

HOUSE BILL NO. 4538

May 09, 2023, Introduced by Reps. Andrews, Coleman, Wegela, Wilson, Dievendorf, Hood, MacDonell, Rheingans, Rogers, Scott, Tsernoglou, Byrnes, Mentzer, Arbit and Price and referred to the Committee on Labor.

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 12 and 14 (MCL 423.212 and 423.214), section 14 as amended by 2012 PA 349.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) ~~When~~—If a public employee or group of public
2 employees, or an individual or labor organization acting on their
3 behalf, files a petition with the commission in accordance with the
4 rules promulgated by the commission that alleges that more than 50%
5 of the public employees within a unit claimed to be appropriate for
6 the purpose of collective bargaining wish to be represented for
7 collective bargaining, the commission shall investigate the
8 petition. If, after the commission completes the investigation, the
9 commission has reasonable cause to believe that a question of
10 representation exists, the commission shall provide an appropriate
11 hearing after due notice. If, based on the record of a hearing
12 conducted under this subsection, the commission determines that
13 more than 50% of the public employees within a unit appropriate for
14 the purpose of collective bargaining wish to be represented for
15 collective bargaining, the commission shall certify the
16 representative as the exclusive bargaining representative as
17 described in section 11.

18 (2) If the commission receives a petition ~~is~~ filed ~~by~~ either
19 of the following in accordance with the rules promulgated by the
20 commission, the commission shall investigate the petition and, if
21 the commission has reasonable cause to believe that a question of
22 representation exists, provide an appropriate hearing after due
23 notice:

24 (a) ~~By a~~—A public employee or group of public employees, or an
25 individual or labor organization acting ~~in~~ on their behalf,
26 alleging that 30% or more of the public employees within a unit
27 claimed to be appropriate for ~~such~~ the purpose of collective
28 bargaining wish to be represented for collective bargaining and
29 that their public employer declines to recognize their

1 representative as the representative ~~defined~~**described** in section
 2 11, or ~~assert~~**asserting** that the individual or labor organization,
 3 which is certified or is being currently recognized by their public
 4 employer as the bargaining representative, is no longer a
 5 representative as defined in section 11. ~~or~~

6 (b) ~~By a~~**A** public employer or ~~his~~**the public employer's**
 7 representative alleging that 1 or more individuals or labor
 8 organizations have presented to ~~him~~**the public employer** a claim to
 9 be recognized as the representative ~~defined~~**described** in section
 10 11. ~~or~~

11 (3) ~~The commission shall investigate the petition and, if it~~
 12 ~~has reasonable cause to believe that a question of representation~~
 13 ~~exists, shall provide an appropriate hearing after due notice. If,~~
 14 ~~the commission finds upon~~**based on** the record of ~~the~~**a** hearing
 15 **conducted under subsection (2), the commission determines** that such
 16 a question of representation exists, ~~it~~**the commission** shall direct
 17 an election by secret ballot and ~~shall~~ certify the results ~~thereof.~~
 18 ~~Nothing in this~~**of the election. This** section shall be construed to
 19 **does not** prohibit the waiving of hearings by stipulation for the
 20 purpose of a consent election in ~~conformity~~**accordance** with the
 21 rules ~~of~~**promulgated by** the commission.

22 Sec. 14. (1) An election ~~shall~~**must** not be directed in any
 23 bargaining unit or any subdivision within which, in the preceding
 24 12-month period, a valid election was held **or a bargaining**
 25 **representative was certified under section 12(1)**. The commission
 26 shall determine who is eligible to vote in the election and shall
 27 promulgate rules governing the election. ~~In~~**For** an election
 28 ~~involving~~**that involves** more than 2 choices, if none of the choices
 29 on the ballot receives a majority vote, a runoff election ~~shall~~

1 **must** be conducted between the 2 choices receiving the 2 largest
2 numbers of valid votes cast in the election. An election ~~shall~~**must**
3 not be directed in any bargaining unit or subdivision of any
4 bargaining unit if there is in force and effect a valid collective
5 bargaining agreement that was not prematurely extended and that is
6 of fixed duration. ~~A-However, the existence of a valid~~ collective
7 bargaining agreement **that was not prematurely extended and that is**
8 **of fixed duration** does not bar an election upon the petition of
9 persons not parties to the collective bargaining agreement if more
10 than 3 years have elapsed since the agreement's execution or last
11 timely renewal, whichever was later.

12 (2) An election ~~shall~~**must** not be directed for, and the
13 commission or a public employer shall not recognize, a bargaining
14 unit of a public employer consisting of individuals who are not
15 public employees. A bargaining unit that is formed or recognized in
16 violation of this subsection is invalid and void.