

SENATE BILL No. 562

October 24, 1991, Introduced by Senators DI NELLO, HONIGMAN
and WELBORN and referred to the Committee on LABOR.

A bill to regulate the use of certain dues and fees for certain purposes; to require certain reports by certain organizations; to prescribe the powers and duties of the secretary of state; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "worker political independence act".

3 Sec. 3. As used in this act:

4 (a) "Collective bargaining activities" means the negotiation
5 between 2 or more parties regarding the terms and conditions of
6 employment, the administration of a contract between 2 or more
7 parties, or for adjustment of grievances between the parties to a
8 collectively bargained contract.

9 (b) "Contribution" means that term as defined in section 4
10 of the Michigan campaign finance act, Act No. 388 of the Public

1 Acts of 1976, being section 169.204 of the Michigan Compiled
2 Laws. For purposes of this act, "contribution" includes volun-
3 teer personal services provided by the labor organization or pro-
4 fessional workers organization if the membership dues or fees
5 paid to the organization are used to subsidize those volunteer
6 personal services.

7 (c) "Labor organization" means an organization or an agency
8 or employee representation committee or plan in which employees
9 participate and which exists for the purpose, in whole or in
10 part, of dealing with employers concerning collective bargaining
11 activities.

12 (d) "Lobbying activities" means communicating directly or
13 indirectly through an affiliate or subsidiary organization with
14 an official in the executive branch of state government or an
15 official in the legislative branch of state government for the
16 purpose of influencing legislative or administrative action.
17 Lobbying activities do not include the providing of technical
18 information when appearing before an officially convened legisla-
19 tive committee or executive department hearing panel. As used in
20 this subdivision, "technical information" means empirically veri-
21 fiable data provided by a person recognized as an expert in the
22 subject area to which the information provided is related.

23 (e) "Noncollective bargaining activities" means any activity
24 which is not germane to collective bargaining activities as
25 defined in subdivision (a), including, but not limited to:

26 (i) Lobbying activities.

1 (ii) Electoral politics, including ballot, bond, and millage
2 issues.

3 (iii) Public relations.

4 (iv) Litigation.

5 (v) Offensive and defensive organizing, including member
6 recruitment, retention, and member-only benefits.

7 (vi) Charitable contributions and activities.

8 (vii) Collective bargaining in other bargaining units and
9 other states wholly unrelated to the employee's bargaining unit
10 and incapable of enuring to the benefit of the employee's bar-
11 gaining unit.

12 (viii) Any other activity prohibited by law.

13 (f) "Organization" means both a labor organization and a
14 professional workers organization.

15 (g) "Professional employee" means an employee engaged in
16 work that is predominately intellectual and varied in character
17 as opposed to routine mental, manual, mechanical, or physical
18 work; that involves the consistent exercise of discretion and
19 judgment in its performance; that is of such a character that the
20 output produced or the result accomplished cannot be standardized
21 in relation to a given period of time; and that requires knowl-
22 edge of an advanced type in a field of science or learning cus-
23 tomarily acquired by a prolonged course of specialized intellec-
24 tual instruction and study in an institution of higher learning
25 or a hospital, as distinguished from a general academic education
26 or from an apprenticeship or from training in the performance of
27 routine mental, manual, or physical processes; or an employee who

1 has completed the courses of specialized intellectual instruction
2 and study described in this subdivision and is performing related
3 work under the supervision of a professional person to qualify
4 himself or herself to become a professional employee as defined
5 in this subdivision.

6 (h) "Professional workers organization" means an association
7 of professional employees that may perform both collective and
8 noncollective bargaining activities for its members, that
9 requires the professional employees to join the organization as a
10 precondition to engage in that particular occupation, and that
11 requires dues or fees from each individual member for the per-
12 formance of the collective and noncollective bargaining
13 activities.

14 Sec. 5. (1) A labor organization shall not use all or a
15 part of the fee or dues charged by the organization for noncol-
16 lective bargaining activities.

17 (2) Nothing in this act shall prohibit a labor organization
18 from soliciting funds on a voluntary contribution basis from its
19 members or from persons who are not members for collective bar-
20 gaining or noncollective bargaining activities. However, a
21 solicitation for a voluntary contribution shall not be in the
22 form of a payroll deduction or at the same time or on the same
23 form as the payment of the dues or fees for membership in the
24 organization.

25 (3) A labor organization shall not require a person, as a
26 condition of employment or as a condition precedent to engaging

1 in a particular occupation, to contribute dues or fees to the
2 organization for use for noncollective bargaining activities.

3 (4) A labor organization subject to this act shall separate
4 into segregated funds the dues or fees, or both, used for collec-
5 tive bargaining activities and the voluntary contributions
6 received for use in noncollective bargaining activities.

7 Sec. 6. (1) A professional workers organization in which
8 membership is required either as a condition after obtaining
9 employment with an employer or as a condition precedent to the
10 practice of an occupation shall not use all or a part of the fee
11 or dues charged by the organization for lobbying activities.

12 (2) Nothing in this act shall prohibit a professional work-
13 ers organization from soliciting funds on a voluntary contribu-
14 tion basis from its members or from persons who are not members
15 for noncollective bargaining activities. However, a solicitation
16 for a voluntary contribution shall not be in the form of a check-
17 off at the same time or on the same form as the payment of the
18 dues or fees for membership in the organization.

19 (3) A professional workers organization shall not require a
20 person, as a condition of employment or as a condition precedent
21 to engaging in a particular occupation, to contribute dues or
22 fees to the organization for use for lobbying activities.

23 (4) A professional workers organization subject to this act
24 shall separate into segregated funds the dues or fees, or both,
25 used for noncollective bargaining activities not otherwise pro-
26 hibited by this act and the dues, fees, or voluntary
27 contributions designated for use by the professional employee in

1 noncollective bargaining activities not otherwise prohibited by
2 this act.

3 Sec. 7. (1) Each organization subject to this act shall
4 file a report with the secretary of state by August 31 covering
5 the period from January 1 to July 31 and by January 31 covering
6 the period from August 1 to December 31 each year.

7 (2) The report shall be on a form prescribed by the secre-
8 tary of state and shall include the following information:

9 (a) The name and address of the organization.

10 (b) The name and address of each individual or business that
11 received contributions from the organization's lobbying activi-
12 ties of \$25.00 or more.

13 (c) The total dollar amount of all contributions made by the
14 organization in its lobbying activities.

15 (d) A brief description of the lobbying activities engaged
16 in during the previous reporting period.

17 (e) The total amount spent during the reporting period on
18 all collective bargaining activities.

19 (f) The total amount spent during the reporting period on
20 all noncollective bargaining activities not germane to a collec-
21 tive bargaining agreement to which the organization is a party
22 according to the individual categories listed in section 3(e).

23 Sec. 9. (1) An organization that fails to file a report
24 required by section 7 is subject to a civil fine of \$1,000.00 for
25 each day the report is not filed.

1 (2) An organization that knowingly conceals information
2 required to be disclosed in a report required by section 7 is
3 subject to a civil fine of not to exceed \$10,000.00 each day.

4 (3) Either the secretary of state or an employee or class of
5 employees may maintain an action for a violation of this
6 section.

7 Sec. 11. (1) Except as otherwise provided in this section
8 and section 9, an organization that violates this act is subject
9 to a civil fine of not to exceed \$1,000.00 plus actual attorney
10 fees.

11 (2) An organization that violates section 5(3) is subject to
12 a civil fine of not to exceed \$1,000.00 or 3 times the actual
13 damages sustained, whichever is greater, plus actual attorney
14 fees.

15 (3) The civil fine less costs assessed pursuant to an action
16 brought by an employee or a group or class of employees under
17 this act shall be returned to the employee or pro rata to the
18 group or class of employees.

19 Sec. 13. (1) An action may be brought under this act in the
20 circuit court for the county in which the individual resides, in
21 which the organization has a resident office, or in the county of
22 Ingham.

23 (2) Upon appropriate application, the court may issue a pre-
24 liminary injunction to restrain continuing violations of this
25 act.

1 (3) An employee or group of employees may bring a class
2 action on behalf of all employees affected by a violation of this
3 act according to Michigan court rule.