

**SUBSTITUTE FOR
HOUSE BILL NO. 4054**

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; and to prescribe means of enforcement and penalties for violations of this act,"

by amending the title and sections 1, 2, 8, 14, 17, and 22 (MCL 423.1, 423.2, 423.8, 423.14, 423.17, and 423.22).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to create a commission relative to labor disputes, and

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to prescribe its powers and duties; to provide for the mediation

1 and arbitration of labor disputes, and the holding of elections
2 thereon; to regulate the conduct of parties to labor disputes and
3 to require the parties to follow certain procedures; to regulate
4 and limit the right to strike and picket; to protect the rights and
5 privileges of employees, including the right to organize and engage
6 in lawful concerted activities; to protect the rights and
7 privileges of employers; to make certain acts unlawful; **TO MAKE**
8 **APPROPRIATIONS**; and to prescribe means of enforcement and penalties
9 for violations of this act.

10 Sec. 1. It is hereby declared as the public policy of this
11 state that the best interests of the people of the state are served
12 by ~~the prevention or prompt settlement of~~ **PROTECTING THEIR RIGHT TO**
13 **WORK IN A MANNER CONSISTENT WITH SECTION 14(B) OF THE NATIONAL**
14 **LABOR RELATIONS ACT, 29 USC 164(B), AND PREVENTING OR PROMPTLY**
15 **SETTLING** labor disputes; that strikes and lockouts and other forms
16 of industrial strife, regardless of where the merits of the
17 controversy lie, are forces productive ultimately of economic
18 waste; that the interests and rights of the consumers and the
19 people of the state, while not direct parties thereto, should
20 always be considered, respected and protected; and that the
21 voluntary mediation of such disputes under the guidance and
22 supervision of a governmental agency will tend to promote permanent
23 industrial peace and the health, welfare, comfort and safety of the
24 people of the state.

25 Sec. 2. As used in this act:

26 (a) "Company union" includes any employee association,
27 committee, agency, or representation plan, formed or existing for

1 the purpose, in whole or in part, of dealing with employers
2 concerning grievances or terms and conditions of employment, which
3 in any manner or to any extent, and by any form of participation,
4 interference, or assistance, financial or otherwise, either in its
5 organization, operation, or administration, is dominated or
6 controlled, sponsored or supervised, maintained, directed, or
7 financed by the employer.

8 (b) "Dispute" and "labor dispute" ~~shall include~~ but are not
9 restricted to any controversy concerning terms, tenure, or
10 conditions of employment, or concerning the association or
11 representation of employees in negotiating, fixing, maintaining, or
12 changing terms or conditions of employment, regardless of whether
13 the disputants stand in the proximate relation of employer and
14 employee.

15 (c) "Commission" means the employment relations commission
16 created by section 3.

17 (d) "Person" includes an individual, partnership, association,
18 corporation, business trust, ~~or~~ labor organization, **OR ANY OTHER**
19 **PRIVATE ENTITY.**

20 (e) "Employee" includes any employee, and ~~shall not be~~ **IS NOT**
21 limited to the employees of a particular employer, unless the act
22 explicitly provides otherwise, and ~~shall include~~ **INCLUDES** any
23 individual whose work has ceased as a consequence of, or in
24 connection with, any current labor dispute or because of any act
25 ~~which~~ **THAT** is illegal hereunder, **UNDER THIS ACT**, and who has not
26 obtained any other regular and substantially equivalent employment,
27 but ~~shall~~ **DOES** not include any individual employed as an

1 agricultural laborer, or in the domestic service of any family or
 2 any person at his home, or any individual employed by his parent or
 3 spouse, or any individual employed as an executive or supervisor,
 4 or any individual employed by an employer subject to the railway
 5 labor act, ~~as amended,~~ **45 USC 151 TO 188**, or by any other person
 6 who is not an employer as defined in this act.

7 (f) "Employer" means a person and includes any person acting
 8 as an agent of an employer, but ~~shall~~ **DOES** not include the United
 9 States or any corporation wholly owned by the United States; ~~or~~
 10 any federal reserve bank; ~~or~~ any employer subject to the railway
 11 labor act, ~~as amended,~~ ~~or~~ **45 USC 151 TO 188**; the state or any
 12 political subdivision thereof; ~~or~~ any labor organization, or anyone
 13 acting in the capacity of officer or agent of such labor
 14 organization, other than when acting as an employer; ~~OR ANY ENTITY~~
 15 **SUBJECT TO 1947 PA 336, MCL 423.201 TO 423.217.**

16 (g) "Labor organization" means any organization of any kind,
 17 or any agency or employee representation committee or plan, in
 18 which employees participate and ~~which~~ **THAT** exists for the purpose,
 19 in whole or in part, of dealing with employers concerning
 20 grievances, labor disputes, wages, rates of pay, hours of
 21 employment, or conditions of work.

22 Sec. 8. ~~It shall be lawful for employes, to organize~~ **EMPLOYEES**
 23 **MAY DO ANY OF THE FOLLOWING:**

24 (A) **ORGANIZE** together or ~~to~~ form, join, or assist in labor
 25 organization; ~~to~~ engage in lawful concerted activities for the
 26 purpose of collective negotiation or bargaining or other mutual aid
 27 and protection; ~~or~~ ~~to~~ negotiate or bargain collectively with

1 their employers through representatives of their own free choice.

2 (B) REFRAIN FROM ANY OR ALL OF THE ACTIVITIES IDENTIFIED IN
3 SUBDIVISION (A).

4 ~~Sec. 14. Nothing in this act shall be construed to interfere~~
5 ~~with the right of an employer to enter into an all union agreement~~
6 ~~with 1 labor organization if it is the only organization~~
7 ~~established among his employes and recognized by him, by consent,~~
8 ~~as the representative of a majority of his employes; nor shall~~
9 ~~anything in this act be construed to interfere with the right of~~
10 ~~the employer to make an all union agreement with more than 1 labor~~
11 ~~organization established among his employes if such organizations~~
12 ~~are recognized by him, by consent, as the representatives of a~~
13 ~~majority of his employes.~~

14 (1) AN INDIVIDUAL SHALL NOT BE REQUIRED AS A CONDITION OF
15 OBTAINING OR CONTINUING EMPLOYMENT TO DO ANY OF THE FOLLOWING:

16 (A) REFRAIN OR RESIGN FROM MEMBERSHIP IN, VOLUNTARY
17 AFFILIATION WITH, OR VOLUNTARY FINANCIAL SUPPORT OF A LABOR
18 ORGANIZATION.

19 (B) BECOME OR REMAIN A MEMBER OF A LABOR ORGANIZATION.

20 (C) PAY ANY DUES, FEES, ASSESSMENTS, OR OTHER CHARGES OR
21 EXPENSES OF ANY KIND OR AMOUNT OR PROVIDE ANYTHING OF VALUE TO A
22 LABOR ORGANIZATION.

23 (D) PAY TO ANY CHARITABLE ORGANIZATION OR THIRD PARTY AN
24 AMOUNT THAT IS IN LIEU OF, EQUIVALENT TO, OR ANY PORTION OF DUES,
25 FEES, ASSESSMENTS, OR OTHER CHARGES OR EXPENSES REQUIRED OF MEMBERS
26 OF OR EMPLOYEES REPRESENTED BY A LABOR ORGANIZATION.

27 (2) AN AGREEMENT, CONTRACT, UNDERSTANDING, OR PRACTICE BETWEEN

1 OR INVOLVING AN EMPLOYER AND A LABOR ORGANIZATION THAT VIOLATES
2 SUBSECTION (1) IS UNLAWFUL AND UNENFORCEABLE. THIS SUBSECTION
3 APPLIES ONLY TO AN AGREEMENT, CONTRACT, UNDERSTANDING, OR PRACTICE
4 THAT TAKES EFFECT OR IS EXTENDED OR RENEWED AFTER THE EFFECTIVE
5 DATE OF THE 2012 AMENDATORY ACT THAT AMENDED THIS SECTION.

6 (3) SUBSECTIONS (1) AND (2) SHALL BE IMPLEMENTED TO THE
7 MAXIMUM EXTENT PERMITTED BY THE UNITED STATES CONSTITUTION AND
8 FEDERAL LAW.

9 (4) THE COURT OF APPEALS HAS EXCLUSIVE ORIGINAL JURISDICTION
10 OVER ANY ACTION CHALLENGING THE VALIDITY OF SUBSECTION (1), (2), OR
11 (3). THE COURT OF APPEALS SHALL HEAR THE ACTION IN AN EXPEDITED
12 MANNER.

13 (5) A PERSON, EMPLOYER, OR LABOR ORGANIZATION THAT VIOLATES
14 SUBSECTION (1) IS LIABLE FOR A CIVIL FINE OF NOT MORE THAN \$500.00.
15 A CIVIL FINE RECOVERED UNDER THIS SECTION SHALL BE SUBMITTED TO THE
16 STATE TREASURER FOR DEPOSIT IN THE GENERAL FUND OF THIS STATE.

17 (6) EXCEPT FOR ACTIONS REQUIRED TO BE BROUGHT UNDER SUBSECTION
18 (4), A PERSON WHO SUFFERS AN INJURY AS A RESULT OF A VIOLATION OR
19 THREATENED VIOLATION OF SUBSECTION (1) MAY BRING A CIVIL ACTION FOR
20 DAMAGES, INJUNCTIVE RELIEF, OR BOTH. IN ADDITION, A COURT SHALL
21 AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO A PLAINTIFF WHO
22 PREVAILS IN AN ACTION BROUGHT UNDER THIS SUBSECTION. REMEDIES
23 PROVIDED FOR IN THIS SUBSECTION ARE INDEPENDENT OF AND IN ADDITION
24 TO OTHER PENALTIES AND REMEDIES PRESCRIBED BY THIS ACT.

25 (7) FOR FISCAL YEAR 2012-2013, \$1,000,000.00 IS APPROPRIATED
26 TO THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS TO BE
27 EXPENDED TO DO ALL OF THE FOLLOWING REGARDING THE AMENDATORY ACT

1 THAT ADDED THIS SUBSECTION:

2 (A) RESPOND TO PUBLIC INQUIRIES REGARDING THE AMENDATORY ACT.

3 (B) PROVIDE THE COMMISSION WITH SUFFICIENT STAFF AND OTHER
4 RESOURCES TO IMPLEMENT THE AMENDATORY ACT.

5 (C) INFORM EMPLOYERS, EMPLOYEES, AND LABOR ORGANIZATIONS
6 CONCERNING THEIR RIGHTS AND RESPONSIBILITIES UNDER THE AMENDATORY
7 ACT.

8 (D) ANY OTHER PURPOSES THAT THE DIRECTOR OF THE DEPARTMENT OF
9 LICENSING AND REGULATORY AFFAIRS DETERMINES IN HIS OR HER
10 DISCRETION ARE NECESSARY TO IMPLEMENT THE AMENDATORY ACT.

11 Sec. 17. (1) ~~It shall be unlawful (1) for any employee AN~~
12 **EMPLOYEE** or other person **SHALL NOT** by force, **INTIMIDATION**, or
13 unlawful threats ~~to force, COMPEL~~ or attempt to ~~force COMPEL~~ any
14 person to ~~become or remain a member of a labor organization, or (2)~~
15 ~~for an employee or other person by force or unlawful threats to~~
16 ~~force or attempt to force any person to refrain from engaging in~~
17 ~~employment. Violation of this section shall be a misdemeanor and~~
18 ~~punishable as such.~~ **DO ANY OF THE FOLLOWING:**

19 (A) BECOME OR REMAIN A MEMBER OF A LABOR ORGANIZATION OR
20 OTHERWISE AFFILIATE WITH OR FINANCIALLY SUPPORT A LABOR
21 ORGANIZATION.

22 (B) REFRAIN FROM ENGAGING IN EMPLOYMENT OR REFRAIN FROM
23 JOINING A LABOR ORGANIZATION OR OTHERWISE AFFILIATING WITH OR
24 FINANCIALLY SUPPORTING A LABOR ORGANIZATION.

25 (C) PAY TO ANY CHARITABLE ORGANIZATION OR THIRD PARTY AN
26 AMOUNT THAT IS IN LIEU OF, EQUIVALENT TO, OR ANY PORTION OF DUES,
27 FEES, ASSESSMENTS, OR OTHER CHARGES OR EXPENSES REQUIRED OF MEMBERS

1 OF OR EMPLOYEES REPRESENTED BY A LABOR ORGANIZATION.

2 (2) A PERSON WHO VIOLATES THIS SECTION IS LIABLE FOR A CIVIL
3 FINE OF NOT MORE THAN \$500.00. A CIVIL FINE RECOVERED UNDER THIS
4 SECTION SHALL BE SUBMITTED TO THE STATE TREASURER FOR DEPOSIT IN
5 THE GENERAL FUND OF THIS STATE.

6 Sec. 22. (1) It shall be unlawful for an employer to engage in
7 a lockout or for a labor organization to engage in or instigate a
8 strike without first having served notice as required in section 9.

9 (2) It shall be unlawful for any individual to instigate a
10 lockout or strike ~~which~~ **THAT** is unlawful under this section.

11 (3) Any ~~individual or~~ person may pursue any appropriate legal
12 or equitable remedy or other relief in any circuit court having
13 jurisdiction with respect to any act or conduct in violation of any
14 of the provisions of this act, except subsection (1) and sections
15 **14(4)**, 16, and 17a. The existence of a criminal penalty with
16 respect to any such act or conduct ~~shall~~ **DOES** not be ~~deemed to~~
17 preclude appropriate equitable relief.

18 Enacting section 1. If any part or parts of this act are found
19 to be in conflict with the state constitution of 1963, the United
20 States constitution, or federal law, this act shall be implemented
21 to the maximum extent that the state constitution of 1963, the
22 United States constitution, and federal law permit. Any provision
23 held invalid or inoperative shall be severable from the remaining
24 portions of this act.