 exclusive bargaining representative. Section 9(2) must not be
29 construed to interfere with the right of a public employer or this

1 state and a labor organization or bargaining representative to
2 enter into or lawfully administer the agreement as it relates to
3 the employees or individuals described in subdivision (a).

4 (c) If any of the exclusions in subdivision (a) (i) or (ii) are
5 found to be invalid by a court, the following apply:

6 (i) The individuals described in the exclusion found to be
7 invalid are no longer excepted from the application of subsection
8 (3).

9 (ii) Subdivision (b) does not apply to individuals described in
10 the invalid exclusion.

11 (5) An agreement, contract, understanding, or practice between
12 or involving a public employer, labor organization, or bargaining
13 representative that violates subsection (3) is unlawful and
14 unenforceable. This subsection applies to an agreement, contract,
15 understanding, or practice that takes effect or is extended or
16 renewed after the effective date of the amendatory act that added
17 this sentence.

18 (6) The court of appeals has exclusive original jurisdiction
19 over any action challenging the validity of subsection (3), (4), or
20 (5). The court of appeals shall hear the action in an expedited
21 manner.

22 (7) A person, public employer, or labor organization that
23 violates subsection (3) is subject to a civil fine of not more than
24 \$500.00. The prosecutor of the county in which the violation
25 occurred or the attorney general may bring an action to collect the
26 fine. A fine collected under this subsection must be deposited in
27 the general fund.

28 (8) ~~(4)~~—By July 1 of each year, each exclusive bargaining
29 representative that represents public employees in this state shall

1 have an independent examiner verify the exclusive bargaining
2 representative's calculation of all expenditures attributed to the
3 costs of collective bargaining, contract administration, and
4 grievance adjustment during the prior calendar year and shall file
5 that verification with the commission. The commission shall make
6 the exclusive bargaining representative's calculations available to
7 the public on the commission's website. The exclusive bargaining
8 representative shall also file a declaration identifying the local
9 bargaining units that are represented. Local bargaining units
10 identified in the declaration filed by the exclusive bargaining
11 representative are not required to file a separate calculation of
12 all expenditures attributed to the costs of collective bargaining,
13 contract administration, and grievance adjustment.

14 ~~(5) A public employer and a bargaining representative may~~
15 ~~enter into a collective bargaining agreement that requires all~~
16 ~~public employees in the bargaining unit to share equally in the~~
17 ~~financial support of the bargaining representative. This act does~~
18 ~~not, and a law or policy of a local government must not, prohibit~~
19 ~~or limit an agreement that requires public employees in the~~
20 ~~bargaining unit, as a condition of continued employment, to pay to~~
21 ~~the bargaining representative membership dues or service fees. This~~
22 ~~subsection becomes effective immediately upon, and applies to the~~
23 ~~extent permitted by, either of the following:~~

24 ~~(a) A decision or ruling by the United States Supreme Court~~
25 ~~that reverses or limits, in whole or in part, *Janus v AFSCME,*~~
26 ~~*Council 31, ___US___; 138 S Ct 2448 (2018).*~~

27 ~~(b) The ratification of an amendment to the United States~~
28 ~~Constitution that restores the ability to require, as a condition~~
29 ~~of employment, a public employee who is not a member of a~~

1 ~~bargaining representative to pay, under any circumstances, fees,~~
2 ~~including agency fees, to the bargaining representative.~~

3 ~~(6) For fiscal year 2022-2023, \$1,000,000.00 is appropriated~~
4 ~~to the department of labor and economic opportunity to be expended~~
5 ~~to do all of the following regarding the 2023 amendatory act that~~
6 ~~added this sentence:~~

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

8 ~~(b) Provide the commission with sufficient staff and other~~
9 ~~resources to implement the amendatory act.~~

10 ~~(c) Inform public employers, public employees, and bargaining~~
11 ~~representatives about changes to their rights and responsibilities~~
12 ~~under the amendatory act.~~

13 ~~(d) Any other purposes that the director of the department of~~
14 ~~labor and economic opportunity determines in the director's sole~~
15 ~~discretion are necessary to implement the amendatory act.~~

16 **(9) Except for actions required to be brought under subsection**
17 **(6), a person who suffers an injury as a result of a violation or**
18 **threatened violation of subsection (3) may bring a civil action for**
19 **damages, injunctive relief, or both. In addition, a court shall**
20 **award court costs and reasonable attorney fees to a plaintiff who**
21 **prevails in an action brought under this subsection. Remedies**
22 **provided in this subsection are independent of and in addition to**
23 **other penalties and remedies prescribed by this act.**

24 Sec. 15. (1) A public employer shall bargain collectively with
25 the representatives of its employees as described in section 11 and
26 may make and enter into collective bargaining agreements with those
27 representatives. Except as otherwise provided in this section, for
28 the purposes of this section, to bargain collectively is to perform
29 the mutual obligation of the employer and the representative of the

1 employees to meet at reasonable times and confer in good faith with
2 respect to wages, hours, and other terms and conditions of
3 employment, or to negotiate an agreement, or any question arising
4 under the agreement, and to execute a written contract, ordinance,
5 or resolution incorporating any agreement reached if requested by
6 either party, but this obligation does not compel either party to
7 agree to a proposal or make a concession.

8 (2) A public school employer has the responsibility,
9 authority, and right to manage and direct on behalf of the public
10 the operations and activities of the public schools under its
11 control.

12 (3) Collective bargaining between a public school employer and
13 a bargaining representative of its employees must not include any
14 of the following subjects:

15 (a) Who is or will be the policyholder of an employee group
16 insurance benefit. This subdivision does not affect the duty to
17 bargain with respect to types and levels of benefits and coverages
18 for employee group insurance. A change or proposed change in a type
19 or to a level of benefit, policy specification, or coverage for
20 employee group insurance must be bargained by the public school
21 employer and the bargaining representative before the change takes
22 effect.

23 (b) Establishment of the starting day for the school year and
24 of the amount of pupil contact time required to receive full state
25 school aid under section 1284 of the revised school code, 1976 PA
26 451, MCL 380.1284, and under section 101 of the state school aid
27 act of 1979, 1979 PA 94, MCL 388.1701.

28 (c) The composition of school improvement committees
29 established under section 1277 of the revised school code, 1976 PA

1 451, MCL 380.1277.

2 (d) The decision of whether or not to provide or allow
3 interdistrict or intradistrict open enrollment opportunity in a
4 school district or the selection of grade levels or schools in
5 which to allow an open enrollment opportunity.

6 (e) The decision of whether or not to act as an authorizing
7 body to grant a contract to organize and operate 1 or more public
8 school academies under the revised school code, 1976 PA 451, MCL
9 380.1 to 380.1852.

10 (f) The use of volunteers in providing services at its
11 schools.

12 (g) Decisions concerning use and staffing of experimental or
13 pilot programs and decisions concerning use of technology to
14 deliver educational programs and services and staffing to provide
15 that technology, or the impact of those decisions on individual
16 employees or the bargaining unit.

17 (h) Any compensation or additional work assignment intended to
18 reimburse an employee for or allow an employee to recover any
19 monetary penalty imposed under this act.

20 **(i) Any requirement that would violate section 10(3).**

21 (4) The matters described in subsection (3) are prohibited
22 subjects of bargaining between a public school employer and a
23 bargaining representative of its employees, and, for the purposes
24 of this act, are within the sole authority of the public school
25 employer to decide.

26 (5) Each collective bargaining agreement entered into between
27 a public employer and public employees under this act on or after
28 March 28, 2013 must include a provision that allows an emergency
29 manager appointed under the local financial stability and choice

1 act, 2012 PA 436, MCL 141.1541 to 141.1575, to reject, modify, or
2 terminate the collective bargaining agreement as provided in the
3 local financial stability and choice act, 2012 PA 436, MCL 141.1541
4 to 141.1575. Provisions required by this subsection are prohibited
5 subjects of bargaining under this act.

6 (6) Collective bargaining agreements under this act may be
7 rejected, modified, or terminated pursuant to the local financial
8 stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575.
9 This act does not confer a right to bargain that would infringe on
10 the exercise of powers under the local financial stability and
11 choice act, 2012 PA 436, MCL 141.1541 to 141.1575.

12 (7) A unit of local government that enters into a consent
13 agreement under the local financial stability and choice act, 2012
14 PA 436, MCL 141.1541 to 141.1575, is not subject to subsection (1)
15 for the term of the consent agreement, as provided in the local
16 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
17 141.1575.

18 (8) If the charter of a city, village, or township with a
19 population of 500,000 or more requires and specifies the method of
20 selection of a retirant member of the municipality's fire
21 department, police department, or fire and police department
22 pension or retirement board, the inclusion of the retirant member
23 on the board and the method of selection of that retirant member
24 are prohibited subjects of collective bargaining, and any provision
25 in a collective bargaining agreement that purports to modify that
26 charter requirement is void and of no effect.

27 (9) An agreement with a collective bargaining unit must not
28 require a public employer to pay the costs of an independent
29 examiner verification described in section ~~10(4)~~-10(8).