

Chapter 423

LABOR DISPUTES AND EMPLOYMENT RELATIONS

EMPLOYMENT RELATIONS COMMISSION

Act 176 of 1939

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; to make appropriations; and to prescribe means of enforcement and penalties for violations of this act.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- Am. 1947, Act 318, Eff. Oct. 11, 1947 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976 ;-- Am. 1978, Act 250, Imd. Eff. June 20, 1978 ;-- Am. 2012, Act 348, Eff. Mar. 28, 2013

The People of the State of Michigan enact:

423.1 Declaration of public policy.

Sec. 1.

It is hereby declared as the public policy of this state that the best interests of the people of the state are served by preventing or promptly settling labor disputes; that strikes and lockouts and other forms of industrial strife, regardless of where the merits of the controversy lie, are forces productive ultimately of economic waste; that the interests and rights of the consumers and the people of the state, while not direct parties thereto, should always be considered, respected and protected; and that the voluntary mediation of such disputes under the guidance and supervision of a governmental agency will tend to promote permanent industrial peace and the health, welfare, comfort and safety of the people of the state.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.1 ;-- Am. 2012, Act 348, Eff. Mar. 28, 2013 ;-- Am. 2023, Act 8, Eff. Feb. 13, 2024

Constitutionality: Michigan's labor mediation law was held invalid where it conflicted with provisions of the national labor relations act. *International Union of United Automobile, Aircraft and Agricultural Implement Workers of America, CIO v O'Brien*, Prosecuting Attorney, 339 US 454; 70 S Ct 781; 94 L Ed 978 (1949).

Compiler's Notes: For transfer of powers and duties relating to promulgation of rules by the employment relations commission from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws. Enacting section 1 of Act 348 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

423.2 Definitions.

Sec. 2.

As used in this act:

(a) "Company union" includes any employee association, committee, agency, or representation plan, formed or existing for the purpose, in whole or in part, of dealing with employers concerning grievances or terms and conditions of employment, which in any manner or to any extent, and by any form of participation, interference, or assistance, financial or otherwise, either in its organization, operation, or administration, is dominated or controlled,

sponsored or supervised, maintained, directed, or financed by the employer.

(b) "Dispute" and "labor dispute" include, but are not limited to, any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of employees in negotiating, fixing, maintaining, or changing terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

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

(d) "Person" includes an individual, partnership, association, corporation, business trust, labor organization, or any other private entity.

(e) "Employee" includes any employee, and is not limited to the employees of a particular employer, unless this act explicitly provides otherwise, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any act that is illegal under this act, and who has not obtained any other regular and substantially equivalent employment, but does not include any individual employed as an agricultural laborer, or in the domestic service of any family or any person at the person's home, or any individual employed by the person's parent or spouse, or any individual employed as an executive or supervisor, or any individual employed by an employer subject to the railway labor act, 45 USC 151 to 188, or by any other person who is not an employer.

(f) "Employer" means a person and includes any person acting as an agent of an employer, but does not include the United States or any corporation wholly owned by the United States; any federal reserve bank; any employer subject to the railway labor act, 45 USC 151 to 188; this state or a political subdivision of this state; or any labor organization, or anyone acting in the capacity of officer or agent of a labor organization, other than when acting as an employer.

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

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.2 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1969, Act 181, Imd. Eff. Aug. 5, 1969 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976 ;-- Am. 1978, Act 250, Imd. Eff. June 20, 1978 ;-- Am. 2012, Act 348, Eff. Mar. 28, 2013 ;-- Am. 2023, Act 8, Eff. Feb. 13, 2024

Compiler's Notes: Enacting section 1 of Act 348 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

423.3 Employment relations commission; creation; appointment, qualifications, and terms of commissioners.

Sec. 3.

The employment relations commission is created within the department of labor. The commission consists of 3 commissioners appointed by the governor, with the advice and consent of the senate. A commissioner shall be a citizen of the United States and a resident of the state, and shall have been a qualified elector in the state for a period of at least 5 years next preceding appointment. Members of the commission shall be selected so as to insure that not more than 2 members represent any one political party. Each commissioner shall be appointed for a term of 3 years.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.3 ;-- Am. 1969, Act 202, Eff. Mar. 20, 1970 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

Compiler's Notes: For the transfer of the employment relations commission from the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

423.4 Employment relations commission; oath of commissioners; vacancies; chairman; removal; quorum; seal.

Sec. 4.

Commissioners shall qualify by taking and subscribing to the constitutional oath of office, and shall hold office until the appointment and qualification of their successors. Vacancies shall be filled in the same manner as is provided for appointment in the first instance for the remainder of the unexpired term. The governor shall designate 1 commissioner to serve as chairman of the commission. A commissioner may be removed by the governor for misfeasance, malfeasance, or nonfeasance in office, after hearing. A vacancy in the board shall not impair the right of the remaining commissioners to exercise all the powers of the commission. Two commissioners shall at all times constitute a quorum; but official orders shall require concurrence of a majority of the commission. The commission shall have an official seal of which courts shall take judicial notice.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.4 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.5 Employment relations commission; compensation and expenses of commissioners and employees.

Sec. 5.

A commissioner shall receive such compensation as is appropriated by the legislature. Commissioners and employees of the commission shall be entitled to actual and necessary traveling and other expenses incurred in the performance of duties under this act. The compensation and expenses of commissioners and employees of the commission shall be paid in accordance with the accounting laws of the state.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.5 ;-- Am. 1957, Act 253, Imd. Eff. June 6, 1957 ;-- Am. 1969, Act 174, Imd. Eff. Aug. 5, 1969 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.6 Repealed. 1978, Act 250, Imd. Eff. June 20, 1978.

Compiler's Notes: The repealed section pertained to compensation of secretary, assistants, and employees of employment relations commission, and to powers and duties of secretary.

423.7 Employment relations commission; principal office; office space; rules.

Sec. 7.

The principal office of the commission shall be in the city of Lansing. The department of management and budget shall provide suitable office space for the use of the commission. The commission shall promulgate rules as may be necessary to carry out this act. The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.7 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

Admin Rule: R 423.101 et seq. of the Michigan Administrative Code.

423.7a Employment relations commission; conducting business at public meeting; notice of meeting; availability of certain writings to public.

Sec. 7a.

(1) The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1977, Act 203, Imd. Eff. Nov. 17, 1977

423.8 Employees; rights.

Sec. 8.

Employees may do any of the following:

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

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

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.8 ;-- Am. 2012, Act 348, Eff. Mar. 28, 2013

Compiler's Notes: Enacting section 1 of Act 348 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

423.9 Prerequisites for strike or lockout; notice of dispute and statement of issues; mediation.

Sec. 9.

A strike or lockout shall not take place or be put into effect until and unless each of the steps are taken and the requirements complied with as follows:

(a) If the parties thereto are unable to settle any labor dispute, the employees or their representatives, in the case of impending strike, or the employer or his agent, in the case of an impending lockout, shall serve notice of the dispute together with a statement of the issues involved upon the commission and the other party to the dispute. The notice may be served personally on any member of the commission and a copy thereof personally served upon the other party, or sent by registered mail to the commission at a regularly established office thereof and to the employer or the representative of his employees at his regular address not less than 10 days before the strike or lockout is to become effective.

(b) Upon receipt of the notice the commission shall exercise the powers granted in this act to effect a settlement of the dispute by mediation between the parties. Each of the parties to the dispute shall actively and in good faith participate in the mediation thereof.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- Am. 1947, Act 318, Eff. Oct. 11, 1947 ;-- CL 1948, 423.9 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976 ;-- Am. 1978, Act 250, Imd. Eff. June 20, 1978

423.9a Election in case of impending strike; conduct and supervision; time; persons entitled to vote; secret ballot; place; rules; absentee voting; hearing on eligibility to vote; determination.

Sec. 9a.

If it becomes apparent to the commission that there is no reasonable probability of settlement of a labor dispute by mediation and that further efforts to that end would be without avail, there shall be held in the case of an impending strike, an election upon such issue which election shall be conducted and supervised by the commission, or by its duly authorized representative. If either party to the dispute notifies the commission in writing, a copy of which shall at the same time be served on the other party, that, in the opinion of such party, further efforts to settle the dispute by mediation would be without avail, the commission may cause an election to be held within 10 days after the receipt of the notice unless it is not practicable to hold the election within that period, in which event the election shall be held within 20 days after receipt of the notice. Every employee in the bargaining unit, which is involved in the dispute, as that bargaining unit is determined under section 9e or as recognized by the employer or as identified by contract or past practice, shall be entitled to vote in the election. The election shall be by secret ballot, and shall be held on the premises where those voting are employed unless the commission shall determine that the election cannot be fairly held there, in which case it shall be held at such place as the commission shall determine. The commission may promulgate rules as necessary to effectively conduct any election, including provisions for absentee voting. The provisions shall facilitate voting by all employees, and shall insure secrecy of the ballot. The commission may determine after proper hearing any disputed issue concerning the eligibility of a person or persons to vote in the election. The hearing may be held either before or after an election and may be conducted by an authorized representative of the commission. A determination with respect to eligibility shall be applicable in the administration of this section, but shall not have force and effect for any other purpose under this act.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- Am. 1947, Act 318, Eff. Oct. 11, 1947 ;-- CL 1948, 423.9a ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976 ;-- Am. 1978, Act 250, Imd. Eff. June 20, 1978

Admin Rule: R 423.101 et seq. of the Michigan Administrative Code.

423.9b, 423.9c Repealed. 1978, Act 250, Imd. Eff. June 20, 1978.

Compiler's Notes: The repealed sections prohibited cessation of employment or operation of business during mediation or until strike authorized, and contained provisions regarding jurisdictional disputes.

423.9d Voluntary arbitration; existing collective agreement as binding on parties; agreement to arbitrate; designation of arbitrator; expense of arbitration; enforcement of agreement; hearings; notice; procedure; transcript; findings; opinion and award; enforcement of award.

Sec. 9d.

(1) Any labor dispute, other than a representation question, may lawfully be submitted to voluntary arbitration in the manner provided in this section. However, arbitration of labor disputes without complying with this section shall be valid as it has heretofore been under the common law.

(2) (a) When a labor dispute involves the meaning or interpretation of an existing collective agreement between an employer and a labor organization and the collective agreement provides for the use of a designated arbitrator to decide disputes thereunder, or provides the method for selection of arbitrator or arbitrators, the provisions of that agreement shall be binding upon the parties, and shall be complied with unless the parties agree to submit the dispute to some other arbitration procedure.

(b) Disputes, other than representation questions, for which a settlement procedure by arbitration is not provided under any collective agreement between the employer and the labor organization involved, may be submitted to arbitration by agreement of the parties. The agreement to arbitrate shall be in writing, shall provide that the arbitration shall be conducted pursuant to this section, and shall include an undertaking by each of the parties that he will faithfully abide by and perform the arbitration award. The agreement, or a supplemental agreement, shall also specify the issue or issues to be decided, shall make provision for the payment by the parties, or either of them, of the costs and expenses of the arbitration, and may include such other provisions, not inconsistent herewith, as shall be agreeable to the parties. However, the commission may, upon the request of the parties, and upon finding that the parties, or either of them, are unable to bear the expense of the arbitration, designate an arbitrator for a dispute, in which event the expense of the arbitration, including a per diem fee of \$50.00 and necessary expenses of the arbitrator, shall be paid out of the general fund. An agreement to arbitrate an existing or future dispute shall be

enforceable in equity by any circuit court having jurisdiction.

(3) The arbitrator or arbitrators designated in a proceeding shall within 20 days after his or their appointment, proceed to conduct hearings in the dispute. Reasonable notice of the hearings shall be given to the parties, who may appear and be heard both in person and by counsel or other representative. Hearings shall be informal, and the rules of evidence prevailing in judicial proceedings shall not be binding. Oral or documentary evidence and other data deemed relevant by the arbitrator or arbitrators may be received in evidence. A transcript of the proceedings shall be taken if the arbitrator or arbitrators so desire, or at the request and at the expense of any party. Within 30 days after the conclusion of the hearing, or within such additional period as the parties shall stipulate, the arbitrator or arbitrators shall make written findings and promulgate a written opinion and award upon the issue or issues presented and shall mail or otherwise deliver a true copy thereof to each of the parties. A majority vote of the arbitrators, if there be more than 1, shall constitute a decision on any matter. This section shall not supersede or invalidate the provisions of any collective agreement under which the parties are required to arbitrate disputes under subsection (2)(a).

(4) An award rendered in a proceeding hereunder shall be enforceable at law or in equity as the agreement of the parties.

History: Add. 1947, Act 318, Eff. Oct. 11, 1947 ;-- CL 1948, 423.9d ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.9e Bargaining unit.

Sec. 9e.

The commission, after consultation with the parties, shall determine such a bargaining unit as will best secure to the employees their right of collective bargaining. The unit shall be either the employees of 1 employer employed in 1 plant or business enterprise within this state, not holding executive or supervisory positions, or a craft unit, or a plant unit, or a subdivision of any of the foregoing units. If the group of employees involved in the dispute was recognized by the employer or identified by certification, contract, or past practice, as a unit for collective bargaining, the commission may adopt that unit.

History: Add. 1947, Act 318, Eff. Oct. 11, 1947 ;-- CL 1948, 423.9e ;-- Am. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.9f Mass picketing; threats or force, picketing private residence, misdemeanor.

Sec. 9f.

It shall be unlawful (1) for any person or persons to hinder or prevent by masspicketing, unlawful threats or force the pursuit of any lawful work or employment, (2) to obstruct or interfere with entrance to or egress from any place of employment, (3) to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance, or (4) to engage in picketing a private residence by any means or methods whatever: Provided, That picketing, to the extent that the same is authorized under constitutional provisions, shall in no manner be prohibited. Violation of this section shall be a misdemeanor and punishable as such.

History: Add. 1947, Act 318, Eff. Oct. 11, 1947 ;-- CL 1948, 423.9f ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949

423.9g Copy or statement of most recent offer submitted by employer to bargaining unit.

Sec. 9g.

When a vote is held pursuant to this act on the question of calling a strike, the commission, if so requested by the employer or by the collective bargaining unit to be affected by the strike, shall cause to be either printed on the ballot or affixed thereto a copy or statement of the most recent offer submitted by the employer to the bargaining unit representing the employees in the course of collective bargaining negotiations between the employer and the unit.

History: Add. 1947, Act 318, Eff. Oct. 11, 1947 ;-- CL 1948, 423.9g ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.10 Steps by commission to effect settlement.

Sec. 10.

(1) After the commission receives the above notice, or upon its own motion, in an existing, imminent or threatened labor dispute, the commission may end, upon the direction of the governor, the commission shall take such steps as it may deem expedient to effect a voluntary, amicable, and expeditious adjustment and settlement of the differences and issues between employer and employees which have precipitated or culminated in or threatened to precipitate or culminate in the labor dispute. To this end, the commission shall:

(a) Arrange for, hold, adjourn, or reconvene a conference or conferences between the disputants, any of their representatives, or both.

(b) Invite the disputants, their representatives, or both, to attend the conference and submit, either orally or in writing, the grievances of, and differences between, the disputants.

(c) Discuss the grievances and differences with the disputants or their representatives.

(d) Assist in negotiating and drafting agreements for the adjustment or settlement of the grievances and differences and for the termination or avoidance of the existing or threatened labor dispute.

(2) In carrying out any of its work under this act, the commission may designate a commissioner to act in its behalf and may delegate to a designee any of its duties under this act including, by way of illustration and not limitation, the mediation of specialized categories of disputes or grievances and, for such purpose, the designee shall have all of the powers hereby conferred upon the commission in connection with the discharge of the duties so delegated.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.10 ;-- Am. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.11 Hearings; witnesses; oaths; evidence; subpoena; order requiring appearance; contempt; service of process or papers; proof of service.

Sec. 11.

(1) Subject to Act No. 267 of the Public Acts of 1976, the commission and each commissioner and each person designated by the commission may hold public or private hearings within the state, subpoena witnesses and compel their attendance, administer oaths, take testimony, and receive evidence. A subpoena may be issued only after the mediation of a dispute shall have been actually undertaken.

(2) If a person is contumacious or refuses to obey a subpoena issued to the person, the circuit court of a county within the jurisdiction of which the inquiry is carried on, upon application by the commission, may issue to the person an order requiring the person to appear before the commission, to produce evidence or to give testimony touching the matter in question. Failure to obey an order may be punished by the court as contempt.

(3) Process and papers of the commission may be served either personally or by registered mail or by telegraph or by leaving a copy at the principal office or place of business of the person to be served. Return by the individual serving the same setting forth the manner of the service, return post office receipt or telegraph receipt for the service, shall be proof of service of the same.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.11 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976 ;-- Am. 1977, Act 203, Imd. Eff. Nov. 17, 1977

423.12 Disqualification of commissioner.

Sec. 12.

A commissioner having any financial interest in or having membership in or affiliation with any labor organization in a trade, business, or occupation in which a labor dispute exists or is threatened and of which the commission has taken cognizance, shall not be qualified to participate in any way in the acts or efforts of the commission in connection with the settlement or avoidance thereof.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.12 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.13-423.13g Repealed. 1978, Act 250, Imd. Eff. June 20, 1978.

Compiler's Notes: The repealed sections pertained to labor disputes involving hospital or public utility employees.

423.14 Collective bargaining agreement between employer and labor organization; sharing of financial support of labor organization; payment of dues; condition of employment; appropriation.

Sec. 14.

(1) An employer and a labor organization may enter into a collective bargaining agreement that requires all employees in the bargaining unit to share fairly in the financial support of the labor organization. This act does not, and a law or policy of a local government must not, prohibit or limit an agreement that requires all bargaining unit employees, as a condition of continued employment, to pay to the labor organization membership dues or service fees.

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

- (a) Respond to public inquiries regarding the amendatory act.
- (b) Provide the commission with sufficient staff and other resources to implement the amendatory act.
- (c) Inform employers, employees, and labor organizations about changes to their rights and responsibilities under the amendatory act.

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

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.14 ;-- Am. 2012, Act 348, Eff. Mar. 28, 2013 ;-- Am. 2023, Act 8, Eff. Feb. 13, 2024

Compiler's Notes: Enacting section 1 of Act 348 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act." For the transfer of powers and duties of the director of the department of licensing and regulatory affairs to the director of the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

423.15 Unlawful possession of property; penalty.

Sec. 15.

It shall be unlawful for any person to enter or take part in entering upon, or take possession or control of, any property, or to withhold possession of property, against the will of the owner thereof, or other person in the rightful possession or use thereof, or to interfere with the free use thereof, whether the same be accomplished by force or unlawful threats. Violation of this provision shall be a misdemeanor and punishable as such.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.15 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949

423.16 Company unions; interference with unions and discrimination prohibited.

Sec. 16.

It shall be unlawful for an employer or any officer or agent of an employer (1) to interfere with, restrain or coerce employees in the exercise of their rights guaranteed in section 8; (2) to initiate, create, dominate, contribute to, or interfere with the formation or administration of, any labor organization: Provided, That an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay; (3) to discriminate in regard to hire, terms or other conditions of employment in order to encourage or discourage membership in any labor organization; (4) to encourage membership in, or initiate, create, dominate, or contribute to a company union; (5) to discriminate against any employee because he has given testimony or instituted a proceeding under this act; or (6) to refuse to bargain collectively with the representative of his employees, subject to the provisions of section 26.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.16 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1965, Act 282, Imd. Eff. July 22, 1965

423.17 Prohibited conduct; violation; civil fine.

Sec. 17.

A person shall not by force, intimidation, or unlawful threats compel or attempt to compel any person to do any of the following:

(a) Become or remain a member of a labor organization or otherwise affiliate with or financially support a labor organization.

(b) Refrain from joining a labor organization or otherwise affiliating with or financially supporting a labor organization.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.17 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 2012, Act 348, Eff. Mar. 28, 2013 ;-- Am. 2023, Act 8, Eff. Feb. 13, 2024

Compiler's Notes: Enacting section 1 of Act 348 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

423.17a Unlawful picketing to force recognition or bargain with labor organization.

Sec. 17a.

It shall be unlawful for a labor organization or its agents to picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where the primary object thereof is forcing or requiring an employer to

recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative

(1) Where another labor organization has been certified or has been lawfully recognized in accordance with this act and a question concerning representation may not appropriately be raised under section 27, or

(2) Where, within the preceding twelve months a valid election under section 27 has been conducted, unless the picketing labor organization is currently certified or lawfully recognized as the representative of such employees.

History: Add. 1965, Act 282, Imd. Eff. July 22, 1965

423.19 Liberal construction of act; police powers.

Sec. 19.

This act shall be deemed an exercise of the police power of the state of Michigan for the protection of the public welfare, safety, prosperity, health and peace of the people; and all the provisions of this act shall be liberally construed for the accomplishment of said purposes.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.19

423.20 Expenses paid from legislated appropriations.

Sec. 20.

The expense of carrying out the provisions of this act shall be paid from appropriations made therefor by the legislature.

History: 1939, Act 176, Imd. Eff. June 8, 1939 ;-- CL 1948, 423.20 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949

423.22 Unlawful acts; legal or equitable remedy.

Sec. 22.

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

(2) It shall be unlawful for any individual to instigate a lockout or strike that is unlawful under this section.

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

History: Add. 1947, Act 318, Eff. Oct. 11, 1947 ;-- CL 1948, 423.22 ;-- Am. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1978, Act 250, Imd. Eff. June 20, 1978 ;-- Am. 2012, Act 348, Eff. Mar. 28, 2013

Compiler's Notes: Enacting section 1 of Act 348 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

423.22a Repealed. 1949, Act 230, Imd. Eff. May 31, 1949.

Compiler's Notes: The repealed section provided for use of other legal or equitable remedy.

423.23 Review of rulings or orders by supreme court; exceptions; violations of certain provisions as unfair labor practices; remedies; procedures.

Sec. 23.

(1) Rulings or orders promulgated by the commission shall be reviewable only by the supreme court and on petition for writ of certiorari or such other process as may be appropriate, except as provided in this section.

(2) Violations of the provisions of sections 16, 17a, and 22(a) of this act only, shall be deemed to be unfair labor practices remediable by the commission in the following manner:

(a) When it is charged that any person has engaged in or is engaging in any such unfair labor practice, the commission, or any agent designated by the commission for such purposes, may issue and cause to be served upon the person a complaint stating the charges in that respect, and containing a notice of hearing before the commission or a commissioner, or before a designated agent, at a place therein fixed, not less than 5 days after the serving of the complaint. No complaint shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge with the commission and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the 6-month period shall be computed from the day of his discharge. Any complaint may be amended by the commissioner or agent conducting the hearing or the commission, at any time prior to the issuance of an order based thereon. The person upon whom the complaint is served may file an answer to the original or amended complaint and appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the commissioner or agent conducting the hearing or the commission, any other person may be allowed to intervene in the proceeding and to present testimony. Any proceeding shall be conducted pursuant to chapter 4 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(b) The testimony taken by the commissioner, agent or the commission shall be reduced to writing and filed with the commission. Thereafter the commission upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the commission is of the opinion that any person named in the complaint has engaged in or is engaging in the unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served on such person an order requiring that person to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this act. The order may further require the person to make reports from time to time showing the extent to which that person has complied with the order. If, upon the preponderance of the testimony taken the commission is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the commission shall state its findings of fact and shall issue an order dismissing the complaint. No order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause. If the evidence is presented before a commissioner, or before examiners thereof, the commissioner, or examiners shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the commission, and if exceptions are not filed within 20 days after service thereof upon the parties, or within such further period as the commission may authorize, the recommended order shall become the order of the commission and become effective as prescribed in the order.

(c) Until the record in a case has been filed in a court, the commission at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(d) The commission or any prevailing party may petition the court of appeals for the enforcement of the order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction of the proceeding and shall summarily grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing, modifying, enforcing as so modified, or setting aside in whole or in part the order of the commission. No objection that has not been urged before the commission, its commissioner or agent, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the commission with respect to questions of fact if supported by

competent, material, and substantial evidence on the record considered as a whole shall be conclusive. If either party applies to the court for leave to present additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the commission, its commissioner or agent, the court may order the additional evidence to be taken before the commission, its commissioner or agent, and to be made a part of the record. The commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by competent, material, and substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the supreme court in accordance with the general court rules.

(e) Any party aggrieved by a final order of the commission granting or denying in whole or in part the relief sought may within 20 days of such order as a matter of right obtain a review of the order in the court of appeals by filing in the court a petition praying that the order of the commission be modified or set aside, with copy of the petition filed on the commission, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the commission. Upon the timely filing of the petition, the court shall proceed in the same manner as in the case of an application by the commission under subsection (d), and shall summarily grant to the commission or to any prevailing party such temporary relief or restraining order as it deems just and proper, enforcing, modifying, enforcing as so modified, or setting aside in whole or in part the order of the commission. The findings of the commission with respect to questions of fact if supported by competent, material, and substantial evidence on the record considered as a whole shall be conclusive. If a timely petition for review is not filed under this subdivision by an aggrieved party, it shall be conclusively presumed that the commission's order is supported by competent, material and substantial evidence on the record considered as a whole, and the commission or any prevailing party shall be entitled, upon application therefor, to a summary order enforcing the commission's order.

(f) The commencement of proceedings under subdivision (d) or (e), shall not, unless specifically ordered by the court, operate as a stay of the commission's order.

(g) Petitions filed under subdivisions (d) and (e) shall be heard expeditiously by the courts to which presented, and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character.

(h) The commission and/or any charging party shall have power, upon issuance of complaint as provided in subdivision (a) charging that any person has engaged in or is engaging in an unfair labor practice, shall have power to petition any circuit court within any circuit where the unfair labor practice in question is alleged to have occurred or where the person resides or transacts business, for appropriate temporary relief or restraining order, in accordance with the general court rules, and the court shall have jurisdiction to grant to the commission and/or any charging party such temporary relief or restraining order as it deems just and proper.

(i) For the purpose of all hearings and investigations, which, in the opinion of the commission, are necessary and proper for the exercise of the powers vested in it under this section, the provisions of section 11 shall be applicable, except that subpoenas may issue as provided in section 11 without regard to whether mediation shall have been undertaken.

(j) The labor relations and mediation functions of this act shall be separately administered by the commission.

History: Add. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976 ;-- Am. 1976, Act 98, Imd. Eff. Apr. 27, 1976 ;-- Am. 1977, Act 265, Imd. Eff. Dec. 8, 1977 ;-- Am. 1978, Act 250, Imd. Eff. June 20, 1978

423.24 Conspiracy; penalty.

Sec. 24.

Any person who shall conspire with 1 or more other persons to violate any of the provisions of this act, violation of which is made a penal offense hereunder, shall upon conviction thereof, be deemed guilty of a misdemeanor, and punished by a fine of not to exceed \$1,000.00, or by imprisonment of not to exceed 6 months, or both.

History: Add. 1949, Act 230, Imd. Eff. May 31, 1949

423.25 Written findings as to matters in disagreement; availability of writings to public.

Sec. 25.

(1) When in the course of mediation under section 7 of Act No. 336 of the Public Acts of 1947, as amended, being section 423.207 of the Michigan Compiled Laws, it shall become apparent to the commission that matters in disagreement between the parties might be more readily settled if the facts involved in the disagreement were determined and publicly known, the commission may make written findings with respect to the matters in disagreement. The findings shall not be binding upon the parties but shall be made public.

(2) A writing prepared, owned, used, in the possession of, or retained by the mediation panel in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

History: Add. 1949, Act 230, Imd. Eff. May 31, 1949 ;-- Am. 1954, Act 86, Eff. Aug. 13, 1954 ;-- Am. 1956, Act 140, Eff. Aug. 11, 1956 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976 ;-- Am. 1977, Act 203, Imd. Eff. Nov. 17, 1977 ;-- Am. 1978, Act 250, Imd. Eff. June 20, 1978

423.25a Confidential information.

Sec. 25a.

(1) Except as provided in subsection (2), a member of the commission or a labor mediator, or other agent of the commission dealing with the mediation process shall not disclose confidential information received by him for the purpose of resolving a dispute in the course of his official duties under this act.

(2) Subsection (1) shall not apply to confidential information received by a member of the commission or a labor mediator, or other agent of the commission dealing with the mediation process from an informant who is a victim of or involved in a crime, other than criminal contempt in a proceeding arising out of a violation of this act, at a legislative, administrative, or judicial proceeding in which the commission of that crime is the subject of inquiry.

(3) As used in this section, "confidential information" means a statement, report, memorandum, document, or other communication or instrument which is not intended to be disclosed to third persons other than those to whom disclosure is necessary to enable the member of the commission or the labor mediator, or other agent of the commission dealing with the mediation process to perform his duties in resolving the dispute.

History: Add. 1976, Act 268, Eff. Mar. 31, 1977

423.26 Collective bargaining representatives; duties; grievances by individual employee; adjustment.

Sec. 26.

Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment, and shall be so recognized by the employer: Provided, That any individual employee at any time may present grievances to his employer and have the grievances adjusted, without intervention of the bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, if the bargaining representative has been given opportunity to be present at such adjustment.

History: Add. 1965, Act 282, Imd. Eff. July 22, 1965

423.27 Petition as to representation; investigation; hearing; election.

Sec. 27.

When a petition is filed, in accordance with rules prescribed by the commission:

(a) By an employee or group of employees, or an individual or labor organization acting in their behalf, alleging that 30% or more of the employees within a unit claimed to be appropriate for such purpose wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in section 26, or assert that the individual or labor organization, which was certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in section 26; or

(b) By an employer or his representative alleging that 1 or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in section 26; the commission shall investigate the petition and, if it has reasonable cause to believe that a question of representation exists, shall provide an appropriate hearing after due notice. If the commission finds upon the record of the hearing that a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with the rules of the commission.

History: Add. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

Admin Rule: R 423.101 et seq. of the Michigan Administrative Code.

423.28 Determination of appropriate unit for collective bargaining.

Sec. 28.

The commission shall decide in each case, in order to insure employees the full benefit of their right to self-organization, to collective bargaining and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining as provided in section 9e.

History: Add. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.29 Directing election in bargaining unit; eligibility to vote; rules; rerun and runoff elections; election on petition of persons not parties to collective bargaining agreement.

Sec. 29.

An election shall not be directed in any bargaining unit or any subdivision within which, in the preceding 12-month period, a valid election was held. The commission shall determine who is eligible to vote in the election and shall promulgate rules governing the election. A rerun election may be conducted in the event of conduct improperly affecting a prior election. In an election involving more than 2 choices, where none of the choices on the ballot receives a majority vote, a runoff election shall be conducted between the 2 choices receiving the 2 largest numbers of valid votes cast in the election. An election shall not be directed in any bargaining unit or subdivision thereof where there is in force and effect a valid collective bargaining agreement which was not prematurely extended and which is of fixed duration. A collective bargaining agreement shall not bar an election upon the petition of persons not parties thereto where more than 3 years have elapsed since the agreement's execution or last timely renewal, whichever was later.

History: Add. 1965, Act 282, Imd. Eff. July 22, 1965 ;-- Am. 1976, Act 17, Imd. Eff. Feb. 20, 1976

423.30 Duty to bargain; collective bargaining, definition.

Sec. 30.

An employer shall bargain collectively with the representatives of its employees as defined in section 26 and is authorized to make and enter into collective bargaining agreements with such representatives. For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement, or any question arising under an agreement, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

History: Add. 1965, Act 282, Imd. Eff. July 22, 1965

PUBLIC EMPLOYMENT RELATIONS

Act 336 of 1947

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.

History: 1947, Act 336, Eff. Oct. 11, 1947 ;-- Am. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 2011, Act 9, Imd. Eff. Mar. 16, 2011 ;-- Am. 2012, Act 53, Imd. Eff. Mar. 16, 2012

Popular Name: Public Employment Relations

The People of the State of Michigan enact:

423.201 Definitions; rights of public employees.

Sec. 1.

(1) As used in this act:

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

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

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

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

(e) "Public employee" means, except as otherwise provided in subdivisions (f) and (g), an individual holding a position by appointment or employment in the government of this state, in the government of 1 or more of the political subdivisions of this state, in the public school service, in a public or special district, in the service of an authority, commission, or board, or in any other branch of the public service. Public employee includes both of the following:

(i) An individual serving as a graduate student research assistant or in an equivalent position.

(ii) An individual designated by the legislature as a public employee. The legislature may designate an individual as a public employee only for the purpose of collective bargaining. The designation does not render the individual an employee of this state or political subdivision of this state for any purpose other than the limited purpose

authorized by the legislature.

(f) An individual employed by a private organization or entity who provides services under a time-limited contract with this state or a political subdivision of this state is not an employee of this state or that political subdivision, and is not a public employee.

(g) A student participating in intercollegiate athletics on behalf of a public university in this state is not a public employee entitled to representation or collective bargaining rights under this act.

(h) "Public school academy" means a public school academy or strict discipline academy organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(i) "Public school employer" means a public employer that is any of the following:

(i) The board of a school district, an intermediate school district, or a public school academy.

(ii) The governing board of a joint endeavor or consortium consisting of any combination of school districts, intermediate school districts, or public school academies.

(j) "School district" means that term as defined in section 6 of the revised school code, 1976 PA 451, MCL 380.6, or a local act school district as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(k) "Strike" means the concerted failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in employment conditions, compensation, or the rights, privileges, or obligations of employment. For employees of a public school employer, strike also includes an action described in this subdivision that is taken for the purpose of protesting or responding to an act alleged or determined to be an unfair labor practice committed by the public school employer.

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

History: 1947, Act 336, Eff. Oct. 11, 1947 ;-- CL 1948, 423.201 ;-- Am. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1973, Act 25, Imd. Eff. June 14, 1973 ;-- Am. 1976, Act 18, Imd. Eff. Feb. 20, 1976 ;-- Am. 1994, Act 112, Eff. Mar. 30, 1995 ;-- Am. 1996, Act 543, Eff. Mar. 31, 1997 ;-- Am. 1999, Act 204, Eff. Mar. 10, 2000 ;-- Am. 2012, Act 45, Imd. Eff. Mar. 13, 2012 ;-- Am. 2012, Act 76, Imd. Eff. Apr. 10, 2012 ;-- Am. 2012, Act 349, Eff. Mar. 28, 2013 ;-- Am. 2014, Act 414, Imd. Eff. Dec. 30, 2014 ;-- Am. 2023, Act 237, Eff. Feb. 13, 2024 ;-- Am. 2024, Act 145, Eff. Apr. 2, 2025

Constitutionality: The Michigan supreme court held in *In The Matter Of The Petition For A Representation Election Among Supreme Court Staff Employees*, 406 Mich 647; 281 NW2d 299 (1979), that Const 1963, art III, A§ 2, considered with Const 1963, art IV, A§ 48, precludes the Michigan employment relations commission from taking jurisdiction over the Michigan supreme court.

Compiler's Notes: Enacting section 1 of Act 349 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act." Enacting section 1 of Act 414 of 2014 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Popular Name: Public Employment Relations

423.201a Provisions subject to certain acts.

Sec. 1a.

The provisions of this act are subject to all of the following:

(a) The municipal partnership act.

(b) 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

(c) The urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(d) 1988 PA 57, MCL 124.601 to 124.614.

History: Add. 2011, Act 259, Imd. Eff. Dec. 14, 2011

Popular Name: Public Employment Relations

423.202 Strike by public employee; lockout by public school employer.

Sec. 2.

A public employee shall not strike and a public school employer shall not institute a lockout. A public school employer does not violate this section if there is a total or partial cessation of the public school employer's operations in response to a strike held in violation of this section.

History: 1947, Act 336, Eff. Oct. 11, 1947 ;-- CL 1948, 423.202 ;-- Am. 1994, Act 112, Eff. Mar. 30, 1995

Popular Name: Public Employment Relations

423.202a Allegation of strike by public school employees or lockout by public school employer; notice to commission; hearing; notification of name and home address of each public school employee participating in strike; serving or mailing notice; presumption; challenge; filing of affidavit and supporting proof by employee; hearing to determine if employee engaged in strike; determination; order; deduction from annual salary; determination that public school employer instituted lockout; fines; deduction and disposition of fines; collection proceedings; fines additional to other penalties; injunction; duties of court; reimbursement prohibited; "public school employee" defined.

Sec. 2a.

(1) Upon belief that conditions constituting a strike by 1 or more public employees in violation of section 2 exist, the public school employer or the superintendent of public instruction, after consultation with the public school employer, shall notify the commission of the full or partial days that the alleged strike has occurred and the name and address of the bargaining representative. The notice shall be accompanied by a sworn affidavit, supported by any available documentary proof, containing a clear and concise statement of the facts upon which the public school employer or the superintendent of public instruction relies to establish a violation of section 2. The public school employer or the superintendent of public instruction shall concurrently serve the bargaining representative with a copy of the notice. If the public school employer or the superintendent of public instruction has not notified the commission of an allegation of a strike under this subsection, a parent or legal guardian of a child who is enrolled in the school district may notify the commission of the full or partial days that 1 or more public school employees were engaged in an alleged strike.

(2) If a bargaining representative alleges that there is a lockout by a public school employer in violation of section 2, the bargaining representative shall notify the commission of the full or partial days of the alleged lockout.

(3) Within 15 days after receipt of a notice under subsection (1) or (2), the commission shall conduct a hearing to determine if conditions constituting a strike by 1 or more public school employees in violation of section 2 or a lockout exist. The person giving notice under subsection (1) or (2) bears the burden of proof at the hearing on the allegations. The commission shall issue its decision within 3 business days after the close of the hearing. A hearing conducted under this subsection is separate and distinct from, and is not subject to the procedures and timelines of, a proceeding conducted under section 6.

(4) If the commission determines that conditions constituting a strike in violation of section 2 exist, the superintendent of public instruction or the public school employer shall, within 5 business days after notification of the decision, notify the commission of the name and home address of each public school employee alleged to have participated in the strike. The superintendent of public instruction or the public school employer shall, within the same period, serve with or mail to each named public school employee a copy of the notice.

(5) A public school employee named in the notice under subsection (4) and alleged to have been either absent from work without permission of the public school employer or to have abstained wholly or in part from the full performance of his or her normal duties without permission on a date when a strike occurred is presumed to have engaged in the strike on that date.

(6) A public school employee presumed to have engaged in a strike in violation of section 2 may challenge that presumption within 10 days after the date the notice was served or mailed to the employee under subsection (4), by filing with the commission and causing to be served on the superintendent of public instruction or the public school employer, a sworn affidavit, supported by available documentary proof, containing a clear and concise statement of the facts upon which he or she relies to show that the determination was incorrect.

(7) The public school employer shall deduct from the annual salary of a public school employee named in a notice under subsection (4) who fails to file an affidavit and supporting proof under subsection (6) an amount equal to 1 day of pay for that public school employee for each full or partial day that he or she engaged in the strike. The public school employee's annual salary is the annual salary that is established in the applicable contract in effect at

the time of the strike or, if no applicable contract is in effect at the time of the strike, in the applicable contract in effect at the time of the deduction. However, if no applicable contract is in effect at either of those times, the public school employee's annual salary shall be considered to be the annual salary that applied or would have applied to the public school employee in the most recent applicable contract in effect before the strike. A public school employer shall comply promptly with this subsection. A deduction under this subsection is not a demotion for purposes of 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191.

(8) If a public school employee named in a notice under subsection (4) files a timely affidavit and supporting proof, a commissioner, the commission, or an agent of the commission shall, within 15 days after receipt of the affidavit and supporting proof, commence a hearing to determine whether the public school employee engaged in a strike in violation of section 2. The public school employee bears the burden of proof at the hearing. A hearing conducted under this subsection is separate and distinct from, and is not subject to the procedures and timelines of, a proceeding under section 6.

(9) After a hearing under subsection (8), if a commissioner, the commission, or an agent of the commission determines by the preponderance of the evidence that the public school employee engaged in a strike in violation of section 2, the individual or commission shall state its findings of fact and shall issue and cause to be served on the public school employee an order requiring the employee to cease and desist from the unlawful conduct and the public school employer to deduct from the annual salary, as described in subsection (7), of the public school employee an amount equal to 1 day of pay for that public school employee for each full or partial day that he or she engaged in the strike. If the evidence is presented before a commissioner or agent of the commission, the commissioner or agent shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the commission. If a party does not file an exception within 20 days after service of the proposed decision, the recommended order becomes the order of the commission and is effective as stated in the order.

(10) If, after a hearing under subsection (3), a majority of the commission finds that a public school employer instituted a lockout in violation of section 2, the commission shall fine the public school employer \$5,000.00 for each full or partial day of the lockout and shall fine each member of the public school employer's governing board \$250.00 for each full or partial day of the lockout. The fine shall be paid to the commission and transmitted as provided in subsection (11).

(11) If a public school employer does not deduct money from a public school employee's pay pursuant to an order under this section or if the commission does not receive payment of a fine it imposed under this section within 30 days, the superintendent of public instruction shall institute collection proceedings and the money received shall be transmitted to the state treasurer for deposit in the state school aid fund established under section 11 of article IX of the state constitution of 1963.

(12) Deductions imposed under this section are in addition to any loss of pay attributable to the full or partial day that the public school employee was absent from work as a result of the strike under section 2 and any other penalty prescribed by this act and by other law.

(13) Fines imposed under this section are in addition to all other penalties prescribed by this act and by law.

(14) A public school employer, the superintendent of public instruction, or the attorney general may bring an action to enjoin a strike by public school employees in violation of section 2, and a bargaining representative may bring an action to enjoin a lockout by a public school employer in violation of section 2, in the circuit court for the county in which the affected public school is located. If the commission has made a determination after a hearing under subsection (3) that a strike or lockout exists, that finding shall not be overturned except by clear and convincing evidence. If the court having jurisdiction of an action brought under this subsection finds that conditions constituting a strike or lockout in violation of section 2 exist and unless clear and convincing evidence has shown that the sanction would not be equitable or the sanction would duplicate a sanction imposed by the commission for the same activity under subsection (9) or (10), the court shall do all of the following:

(a) For a strike in violation of section 2, order each public school employee to pay a fine in an amount equal to 1 day of pay for that public school employee for each full or partial day the public school employee engaged in the strike. For a lockout in violation of section 2, order the public school employer to pay a fine of \$5,000.00 for each full or partial day of the lockout and order each member of the public school employer's governing board to pay a fine of \$250.00 for each full or partial day of the lockout. A fine imposed under this subsection shall be transmitted to the state treasurer for deposit into the state school aid fund established under section 11 of article IX of the state constitution of 1963.

(b) Order the public school employees or public school employer acting in violation of section 2 to end the strike or lockout.

(c) Award costs and attorney fees to a plaintiff who prevails in an action under this subsection.

(d) Grant additional equitable relief that the court finds appropriate.

(15) An order issued under subsection (14) is enforceable through the court's contempt power.

(16) A public school employer shall not provide to a public school employee or to a board member any compensation or additional work assignment that is intended to reimburse the public school employee or board member for a monetary penalty imposed under this section or that is intended to allow the public school employee

or board member to recover a monetary penalty imposed under this section.

(17) As used in this section, "public school employee" means a person employed by a public school employer.

History: Add. 1994, Act 112, Eff. Mar. 30, 1995 ;-- Am. 2016, Act 194, Eff. Sept. 19, 2016

Constitutionality: That portion of MCL 423.202a(4) imposing automatic mandatory fines on bargaining representatives for strikes by their membership was struck down by the Wayne County Circuit Court in Michigan State AFL-CIO, et al v Michigan Employment Relations Commission (Docket Nos. 94-420652-CL & 94-423581-CL) on March 2, 1995. The Court found that this proviso violated due process under U.S. Const. Am XIV or Const. 1963, art 1, Â§ 17. The Court also struck down that portion of MCL 423.202a(10) which required circuit courts, upon application by a party, to issue injunctions against strikes or lockouts without considering traditional equity factors. The Court concluded that this provision violated the separation of powers under Const 1963, art 3, Â§ 2. No appeal was taken from these findings. Michigan State AFL-CIO v. MERC, 212 Mich. App. 472, 478. (1995)

Popular Name: Public Employment Relations

423.203 Public employees; persons in authority approving or consenting to strike prohibited; participating in submittal of grievance.

Sec. 3.

No person exercising any authority, supervision or direction over any public employee shall have the power to authorize, approve or consent to a strike by public employees, and such person shall not authorize, approve or consent to such strike, nor shall any such person discharge or cause any public employee to be discharged or separated from his or her employment because of participation in the submission of a grievance in accordance with the provisions of section 7.

History: 1947, Act 336, Eff. Oct. 11, 1947 ;-- CL 1948, 423.203 ;-- Am. 1965, Act 379, Imd. Eff. July 23, 1965

Popular Name: Public Employment Relations

423.204 Repealed. 1965, Act 379, Imd. Eff. July 23, 1965.

Compiler's Notes: The repealed section declared that a public employee who violated the act abandoned and terminated his employment.

Popular Name: Public Employment Relations

423.204a Application of act to state civil service employees.

Sec. 4a.

The provisions of this act as to state employees within the jurisdiction of the civil service commission shall be deemed to apply in so far as the power exists in the legislature to control employment by the state or the emoluments thereof.

History: 1947, Act 336, Eff. Oct. 11, 1947 ;-- CL 1948, 423.204a

Popular Name: Public Employment Relations

423.205 Repealed. 1965, Act 379, Imd. Eff. July 23, 1965.

Compiler's Notes: The repealed section pertained to conditions upon which a public employee who had violated the act could be reemployed.

423.206 Public employee; conduct considered to be on strike; proceeding to determine violation of act; time; decision; review; applicability of subsection (2) to penalty imposed under MCL 423.202a.

Sec. 6.

(1) Notwithstanding the provisions of any other law, a public employee who, by concerted action with others and without the lawful approval of his or her superior, willfully absents himself or herself from his or her position, or abstains in whole or in part from the full, faithful and proper performance of his or her duties for the purpose of inducing, influencing or coercing a change in employment conditions, compensation, or the rights, privileges, or obligations of employment, or a public employee employed by a public school employer who engages in an action described in this subsection for the purpose of protesting or responding to an act alleged or determined to be an unfair labor practice committed by the public school employer, shall be considered to be on strike.

(2) Before a public employer may discipline or discharge a public employee for engaging in a strike, the public employee, upon request, is entitled to a determination under this section as to whether he or she violated this act. The request shall be filed in writing, with the officer or body having power to remove or discipline the employee, within 10 days after regular compensation of the employee has ceased or other discipline has been imposed. If a request is filed, the officer or body, within 5 days after receipt of the request, shall commence a proceeding for the determination of whether the public employee has violated this act. The proceedings shall be held in accordance with the law and regulations appropriate to a proceeding to remove the public employee and shall be held without unnecessary delay. The decision of the officer or body shall be made within 2 days after the conclusion of the proceeding. If the employee involved is found to have violated this act and his or her employment is terminated or other discipline is imposed, the employee has the right of review to the circuit court having jurisdiction of the parties, within 30 days from the date of the decision, for a determination as to whether the decision is supported by competent, material, and substantial evidence on the whole record. A public employer may consolidate employee hearings under this subsection unless the employee demonstrates manifest injustice from the consolidation. This subsection does not apply to a penalty imposed under section 2a.

History: 1947, Act 336, Eff. Oct. 11, 1947 ;-- CL 1948, 423.206 ;-- Am. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1994, Act 112, Eff. Mar. 30, 1995 ;-- Am. 2016, Act 194, Eff. Sept. 19, 2016

Popular Name: Public Employment Relations

423.207 Request for mediation of grievances; powers of commission; notice of status of negotiations; appointment of mediator.

Sec. 7.

(1) Upon the request of the collective bargaining representative defined in section 11 or, if a representative has not been designated or selected, upon the request of a majority of any given group of public employees evidenced by a petition signed by the majority and delivered to the commission, or upon request of any public employer of the employees, the commission forthwith shall mediate the grievances set forth in the petition or notice, and for the purposes of mediating the grievances, the commission shall exercise the powers and authority conferred upon the commission by sections 10 and 11 of Act No. 176 of the Public Acts of 1939, as amended, being sections 423.10 and 423.11 of the Michigan Compiled Laws.

(2) At least 60 days before the expiration date of a collective bargaining agreement, the parties shall notify the commission of the status of negotiations. If the dispute remains unresolved 30 days after the notification on the status of negotiations and a request for mediation is not received, the commission shall appoint a mediator.

History: 1947, Act 336, Eff. Oct. 11, 1947 ;-- CL 1948, 423.207 ;-- Am. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1973, Act 25, Imd. Eff. June 14, 1973 ;-- Am. 1976, Act 18, Imd. Eff. Feb. 20, 1976

Popular Name: Public Employment Relations

423.207a Additional mediation.

Sec. 7a.

(1) In addition to mediation conducted under section 7, if a public school employer and a bargaining representative of a bargaining unit of its employees mutually agree that an impasse has been reached in collective bargaining between them, the parties may agree to participate in additional mediation under this section.

(2) If parties described in subsection (1) agree to participate in mediation under this section, then not later than 30 days after the date of impasse, each of the parties shall appoint 1 individual to represent the party in the mediation, and those 2 representatives shall select through a mutually agreed process a neutral third party to act as the mediator. The mediator and the 2 representatives shall meet to attempt to agree to a recommended settlement of the impasse.

(3) Not later than 30 days after appointment of a mediator under subsection (2), if the representatives of the parties mutually agree on a recommended settlement of the impasse, the representatives each shall present the recommended settlement to the party he or she represents for approval.

(4) If 1 or both of the parties fail to ratify a recommended settlement described in subsection (3) within the 30-day time limit specified in subsection (3), the public school employer may implement unilaterally its last offer of settlement made before the impasse occurred. This section does not limit or otherwise affect a public school employer's ability to unilaterally implement all or part of its bargaining position as otherwise provided by law.

(5) Both parties shall share equally any expenses of mediation conducted under this section.

History: Add. 1994, Act 112, Eff. Mar. 30, 1995

Popular Name: Public Employment Relations

423.208 Repealed. 1965, Act 379, Imd. Eff. July 23, 1965.

Compiler's Notes: The repealed section provided penalties for inciting public employees to strike.

Popular Name: Public Employment Relations

423.209 Public employees; rights; labor organization.

Sec. 9.

Public employees may organize together or form, join, or assist in labor organizations; engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection; or negotiate or bargain collectively with their public employers through representatives of their own free choice.

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 2012, Act 349, Eff. Mar. 28, 2013 ;-- Am. 2014, Act 414, Imd. Eff. Dec. 30, 2014 ;-- Am. 2023, Act 9, Eff. Feb. 13, 2024

Compiler's Notes: Enacting section 1 of Act 349 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act." Enacting section 1 of Act 414 of 2014 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Popular Name: Public Employment Relations

423.210 Prohibited conduct by public employer or officer or agent; prohibited conduct by labor organization; verification by independent examiner; declaration identifying local bargaining units; sharing of financial support of bargaining representative; effectiveness; appropriation.

Sec. 10.

(1) A public employer or an officer or agent of a public employer shall not do any of the following:

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

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

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

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

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

(2) It is the purpose of 1973 PA 25 to reaffirm the continuing public policy of this state that the stability and effectiveness of labor relations in the public sector require, if the requirement is negotiated with the public employer, that all other employees in the bargaining unit share fairly in the financial support of their exclusive bargaining representative by paying to the exclusive bargaining representative a service fee that may be equivalent to the amount of dues uniformly required of members of the exclusive bargaining representative.

(3) A labor organization or its agents shall not do any of the following:

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

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

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

(d) Refuse to bargain collectively with a public employer, if it is the representative of the public employer's employees, subject to section 11.

(4) By July 1 of each year, each exclusive bargaining representative that represents public employees in this state shall have an independent examiner verify the exclusive bargaining representative's calculation of all expenditures attributed to the costs of collective bargaining, contract administration, and grievance adjustment during the prior calendar year and shall file that verification with the commission. The commission shall make the exclusive bargaining representative's calculations available to the public on the commission's website. The exclusive bargaining representative shall also file a declaration identifying the local bargaining units that are represented. Local bargaining units identified in the declaration filed by the exclusive bargaining representative are not required to file a separate calculation of all expenditures attributed to the costs of collective bargaining, contract administration, and grievance adjustment.

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

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

(b) The ratification of an amendment to the United States Constitution that restores the ability to require, as a condition of employment, a public employee who is not a member of a bargaining representative to pay, under any circumstances, fees, including agency fees, to the bargaining representative.

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

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

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

(c) Inform public employers, public employees, and bargaining representatives about changes to their rights and

responsibilities under the amendatory act.

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

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1973, Act 25, Imd. Eff. June 14, 1973 ;-- Am. 2012, Act 53, Imd. Eff. Mar. 16, 2012 ;-- Am. 2012, Act 349, Eff. Mar. 28, 2013 ;-- Am. 2014, Act 414, Imd. Eff. Dec. 30, 2014 ;-- Am. 2023, Act 9, Eff. Feb. 13, 2024 ;-- Am. 2023, Act 114, Eff. Feb. 13, 2024

Constitutionality: In *Lehnert v. Ferris Faculty Association*, 500 US 507; 111 S Ct 1950; 114 L Ed 2d 572 (1991), the United States Supreme Court held that a collective-bargaining unit constitutionally may compel its employees to subsidize only certain union activities. "In determining which activities a union constitutionally may charge to dissenting employees ... chargeable activities must (1) be 'germane' to collective-bargaining activity; (2) be justified by the government's vital policy interest in labor peace and avoiding 'free riders'; and (3) not significantly add to the burdening of free speech that is inherent in the allowance of an agency or union shop." Ruling on the respondent union's disputed activities, the Court held: (1) The respondent may not charge the funds of objecting employees for a program designed to secure funds for Michigan public education or for that portion of a union publication that reports on those activities. The Court found none of the activities "to be oriented toward the ratification or implementation of petitioner's collective-bargaining agreement." (2) The respondent may bill dissenting employees for their share of general collective-bargaining costs of the state or national parent union. The district court had found these costs to be germane to collective bargaining and similar support services; the court agreed with the finding. (3) The respondent may not charge for the expenses of litigation that does not concern the dissenting employees' bargaining unit or, by extension, union literature reporting on such activities. The Court found extra-unit litigation to be proscribed by the First Amendment of the United States Constitution because it is "more akin to lobbying in both kind and effect" and not germane to a union's activities as an exclusive bargaining agent. (4) The respondent may not bill for certain public relations activities. The Court states: "The ... activities ... entailed speech of a political nature in a public forum. More important, public speech in support of the teaching profession generally is not sufficiently related to the union's collective-bargaining functions to justify compelling dissenting employees to support it. Expression of this kind extends beyond the negotiation and grievance-resolution contexts and imposes a substantially greater burden upon First Amendment rights" (5) The respondent may charge for those portions of a union publication that concern teaching and education generally, professional development, unemployment, job opportunities, union award programs, and miscellaneous matters. The Court noted that such informational support services are neither political nor public in nature and that expenditures for them benefit all, without additional infringements upon the First Amendment. (6) The respondent may bill for fees to send delegates to state and national affiliated conventions. The Court found that participation by local members in the formal activities of the parent is an important benefit of affiliation and an essential part of a union's discharge of its duties as a bargaining agent. (7) The respondent may charge expenses incidental to preparation for a strike which, had it occurred, would have been illegal under Michigan law. The Court, noting that the Michigan Legislature had imposed no restriction, stated there was no First Amendment limitation on such charges. The Court added that such expenses are "substantively indistinguishable from those appurtenant to collective-bargaining negotiations ... enure to the direct benefit of members of the dissenters' unit ... and impose no additional burden upon First Amendment rights."

Compiler's Notes: Enacting section 1 of Act 349 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act." Enacting section 1 of Act 414 of 2014 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Popular Name: Public Employment Relations

423.211 Public employees; designation of bargaining representatives; grievances of individual employees.

Sec. 11.

Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the public employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment, and shall be so recognized by the public employer: Provided, That any individual employee at any time may present grievances to his employer and have the grievances adjusted, without intervention of the bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, provided that the bargaining representative has been given opportunity to be present at such adjustment.

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965

Popular Name: Public Employment Relations

423.211a Disclosure of employee employment and contact information to collective bargaining representatives; requirement; collective bargaining agreement; notice.

Sec. 11a.

(1) Not later than 30 days after a public employer hires a public employee, the public employer shall provide the employment and contact information of the public employee to the representative of the public employee described in section 11. Every 90 days, a public employer shall provide to each representative of its public employees the employment and contact information of the public employees represented by that representative.

(2) The employment and contact information provided under subsection (1) must include all of the following for each public employee:

- (a) First, middle, and last name.
- (b) Department or agency.
- (c) Classification.
- (d) Address of primary work location.

(e) Home address. However, if the public employee's home address is a confidential address, the public employer shall not provide the home address of the public employee and shall instead provide the public employee's designated address. As used in this subdivision:

(i) "Confidential address" means that term as defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853.

(ii) "Designated address" means that term as defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853.

- (f) Personal telephone number.
- (g) Personal email address.
- (h) Work email address.
- (i) Date of hire.
- (j) Employee identification number, if applicable.
- (k) Full-time or part-time employment status.
- (l) Wage.

(3) Before a public employer enters into an agreement described in section 10(5), the public employer shall inform each of its public employees to whom the agreement would apply that the public employer intends to enter into the agreement. If a public employer has entered into an agreement described in section 10(5) that is in effect or has yet to take effect, the public employer shall, before the public employer hires an individual as a public employee to whom the agreement would apply, inform the individual that the public employer has entered into an agreement described in section 10(5) that would apply to the individual.

History: Add. 2023, Act 236, Eff. Feb. 13, 2024

423.212 Collective bargaining representative; petition; investigation; notice; hearing; election by secret ballot; certification of results; consent election.

Sec. 12.

When a petition is filed, in accordance with rules promulgated by the commission:

(a) By a public employee or group of public employees, or an individual or labor organization acting in their behalf, alleging that 30% or more of the public employees within a unit claimed to be appropriate for such purpose wish to be represented for collective bargaining and that their public employer declines to recognize their representative as the representative defined in section 11, or assert that the individual or labor organization, which is certified or is being currently recognized by their public employer as the bargaining representative, is no longer a representative as defined in section 11; or

(b) By a public employer or his representative alleging that 1 or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in section 11; The commission shall investigate the petition and, if it has reasonable cause to believe that a question of representation exists, shall provide an appropriate hearing after due notice. If the commission finds upon the record of the hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with the rules of the commission.

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1976, Act 18, Imd. Eff. Feb. 20, 1976

Popular Name: Public Employment Relations

Admin Rule: R 423.101 et seq. of the Michigan Administrative Code.

423.213 Decision as to appropriate collective bargaining unit; supervisor of fire fighting personnel.

Sec. 13.

The commission shall decide in each case, to insure public employees the full benefit of their right to self-organization, to collective bargaining and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining as provided in section 9e of Act No. 176 of the Public Acts of 1939, as amended, being section 423.9e of the Michigan Compiled Laws: Provided, That in any fire department, or any department in whole or part engaged in, or having the responsibility of, fire fighting, no person subordinate to a fire commission, fire commissioner, safety director, or other similar administrative agency or administrator, shall be deemed to be a supervisor.

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1976, Act 18, Imd. Eff. Feb. 20, 1976

Popular Name: Public Employment Relations

423.214 Elections; eligibility to vote; rules; runoff election; effect of collective bargaining agreement.

Sec. 14.

An election must not be directed in any bargaining unit or any subdivision within which, in the preceding 12-month period, a valid election was held. The commission shall determine who is eligible to vote in the election and shall promulgate rules governing the election. In an election involving more than 2 choices, if none of the choices on the ballot receives a majority vote, a runoff election must be conducted between the 2 choices receiving the 2 largest numbers of valid votes cast in the election. An election must not be directed in any bargaining unit or subdivision of any bargaining unit if there is in force and effect a valid collective bargaining agreement that was not prematurely extended and that is of fixed duration. A collective bargaining agreement does not bar an election upon the petition of persons not parties to the collective bargaining agreement if more than 3 years have elapsed since the agreement's execution or last timely renewal, whichever was later.

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1976, Act 18, Imd. Eff. Feb. 20, 1976 ;-- Am. 2012, Act 76, Imd. Eff. Apr. 10, 2012 ;-- Am. 2012, Act 349, Eff. Mar. 28, 2013 ;-- Am. 2024, Act 145, Eff. Apr. 2, 2025

Compiler's Notes: Enacting section 1 of Act 349 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."

Popular Name: Public Employment Relations

Admin Rule: R 423.101 et seq. of the Michigan Administrative Code.

423.215 Collective bargaining; duties of employer, public school employer, and employees' representative; prohibited subjects between public school employer and bargaining representative of employee; effect of financial stability and choice act; selection method for certain departments or boards; costs of independent examiner verification.

Sec. 15.

(1) A public employer shall bargain collectively with the representatives of its employees as described in section 11 and may make and enter into collective bargaining agreements with those representatives. Except as otherwise

provided in this section, for the purposes of this section, to bargain collectively is to perform the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or to negotiate an agreement, or any question arising under the agreement, and to execute a written contract, ordinance, or resolution incorporating any agreement reached if requested by either party, but this obligation does not compel either party to agree to a proposal or make a concession.

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

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

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

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

(c) The composition of school improvement committees established under section 1277 of the revised school code, 1976 PA 451, MCL 380.1277.

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

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

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

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

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

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

(5) Each collective bargaining agreement entered into between a public employer and public employees under this act on or after March 28, 2013 must include a provision that allows an emergency manager appointed under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, to reject, modify, or terminate the collective bargaining agreement as provided in the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575. Provisions required by this subsection are prohibited subjects of bargaining under this act.

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

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

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

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

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1994, Act 112, Eff. Mar. 30, 1995 ;-- Am. 2009, Act 201, Imd. Eff. Jan. 4, 2010 ;-- Am. 2011, Act 9, Imd. Eff. Mar. 16, 2011 ;-- Am. 2011, Act 25, Imd. Eff. May 11, 2011 ;-- Am. 2011, Act 103, Imd. Eff. July 19, 2011 ;-- Am. 2011, Act 260, Imd. Eff. Dec. 14, 2011 ;-- Am. 2012, Act 12, Imd. Eff. Feb. 15, 2012 ;-- Am. 2012, Act 45, Imd. Eff. Mar. 13, 2012 ;-- Am. 2012, Act 349, Eff. Mar. 28, 2013 ;-- Am. 2014, Act 414, Imd. Eff. Dec. 30, 2014 ;-- Am. 2023, Act 9, Eff. Feb. 13, 2024 ;-- Am. 2023, Act 115, Eff. Feb. 13, 2024 ;-- Am. 2023, Act 143, Eff. Feb. 13, 2024

Compiler's Notes: Enacting section 1 of Act 349 of 2012 provides: "Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent

that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."Enacting section 1 of Act 414 of 2014 provides:"Enacting section 1. If any part or parts of this act are found to be in conflict with the state constitution of 1963, the United States constitution, or federal law, this act shall be implemented to the maximum extent that the state constitution of 1963, the United States constitution, and federal law permit. Any provision held invalid or inoperative shall be severable from the remaining portions of this act."For transfer of state school reform/redesign school district and state school reform/redesign officer from department of education to state school reform office created as an autonomous entity within department of technology, management, and budget, see E.R.O. No. 2015-2, compiled at MCL 18.445.For transfer of certain powers and duties of department of education and superintendent of public instruction under MCL 380.1280c and 423.215 to state school reform/redesign office, see E.R.O. No. 2015-2, compiled at MCL 18.445.For transfer of powers and duties under MCL 380.1283c and 423.215 that were transferred from superintendent of public instruction to state school reform /redesign office by E.O. No. 2015-9 back to superintendent of public instruction with transfer of state school reform/redesign office from department of technology, management, and budget to department of education, see E.R.O. No. 2017-2, compiled at MCL 388.1282.Comment: Paragraph III.B of E.O. 2015-9 is rescinded.

Popular Name: Public Employment Relations

423.215a Right of employee of public fire department to volunteer or accept employment with another fire department.

Sec. 15a.

An employee of a public fire department may volunteer for or seek and accept part-time or paid on-call employment with another fire department if that employment does not conflict with his or her performance of the original employment as determined by the original employer. This section does not create a right for a full-time employee of a public fire department to accept full-time employment with another fire department. A local unit of government shall not adopt or apply an ordinance, rule, or policy in conflict with the right granted an employee under this section. Collective bargaining between a public employer and a bargaining representative of its employees shall not include the subject of a prohibition on an employee volunteering for or obtaining paid on-call employment with another fire department.

History: Add. 2014, Act 323, Imd. Eff. Oct. 15, 2014

Popular Name: Public Employment Relations

423.215b Repealed. 2023, Act 113, Eff. Feb. 13, 2024.

Compiler's Notes: The repealed section pertained to the collection of union dues by public school personnel and the freezing of wages and benefits for certain public employees during contract negotiations.

423.216 Violations of MCL 423.210 as unfair labor practices; remedies; procedures.

Sec. 16.

Violations of the provisions of section 10 shall be deemed to be unfair labor practices remediable by the commission in the following manner:

(a) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the commission, or any agent designated by the commission for such purposes, may issue and cause to be served upon the person a complaint stating the charges in that respect, and containing a notice of hearing before the commission or a commissioner thereof, or before a designated agent, at a place therein fixed, not less than 5 days after the serving of the complaint. No complaint shall issue based upon any unfair labor practice occurring more than 6 months prior to the filing of the charge with the commission and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the 6-month period shall be computed from the day of his discharge. Any complaint may be amended by the commissioner or agent conducting the hearing or the

commission, at any time prior to the issuance of an order based thereon. The person upon whom the complaint is served may file an answer to the original or amended complaint and appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the commissioner or agent conducting the hearing or the commission, any other person may be allowed to intervene in the proceeding and to present testimony. Any proceeding shall be conducted pursuant to chapter 4 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(b) The testimony taken by the commissioner, agent, or the commission shall be reduced to writing and filed with the commission. Thereafter the commission upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the commission is of the opinion that any person named in the complaint has engaged in or is engaging in the unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this act. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the testimony taken the commission is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the commission shall state its findings of fact and shall issue an order dismissing the complaint. No order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause. If the evidence is presented before a commissioner of the commission, or before examiners thereof, the commissioner, or examiners shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the commission, and if an exception is not filed within 20 days after service thereof upon the parties, or within such further period as the commission may authorize, the recommended order shall become the order of the commission and become effective as prescribed in the order.

(c) Until the record in a case has been filed in a court, the commission at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(d) The commission or any prevailing party may petition the court of appeals for the enforcement of the order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings. Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction of the proceeding and shall summarily grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing, modifying, enforcing as so modified, or setting aside in whole or in part the order of the commission. No objection that has not been urged before the commission, its commissioner or agent, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the commission with respect to questions of fact if supported by competent, material, and substantial evidence on the record considered as a whole shall be conclusive. If either party applies to the court for leave to present additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the commission, its commissioner or agent, the court may order the additional evidence to be taken before the commission, its commissioner or agent, and to be made a part of the record. The commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by competent, material, and substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the supreme court in accordance with the general court rules.

(e) Any party aggrieved by a final order of the commission granting or denying in whole or in part the relief sought may within 20 days of such order as a matter of right obtain a review of the order in the court of appeals by filing in the court a petition praying that the order of the commission be modified or set aside, with copy of the petition filed on the commission, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the commission. Upon the timely filing of the petition, the court shall proceed in the same manner as in the case of an application by the commission under subsection (d), and shall summarily grant to the commission or to any prevailing party such temporary relief or restraining order as it deems just and proper, enforcing, modifying, enforcing as so modified, or setting aside in whole or in part the order of the commission. The findings of the commission with respect to questions of fact if supported by competent, material, and substantial evidence on the record considered as a whole shall be conclusive. If a timely petition for review is not filed under this subdivision by an aggrieved party, it shall be conclusively presumed that the commission's order is supported by competent, material, and substantial evidence on the record considered as a whole, and the commission or any prevailing party shall be entitled, upon application therefor, to a summary order enforcing the commission's order.

(f) The commencement of proceedings under subdivisions (d) or (e) shall not, unless specifically ordered by the court, operate as a stay of the commission's order.

(g) Petitions filed under subdivisions (d) and (e) shall be heard expeditiously by the court to which presented, and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character.

(h) The commission or any charging party shall have power, upon issuance of a complaint as provided in subdivision (a) charging that any person has engaged in or is engaging in an unfair labor practice, to petition any circuit court within any circuit where the unfair labor practice in question is alleged to have occurred or where such person resides or exercises or may exercise its governmental authority, for appropriate temporary relief or restraining order, in accordance with the general court rules, and the court shall have jurisdiction to grant to the commission or any charging party such temporary relief or restraining order as it deems just and proper.

(i) For the purpose of all hearings and investigations, which in the opinion of the commission are necessary and proper for the exercise of the powers vested in it under this section, the provisions of section 11 of Act No. 176 of the Public Acts of 1939, as amended, being section 423.11 of the Michigan Compiled Laws, shall be applicable, except that subpoenas may issue as provided in section 11 without regard to whether mediation shall have been undertaken.

(j) The labor relations and mediation functions of this act shall be separately administered by the commission.

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965 ;-- Am. 1965, Act 397, Imd. Eff. Oct. 26, 1965 ;-- Am. 1976, Act 18, Imd. Eff. Feb. 20, 1976 ;-- Am. 1976, Act 99, Imd. Eff. Apr. 27, 1976 ;-- Am. 1977, Act 266, Imd. Eff. Dec. 8, 1977 ;-- Am. 1978, Act 441, Imd. Eff. Oct. 9, 1978

Constitutionality: The exercise of jurisdiction by the Michigan Employment Relations Commission under the provisions of the public employment relations act with regard to an unfair labor practice claim by a district court employee whose job is essentially administrative or clerical and not central to the administration of justice, bordering on a judicial role, does not violate the constitutional provision for separation of powers. *Teamsters Union Local 214 v 60th District Court*, 417 Mich 291; 335 NW2d 470 (1982).

Popular Name: Public Employment Relations

423.217 Bargaining representative or education association; prohibited conduct; violation of section; "education association" defined.

Sec. 17.

(1) A bargaining representative or an education association shall not veto a collective bargaining agreement reached between a public school employer and a bargaining unit consisting of employees of the public school employer; shall not require the bargaining unit to obtain the ratification of an education association before or as a condition of entering into a collective bargaining agreement; and shall not in any other way prohibit or prevent the bargaining unit from entering into, ratifying, or executing a collective bargaining agreement. The power to decide whether or not to enter into, ratify, or execute a collective bargaining agreement with a public school employer rests solely with the members of the bargaining unit who are employees of the public school employer, and shall not be delegated to a bargaining representative or an education association or conditioned on approval by a bargaining representative or an education association.

(2) If an education association, a bargaining representative, or a bargaining unit violates this section, the board of a public school employer or any other person adversely affected by the violation of this section may bring an action to enjoin the violation of this section in the circuit court for the county in which the plaintiff resides or the circuit court for the county in which the affected public school employer is located. Failure to comply with an order of the court may be punished as contempt. In addition, the court shall award court costs and reasonable attorney fees to a plaintiff who prevails in an action brought under this section.

(3) As used in this section, "education association" means an organization, whether organized on a county, regional, area, or state basis, in which employees of 1 or more public school employers participate and that exists for the common purpose of protecting and advancing the wages, hours, and working conditions of the organization's members.

History: Add. 1994, Act 112, Eff. Mar. 30, 1995

COMPULSORY ARBITRATION OF LABOR DISPUTES IN POLICE AND FIRE DEPARTMENTS

Act 312 of 1969

AN ACT to provide for compulsory arbitration of labor disputes in municipal police and fire departments; to define

such public departments; to provide for the selection of members of arbitration panels; to prescribe the procedures and authority thereof; and to provide for the enforcement and review of awards thereof.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

The People of the State of Michigan enact:

423.231 Compulsory arbitration in police and fire departments; policy.

Sec. 1.

It is the public policy of this state that in public police and fire departments, where the right of employees to strike is by law prohibited, it is requisite to the high morale of such employees and the efficient operation of such departments to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes, and to that end the provisions of this act, providing for compulsory arbitration, shall be liberally construed.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This section does not unconstitutionally divest home-rule cities of their constitutional powers, nor does it surrender the power to tax to the arbitrators in violation of the Michigan Constitution. Dearborn Firefighters Union, Local No 412, IAFF v City of Dearborn, 394 Mich 229; 231 NW2d 226 (1975). Act No. 312 of the Public Acts of 1969, as amended by 1976 PA 84, which provides for compulsory arbitration of disputes concerning contract formation in police and fire departments, is a constitutional delegation of legislative power. City of Detroit v Detroit Police Officers Association, 408 Mich 410; 294 NW2d 68 (1980). This act, which provides for compulsory arbitration of labor disputes in municipal police and fire departments, is a constitutional delegation of legislative power, providing standards as reasonably precise as the subject matter requires or permits and adequate political accountability. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.232 Definitions; provisions inapplicable to certain persons employed by a private emergency medical service company.

Sec. 2.

(1) As used in this act:

(a) "Emergency medical service personnel" includes a person who provides assistance at dispatched or observed medical emergencies occurring outside a recognized medical facility including instances of heart attack, stroke, injury accidents, electrical accidents, drug overdoses, imminent childbirth, and other instances where there is the possibility of death or further injury; initiates stabilizing treatment or transportation of injured from the emergency site; and notifies police or interested departments of certain situations encountered including criminal matters, poisonings, and the report of contagious diseases.

(b) "Emergency telephone operator" includes a person employed by a police or fire department for the purpose of relaying emergency calls to police, fire, or emergency medical service personnel.

(c) "Institution of higher education" means any of the following:

(i) An institution of higher education described in section 4 or 6 of article VIII of the state constitution of 1963.

(ii) A community or junior college described in section 7 of article VIII of the state constitution of 1963.

(d) "Public police or fire department employee" means any employee of a city, county, village, township, or institution of higher education, or of any authority, district, board, or any other entity created in whole or in part by the authorization of 1 or more cities, counties, villages, townships, or institutions of higher education, whether created by statute, ordinance, contract, resolution, delegation, or any other mechanism, who is engaged as a police officer or in firefighting or who is subject to the hazards thereof; a corrections officer employed by a county sheriff in a county jail, work camp, or other facility maintained by a county and that houses adult prisoners; emergency medical service personnel employed by a public police or fire department; or an emergency telephone operator, but only if directly employed by a public police or fire department. Public police or fire department employee does not include any of the following:

(i) An employee of a metropolitan district created under 1939 PA 147, MCL 119.51 to 119.62.
(ii) An emergency telephone operator employed by a 9-1-1 authority or consolidated dispatch center.
(iii) An employee of an authority that is in existence on June 1, 2011, unless the employee is represented by a bargaining representative on that date, or a contract in effect on that date specifically provides the employee with coverage under this act. An exclusion under this subparagraph terminates if the authority composition changes to include an additional governmental unit or a portion of a governmental unit. This subparagraph does not terminate an exclusion created under subparagraphs (i) to (iii).

(2) This act does not apply to persons employed by a private emergency medical service company who work under a contract with a governmental unit or personnel working in an emergency service organization whose duties are solely of an administrative or supporting nature and who are not otherwise qualified under subsection (1)(a).

History: 1969, Act 312, Eff. Oct. 1, 1969 ;-- Am. 1976, Act 203, Eff. Mar. 31, 1977 ;-- Am. 1977, Act 303, Imd. Eff. Jan. 3, 1978 ;-- Am. 2011, Act 116, Imd. Eff. July 20, 2011 ;-- Am. 2023, Act 171, Eff. Jan. 22, 2024

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.233 Initiation of binding arbitration proceedings; request.

Sec. 3.

Whenever in the course of mediation of a public police or fire department employee's dispute, except a dispute concerning the interpretation or application of an existing agreement (a "grievance" dispute), the dispute has not been resolved to the agreement of both parties within 30 days of the submission of the dispute to mediation, or within such further additional periods to which the parties may agree, the employees or employer may initiate binding arbitration proceedings by prompt request therefor, in writing, to the other, with copy to the employment relations commission.

History: 1969, Act 312, Eff. Oct. 1, 1969 ;-- Am. 1977, Act 303, Imd. Eff. Jan. 3, 1978

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.234 Delegates; selection; notice.

Sec. 4.

Within 10 days thereafter, the employer shall choose a delegate and the employees' designated or selected exclusive collective bargaining representative, or if none, their previously designated representative in the prior mediation and fact-finding procedures, shall choose a delegate to a panel of arbitration as provided in this act. The employer and employees shall forthwith advise the other and the mediation board of their selections.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.235 Selection and designation of impartial arbitrator or chair of arbitration panel; Michigan employment relations commission panel of arbitrators; appointment, terms, qualifications, and removal of

members; qualifications and training for service as chair of arbitration panel.

Sec. 5.

(1) Not later than 7 days after a request from 1 or both parties, the employment relations commission shall select from its panel of arbitrators, as provided in subsection (2), 3 persons as nominees for impartial arbitrator or chair of the arbitration panel. Not later than 5 days after the selection, each party may peremptorily strike the name of 1 of the nominees. Not later than 7 days after this 5-day period, the commission shall designate 1 of the remaining nominees as the impartial arbitrator or chair of the arbitration panel.

(2) The employment relations commission shall establish and appoint a panel of arbitrators, known as the Michigan employment relations commission panel of arbitrators. The commission shall appoint members for indefinite terms. Members shall be impartial, competent, and reputable citizens of the United States and residents of this state, and shall qualify by taking and subscribing the constitutional oath or affirmation of office. The commission may at any time appoint additional members to the panel of arbitrators and may remove existing members without cause.

(3) The employment relations commission shall establish the qualifications and training that are necessary for an individual to serve as the chair of an arbitration panel under this act. The commission may waive the qualifications and training requirements for an individual who has served as a commission-appointed chair of an arbitration panel in an arbitration proceeding under this act before July 20, 2011.

History: 1969, Act 312, Eff. Oct. 1, 1969 ;-- Am. 1976, Act 84, Imd. Eff. Apr. 17, 1976 ;-- Am. 2011, Act 116, Imd. Eff. July 20, 2011 ;-- Am. 2023, Act 172, Imd. Eff. Oct. 24, 2023

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.236 Arbitrator; duties; hearing; intervenors; evidence; record; expenses; actions and rulings.

Sec. 6.

The arbitrator shall act as chair of the panel of arbitration, call and begin a hearing within 15 days after appointment, and give reasonable notice of the time and place of the hearing. The chair shall preside over the hearing and shall take testimony. Upon application and for good cause shown, and upon terms and conditions that are just, the arbitration panel may grant leave to intervene to a person, labor organization, or governmental unit having a substantial interest in the matter. The arbitration panel may receive into evidence any oral or documentary evidence and other data it considers relevant. The proceedings shall be informal. Technical rules of evidence do not apply and do not impair the competency of the evidence. A verbatim record of the proceedings shall be made, and the arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them but the transcripts are not necessary for a decision by the arbitration panel. The expense of the proceedings, including a fee to the chair, established in advance by the Michigan employment relations commission shall be borne equally by each of the parties to the dispute. The delegates, if public officers or employees, shall continue on the payroll of the public employer at their usual rate of pay. The hearing conducted by the arbitration panel may be adjourned from time to time, but shall be concluded and any posthearing briefs filed within 180 days after it commences. Its majority actions and rulings shall constitute the actions and rulings of the arbitration panel.

History: 1969, Act 312, Eff. Oct. 1, 1969 ;-- Am. 2011, Act 116, Imd. Eff. July 20, 2011

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.237 Oaths; subpoenas; failure to obey, contempt of court.

Sec. 7.

The arbitration panel may administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements and documents as may be deemed by it material to a just determination of the issues in dispute, and for such purpose may issue subpoenas. If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party or attorney is guilty of any contempt while in attendance at any hearing, the arbitration panel may, or the attorney general if requested shall, invoke the aid of any circuit court within the jurisdiction in which the hearing is being held, which court shall issue an appropriate order. Any failure to obey the order may be punished by the court as contempt.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.237a Remanding dispute for further collective bargaining.

Sec. 7a.

At any time before the rendering of an award, the chair of the arbitration panel, if the chair is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed 3 weeks. If the dispute is remanded for further collective bargaining, the time provisions of this act are extended for a time period equal to that of the remand. The chair of the panel of arbitration shall notify the employment relations commission of the remand.

History: Add. 1972, Act 127, Imd. Eff. May 4, 1972 ;-- Am. 2023, Act 172, Imd. Eff. Oct. 24, 2023

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.238 Identification of economic issues in dispute; submission and adoption of settlement offers; findings, opinion, and order.

Sec. 8.

The arbitration panel shall identify the economic issues in dispute and direct each of the parties to submit to the arbitration panel and to each other its last offer of settlement on each economic issue before the beginning of the hearing. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic is conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or within up to 60 additional days at the discretion of the chair, shall make written findings of fact and promulgate a written opinion and order. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 9. The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in section 9.

History: 1969, Act 312, Eff. Oct. 1, 1969 ;-- Am. 1972, Act 127, Imd. Eff. May 4, 1972 ;-- Am. 2011, Act 116, Imd. Eff. July 20, 2011

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.239 Findings, opinions, and orders; factors considered; financial ability of governmental unit to pay.

Sec. 9.

(1) If the parties have no collective bargaining agreement or the parties have an agreement and have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors:

(a) The financial ability of the unit of government to pay. All of the following shall apply to the arbitration panel's determination of the ability of the unit of government to pay:

(i) The financial impact on the community of any award made by the arbitration panel.

(ii) The interests and welfare of the public.

(iii) All liabilities, whether or not they appear on the balance sheet of the unit of government.

(iv) Any law of this state or any directive issued under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, that places limitations on a unit of government's expenditures or revenue collection.

(b) The lawful authority of the employer.

(c) Stipulations of the parties.

(d) Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in both of the following:

(i) Public employment in comparable communities.

(ii) Private employment in comparable communities.

(e) Comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit in question.

(f) The average consumer prices for goods and services, commonly known as the cost of living.

(g) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(h) Changes in any of the foregoing circumstances while the arbitration proceedings are pending.

(i) Other factors that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service, or in private employment.

(j) If applicable, a written document with supplementary information relating to the financial position of the local unit of government that is filed with the arbitration panel by a financial review commission as authorized under the Michigan financial review commission act.

(2) The arbitration panel shall give the financial ability of the unit of government to pay the most significance, if the determination is supported by competent, material, and substantial evidence.

History: 1969, Act 312, Eff. Oct. 1, 1969 ;-- Am. 2011, Act 116, Imd. Eff. July 20, 2011 ;-- Am. 2014, Act 189, Imd. Eff. June 20, 2014

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.240 Majority decision of arbitration panel final and binding; enforcement; effect of new municipal fiscal year; awarding increased rates or benefits retroactively; amending or modifying award of arbitration.

Sec. 10.

A majority decision of the arbitration panel, if supported by competent, material, and substantial evidence on the whole record, shall be final and binding upon the parties, and may be enforced, at the instance of either party or of the arbitration panel in the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside. The commencement of a new municipal fiscal year after the initiation of arbitration procedures under this act, but before the arbitration decision, or its enforcement, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its decision. Increases in rates of compensation or other benefits may be awarded retroactively to the commencement of any period(s) in dispute, any other statute or charter provisions to the contrary notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.

History: 1969, Act 312, Eff. Oct. 1, 1969 ;-- Am. 1977, Act 303, Imd. Eff. Jan. 3, 1978

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and

Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.241 Violation of lawful enforcement order; penalty.

Sec. 11.

Where an employee organization recognized pursuant to Act No. 336 of the Public Acts of 1947, as amended, as the bargaining representative of employees subject to this act, willfully disobeys a lawful order of enforcement by a circuit court pursuant to section 10, or willfully encourages or offers resistance to such order, whether by a strike or otherwise, the punishment for each day that such contempt persists, may be a fine fixed in the discretion of the court in an amount not to exceed \$250.00 per day. Where an employer, as that term is defined by Act No. 336 of the Public Acts of 1947, as amended, willfully disobeys a lawful order of enforcement by the circuit court or willfully encourages or offers resistance to such order, the punishment for each day that such contempt persists may be a fine, fixed at the discretion of the court, an amount not to exceed \$250.00 per day to be assessed against the employer.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.242 Judicial review; scope; stay.

Sec. 12.

Orders of the arbitration panel shall be reviewable by the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside, but only for reasons that the arbitration panel was without or exceeded its jurisdiction; the order is unsupported by competent, material and substantial evidence on the whole record; or the order was procured by fraud, collusion or other similar and unlawful means. The pendency of such proceeding for review shall not automatically stay the order of the arbitration panel.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.243 Existing conditions; continuance, change.

Sec. 13.

During the pendency of proceedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under this act.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.244 Act supplementary.

Sec. 14.

This act shall be deemed as supplementary to Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Compiled Laws of 1948, and does not amend or repeal any of its provisions; but any provisions thereof requiring fact-finding procedures shall be inapplicable to disputes subject to arbitration under this act.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.245 Repealed. 1975, Act 3, Imd. Eff. Mar. 25, 1975.

Compiler's Notes: The repealed section contained an expiration provision.

Popular Name: Act 312

423.246 Violations of act; imprisonment prohibited.

Sec. 16.

No person shall be sentenced to a term of imprisonment for any violation of the provisions of this act or an order of the arbitration panel.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

423.247 Effective date.

Sec. 17.

This act shall become effective on October 1, 1969.

History: 1969, Act 312, Eff. Oct. 1, 1969

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular Name: Act 312

SOLICITATION OF STRIKEBREAKERS

Act 150 of 1962

AN ACT relating to solicitations for employment; to prohibit recruitment of or advertising for employees to take the place of employees engaged in a labor dispute without stating that the employment offered is in place of employees involved in a labor dispute; to prohibit the importation of strikebreakers; and to provide penalties for violations of this act.

History: 1962, Act 150, Eff. Mar. 28, 1963 ;-- Am. 1965, Act 18, Eff. Mar. 31, 1966

The People of the State of Michigan enact:

423.251 Strikes or lockouts; employment of strikebreakers prohibited.

Sec. 1.

No person, partnership, firm or corporation, or officer or agent thereof, involved in a strike or lockout shall knowingly employ in place of an employee involved in the strike or lockout any person who customarily and repeatedly offers himself for employment in the place of employees involved in a strike or lockout.

History: 1962, Act 150, Eff. Mar. 28, 1963

423.252 Strikes or lockouts; strikebreakers, acceptance of employment prohibited.

Sec. 2.

No person who customarily and repeatedly offers himself for employment in place of employees involved in a strike or lockout shall take or offer to take the place in employment of employees involved in a strike or lockout.

History: 1962, Act 150, Eff. Mar. 28, 1963

423.253 Strikes or lockouts; hiring and importing strikebreakers prohibited.

Sec. 3.

No person, partnership, firm or corporation, or officer or agent thereof, involved in a lawful strike or lockout shall hire and import or contract or arrange with any other person, partnership, agency, firm or corporation to hire and import from another state or country, for the purpose of strikebreaking, persons for employment in place of employees involved in the strike or lockout.

History: 1962, Act 150, Eff. Mar. 28, 1963 ;-- Am. 1965, Act 18, Eff. Mar. 31, 1966

423.253a Strikes or lockouts; solicitation or advertisement for employees, referrals, notice.

Sec. 3a.

No person, partnership, agency, firm or corporation, or officer or agent thereof, shall recruit, solicit or advertise for employees, or refer persons to employment, in place of employees involved in a lawful strike or lockout, without adequate notice to the person, and in the advertisement, that there is a strike or lockout at the place at

which employment is offered and that the employment offered is in place of employees involved in the strike or lockout.

History: Add. 1965, Act 18, Eff. Mar. 31, 1966

423.254 Strikes or lockouts; penalty.

Sec. 4.

Any person, partnership, agency, firm or corporation violating any provision of this act is guilty of a misdemeanor.

History: 1962, Act 150, Eff. Mar. 28, 1963

COMPULSORY ARBITRATION OF LABOR DISPUTES OF STATE POLICE TROOPERS AND SERGEANTS

Act 17 of 1980

AN ACT to provide for compulsory arbitration of labor disputes of state police troopers and sergeants, pursuant to the 1978 amendment to section 5 of article 11 of the state constitution of 1963; to provide for the selection of members of arbitration panels and for their authority; to prescribe the procedure for hearings; and to provide for the enforcement and review of orders of arbitration panels.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

The People of the State of Michigan enact:

423.271 Public policy; liberal construction.

Sec. 1.

It is the public policy of this state that it is requisite for the high morale of state police troopers and sergeants, whose right to strike is prohibited by law, and for the efficient operation of the department, to afford an alternate, expeditious, effective, and binding procedure for the resolution of disputes, and to that end, this act, which provides for compulsory arbitration, shall be construed liberally.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.272 Definitions.

Sec. 2.

- (1) "Department" means the department of state police.
- (2) "Employees" means state police troopers, state police sergeants, or both, as applicable.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.273 Initiation of binding arbitration proceedings; conditions; request.

Sec. 3.

In the course of mediation of a labor agreement dispute of employees, except a grievance dispute concerning the interpretation or application of an existing labor agreement, if the dispute has not been resolved to the agreement of both parties within 30 days after the submission of the dispute to mediation, or within further additional periods to which the parties may agree, the department or the employees may initiate binding arbitration proceedings by making a prompt request for those proceedings in writing to the other party and by furnishing a copy of the request to the employment relations commission.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.274 Selection of delegates to arbitration panel; advising department, employees, and mediation board of selections.

Sec. 4.

Within 10 days after a party has requested arbitration of a dispute, the department shall choose a delegate and the designated or selected exclusive collective bargaining representative of the employees, or if none, their previously designated representative in the prior mediation and fact-finding procedures, shall choose a delegate to an arbitration panel as provided in this act. The department and the employees immediately shall advise each other and the mediation board of their selections.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.275 Selection of nominees for impartial arbitrator or chairperson of arbitration panel; peremptorily striking names; designation of impartial arbitrator.

Sec. 5.

Within 7 days after receipt of a request from 1 or both parties for arbitration of a dispute, the employment relations commission shall select from its panel of arbitrators, as provided in section 5 of Act No. 312 of the Public Acts of 1969, as amended, being section 423.235 of the Michigan Compiled Laws, 3 persons as nominees for impartial arbitrator or chairperson of the arbitration panel. Within 5 days after the selection of nominees, each party peremptorily may strike the name of 1 of the nominees. Within 7 days after this 5-day period, the employment relations commission shall designate 1 of the remaining nominees as the impartial arbitrator.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.276 Impartial arbitrator as chairperson of arbitration panel; hearing; notice; duties of chairperson; intervention; receipt of evidence; informal proceedings; technical rules of evidence inapplicable; record of proceedings; transcripts; adjournment; conclusion of hearing; expense of proceedings; payment of public officers or employees; actions and rulings.

Sec. 6.

(1) The impartial arbitrator designated pursuant to section 5 shall act as chairperson of the arbitration panel. Within 15 days after his or her appointment, the chairperson shall call a hearing and shall give reasonable notice of the time and place of the hearing. The chairperson shall preside over the hearing and shall take testimony.

(2) Upon application and for good cause shown, and upon terms and conditions that are just, the arbitration panel may grant leave to intervene to a person, labor organization, or governmental unit that has a substantial interest in the hearing. The arbitration panel may receive into evidence any oral or documentary evidence or other data that it considers to be relevant to the issues under consideration at the hearing. The proceedings shall be informal. Technical rules of evidence shall not apply, and the competency of the evidence shall not be considered to be impaired by the informality of the proceedings. A verbatim record of the proceedings shall be made, and the chairperson shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but transcripts shall not be necessary for a decision by the arbitration panel. The arbitration panel may adjourn the hearing from time to time, but unless the parties agree otherwise, the hearing shall be concluded within 30 days after the time of its commencement.

(3) The expense of the proceedings, including a fee to the chairperson, established in advance by the labor mediation board, shall be borne equally by each of the parties to the dispute and the state. The delegates, if public officers or employees, shall continue on the payroll of the public employer at their usual rate of pay.

(4) The actions and rulings of a majority of the arbitration panel shall constitute the actions and rulings of the arbitration panel.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.277 Oaths; witnesses; production of books and documents; subpoenas; invoking aid of circuit court; order of circuit court; contempt.

Sec. 7.

The arbitration panel may administer oaths and require the attendance of witnesses and the production of books, papers, contracts, agreements, and documents that it considers to be material to a just determination of the issues in dispute. For this purpose, the arbitration panel may issue subpoenas. If a person refuses to obey a subpoena, or to be sworn or to testify, or if a witness, party, or attorney is guilty of contempt while in attendance at a hearing, the arbitration panel may, or the attorney general if requested shall, invoke the aid of the circuit court within the jurisdiction in which the hearing is being held, which court shall issue an appropriate order. The court may punish a failure to obey the order as contempt.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.278 Remanding dispute for further collective bargaining; extension of time; notice of remand.

Sec. 8.

At any time before the rendering of an order, the chairperson of the arbitration panel, if he or she believes that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed 3 weeks. If the dispute is remanded for further collective bargaining, the time provisions of this act shall be extended for a time period equal to that of the remand. The chairperson of the arbitration panel shall notify the employment relations commission of the remand.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.279 Identification of economic issues in dispute; submission of last offer of settlement; determination conclusive; findings of fact; promulgation of opinion and order; copies of findings, opinion, and order;

adoption of last offer of settlement; basis of findings, opinion, and order.

Sec. 9.

(1) At or before the conclusion of the hearing held pursuant to section 6, the arbitration panel shall identify the economic issues in dispute and direct each of the parties to submit to the arbitration panel and to each other, within a time limit that the arbitration panel prescribes, its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive.

(2) The arbitration panel, within 30 days after the conclusion of the hearing, or within further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and order upon the issues presented to it and upon the record made before it, and shall mail or otherwise deliver a true copy of the findings of fact, opinion, and order to the parties, their representatives, and the employment relations commission. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 10. The findings, opinion, and order as to all other issues shall be based upon the applicable factors prescribed in section 10.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.280 Factors upon which findings, opinion, and order based; conditions.

Sec. 10.

If there is not a collective bargaining agreement between the parties, or if there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or to an amendment of the existing agreement, and wage rates or other terms and conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinion, and order upon the following factors, as applicable:

- (a) The lawful authority of the department.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of this state to meet those costs.
- (d) Comparison of the wages, hours, and terms and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and terms and conditions of employment of other employees performing similar services, and with other state police troopers, sergeants, or both, in comparable states.
- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance, pensions, medical and hospitalization benefits, the continuity and stability of employment, and other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) Other factors, not confined to those listed in this section, that normally or traditionally are taken into consideration in the determination of wages, hours, and terms and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.281 Majority decision of arbitration panel as final and binding; enforcement; effect of new state fiscal year awards retroactive; amending or modifying order of arbitration.

Sec. 11.

A majority decision of the arbitration panel, if supported by competent, material, and substantial evidence on the whole record, shall be final and binding upon the parties, and may be enforced, at the instance of either party or of the arbitration panel, in the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside. The commencement of a new state fiscal year after the initiation of arbitration

procedures under this act, but before the issuance of the arbitration order, or its enforcement, shall not be considered to render a dispute moot or to otherwise impair the jurisdiction or authority of the arbitration panel or its order. The arbitration panel may award increases in rates of compensation or other benefits retroactively to the commencement of a period in dispute, other statute provisions to the contrary notwithstanding. At any time the parties, by stipulation, may amend or modify an order of arbitration.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.282 Wilfully disobeying or resisting lawful order of enforcement; contempt; fine.

Sec. 12.

If an employee organization recognized, pursuant to Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Michigan Compiled Laws, as the bargaining representative of employees subject to this act, wilfully disobeys a lawful order of enforcement by the circuit court pursuant to section 11, or wilfully encourages or offers resistance to the order, whether by a strike or otherwise, the punishment for each day that the contempt persists may be a fine, fixed at the discretion of the court, in an amount not to exceed \$250.00 per day. If the department wilfully disobeys a lawful order of enforcement by the circuit court, or wilfully encourages or offers resistance to the order, the punishment for each day that the contempt persists may be a fine, fixed at the discretion of the court, in an amount not to exceed \$250.00 per day.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.283 Judicial review; order not stayed by pendency of review proceeding.

Sec. 13.

The circuit court for the county in which a dispute arose or in which a majority of the affected employees reside may review an order of an arbitration panel, but only for reasons that the arbitration panel was without or exceeded its jurisdiction; the order is not supported by competent, material, and substantial evidence on the whole record; or the order was procured by fraud, collusion, or other similar and unlawful means. The pendency of a proceeding for review shall not stay automatically the order of the arbitration panel.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.284 Changing terms and conditions of employment during pendency of arbitration proceedings.

Sec. 14.

During the pendency of arbitration proceedings, either party shall not change, without the consent of the other party, existing wages, hours, and other terms and conditions of employment. However, a party may consent to a change without prejudice to his or her rights or position under this act.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.285 Act supplementary to MCL 423.201 et seq.; applicability of fact-finding procedures.

Sec. 15.

This act shall be considered to be supplementary to Act No. 336 of the Public Acts of 1947, as amended, and does not amend or repeal any of its provisions. However, any provisions of Act No. 336 of the Public Acts of 1947, as amended, that require fact-finding procedures shall not be applicable to a dispute subject to arbitration under this act.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.286 Violation; imprisonment prohibited.

Sec. 16.

A person shall not be sentenced to a term of imprisonment for a violation of this act or an order of an arbitration panel.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.287 Effective date.

Sec. 17.

This act shall be considered effective as of December 23, 1978.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

MICHIGAN STATE FAIR EMPLOYMENT PRACTICES ACT

Act 251 of 1955

423.301-423.311 Repealed. 1963, 2nd Ex. Sess., Act 45, Eff. Jan. 1, 1964;—1976, Act 453, Eff. Mar. 31, 1977.

STATE CONTRACTS WITH CERTAIN EMPLOYERS PROHIBITED

Act 278 of 1980

AN ACT to prohibit the state from entering into contracts with certain employers who engage in unfair labor practices; to prohibit those employers from entering into certain contracts with others; to provide for the compilation and distribution of a register of those employers; and to provide for the voiding of certain contracts.

History: 1980, Act 278, Imd. Eff. Oct. 9, 1980

The People of the State of Michigan enact:

423.321 Definitions.

Sec. 1.

As used in this act:

- (a) "Department" means the state department of labor.
- (b) "Employer" means an individual, partnership, corporation, or other association, or a city, village, township, or county that employs 2 or more persons.
- (c) "State" means this state or an agency, department, division, bureau, board, commission, council, authority, or other body of this state.

History: 1980, Act 278, Imd. Eff. Oct. 9, 1980

423.322 Register of employers found in contempt of court for failure to correct unfair labor practice.

Sec. 2.

The department shall compile a register of employers who have been found in contempt of court by a federal court of appeals, on not less than 3 occasions involving different violations during the preceding 7 years, for failure to correct an unfair labor practice, as prohibited by section 8 of chapter 372 of the national labor relations act, 29 U.S.C. 158. The register, which shall be compiled and updated biannually from the records of the national labor relations board, shall contain the names of those employers who merited inclusion in the register during the 3-year period before its compilation and shall be available, upon request, to the state.

History: 1980, Act 278, Imd. Eff. Oct. 9, 1980

423.323 Prohibited contracts or subcontracts.

Sec. 3.

(1) The state shall not award a contract or a subcontract to an employer whose name appears in the current register compiled pursuant to section 2.

(2) After January 1, 1982, an employer who has a contract with this state, in relation to that contract, shall not enter into a contract with a subcontractor, manufacturer, or supplier whose name appears in the register compiled pursuant to section 2.

History: 1980, Act 278, Imd. Eff. Oct. 9, 1980

423.324 Required clause in contract.

Sec. 4.

The state shall not enter into a contract with an employer unless the contract contains a clause providing that the state may void the contract if the name of the employer, or the name of a subcontractor, manufacturer, or supplier of the employer, subsequently appears in the register compiled pursuant to section 2.

History: 1980, Act 278, Imd. Eff. Oct. 9, 1980

DISCLOSURE OF EMPLOYEE JOB PERFORMANCE

Act 90 of 1996

AN ACT to limit the liability of employers under certain circumstances.

History: 1996, Act 90, Imd. Eff. Feb. 27, 1996

The People of the State of Michigan enact:

423.451 Definitions.

Sec. 1.

As used in this act:

(a) "Employee" means an individual who as a volunteer or for compensation provides an employer with his or her labor.

(b) "Employer" means a person who employs an individual for compensation or who supervises an individual providing labor as a volunteer.

(c) "Prospective employer" means a person to whom an employee or former employee has submitted an application for employment.

History: 1996, Act 90, Imd. Eff. Feb. 27, 1996

423.452 Disclosure of information relating to employee's job performance; immunity; exception.

Sec. 2.

An employer may disclose to an employee or that individual's prospective employer information relating to the individual's job performance that is documented in the individual's personnel file upon the request of the individual or his or her prospective employer. An employer who discloses information under this section in good faith is immune from civil liability for the disclosure. An employer is presumed to be acting in good faith at the time of a disclosure under this section unless a preponderance of the evidence establishes 1 or more of the following:

(a) That the employer knew the information disclosed was false or misleading.

(b) That the employer disclosed the information with a reckless disregard for the truth.

(c) That the disclosure was specifically prohibited by a state or federal statute.

History: 1996, Act 90, Imd. Eff. Feb. 27, 1996

BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT

Act 397 of 1978

AN ACT to permit employees to review personnel records; to provide criteria for the review; to prescribe the information which may be contained in personnel records; and to provide penalties.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.501 Short title; definitions.

Sec. 1.

(1) This act shall be known and may be cited as the "Bullard-Plawecki employee right to know act".

(2) As used in this act:

(a) "Employee" means a person currently employed or formerly employed by an employer.

(b) "Employer" means an individual, corporation, partnership, labor organization, unincorporated association, the state, or an agency or a political subdivision of the state, or any other legal, business, or commercial entity which has 4 or more employees and includes an agent of the employer.

(c) "Personnel record" means a record kept by the employer that identifies the employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation, or disciplinary action. A personnel record shall include a record in the possession of a person, corporation, partnership, or other association who has a contractual agreement with the employer to keep or supply a personnel record as provided in this subdivision. A personnel record shall not include:

(i) Employee references supplied to an employer if the identity of the person making the reference would be disclosed.

(ii) Materials relating to the employer's staff planning with respect to more than 1 employee, including salary increases, management bonus plans, promotions, and job assignments.

(iii) Medical reports and records made or obtained by the employer if the records or reports are available to the employee from the doctor or medical facility involved.

(iv) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(v) Information that is kept separately from other records and that relates to an investigation by the employer pursuant to section 9.

(vi) Records limited to grievance investigations which are kept separately and are not used for the purposes provided in this subdivision.

(vii) Records maintained by an educational institution which are directly related to a student and are considered to be education records under section 513(a) of title 5 of the family educational rights and privacy act of 1974, 20 U.S.C. 1232g.

(viii) Records kept by an executive, administrative, or professional employee that are kept in the sole possession of the maker of the record, and are not accessible or shared with other persons. However, a record concerning an occurrence or fact about an employee kept pursuant to this subparagraph may be entered into a personnel record if entered not more than 6 months after the date of the occurrence or the date the fact becomes known.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.502 Personnel record information excluded from personnel record; use in judicial or quasi-judicial proceeding.

Sec. 2.

Personnel record information which was not included in the personnel record but should have been as required by this act shall not be used by an employer in a judicial or quasi-judicial proceeding. However, personnel record information which, in the opinion of the judge in a judicial proceeding or in the opinion of the hearing officer in a quasi-judicial proceeding, was not intentionally excluded in the personnel record, may be used by the employer in the judicial or quasi-judicial proceeding, if the employee agrees or if the employee has been given a reasonable time to review the information. Material which should have been included in the personnel record shall be used at the request of the employee.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.503 Review of personnel record by employee.

Sec. 3.

An employer, upon written request which describes the personnel record, shall provide the employee with an opportunity to periodically review at reasonable intervals, generally not more than 2 times in a calendar year or as otherwise provided by law or a collective bargaining agreement, the employee's personnel record if the employer has a personnel record for that employee. The review shall take place at a location reasonably near the employee's place of employment and during normal office hours. If a review during normal office hours would require an employee to take time off from work with that employer, then the employer shall provide some other reasonable time for the review. The employer may allow the review to take place at another time or location that would be more convenient to the employee.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.504 Copy of information in personnel record; fee; mailing.

Sec. 4.

After the review provided in section 3, an employee may obtain a copy of the information or part of the information contained in the employee's personnel record. An employer may charge a fee for providing a copy of information contained in the personnel record. The fee shall be limited to the actual incremental cost of duplicating the information. If an employee demonstrates that he or she is unable to review his or her personnel record at the employing unit, then the employer, upon that employee's written request, shall mail a copy of the requested record to the employee.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.505 Disagreement with information contained in personnel record; agreement to remove or correct information; statement; legal action to have information expunged.

Sec. 5.

If there is a disagreement with information contained in a personnel record, removal or correction of that information may be mutually agreed upon by the employer and the employee. If an agreement is not reached, the employee may submit a written statement explaining the employee's position. The statement shall not exceed 5 sheets of 8-1/2-inch by 11-inch paper and shall be included when the information is divulged to a third party and as long as the original information is a part of the file. If either the employer or employee knowingly places in the personnel record information which is false, then the employer or employee, whichever is appropriate, shall have remedy through legal action to have that information expunged.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.506 Divulging disciplinary report, letter of reprimand, or other disciplinary action; notice; exceptions.

Sec. 6.

(1) An employer or former employer shall not divulge a disciplinary report, letter of reprimand, or other disciplinary action to a third party, to a party who is not a part of the employer's organization, or to a party who is not a part of a labor organization representing the employee, without written notice as provided in this section.

(2) The written notice to the employee shall be by first-class mail to the employee's last known address, and shall be mailed on or before the day the information is divulged from the personnel record.

(3) This section shall not apply if any of the following occur:

(a) The employee has specifically waived written notice as part of a written, signed employment application with another employer.

(b) The disclosure is ordered in a legal action or arbitration to a party in that legal action or arbitration.

(c) Information is requested by a government agency as a result of a claim or complaint by an employee.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.507 Review of personnel record before releasing information; deletion of disciplinary reports, letters of reprimand, or other records; exceptions.

Sec. 7.

An employer shall review a personnel record before releasing information to a third party and delete disciplinary reports, letters of reprimand, or other records of disciplinary action that are more than 4 years old. This section does not apply to any of the following circumstances:

(a) The release is ordered in a legal action to a party in that legal action.

(b) The release is ordered in an arbitration to a party in that arbitration.

(c) The release is part of a record regarding the reason or reasons for, and circumstances surrounding, a separation of service under section 5 of the law enforcement officer separation of service record act, 2017 PA 128, MCL 28.565.

(d) The release is requested by the Michigan commission on law enforcement standards, a law enforcement training academy, or a law enforcement agency for the purpose of determining compliance with licensing standards and procedures under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

History: 1978, Act 397, Eff. Jan. 1, 1979 ;-- Am. 2018, Act 521, Eff. Mar. 28, 2019

Popular Name: Right-to-Know

423.508 Gathering or keeping certain information prohibited; exceptions; information as part of personnel record.

Sec. 8.

(1) An employer shall not gather or keep a record of an employee's associations, political activities, publications, or communications of nonemployment activities, except if the information is submitted in writing by or authorized to be kept or gathered, in writing, by the employee to the employer. This prohibition on records shall not apply to the activities that occur on the employer's premises or during the employee's working hours with that employer that interfere with the performance of the employee's duties or duties of other employees.

(2) A record which is kept by the employer as permitted under this section shall be part of the personnel record.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.509 Investigation of criminal activity by employer; separate file of information; notice to employee; destruction or notation of final disposition of file and copies; prohibited use of information; release of information to certain law enforcement agencies.

Sec. 9.

(1) If an employer has reasonable cause to believe that an employee is engaged in criminal activity that might result in loss or damage to the employer's property or disruption of the employer's business operation, and the employer is engaged in an investigation, then the employer may keep a separate file of information relating to the investigation. Upon completion of the investigation or after 2 years, whichever comes first, the employee must be notified that an investigation was or is being conducted of the suspected criminal activity described in this section. Upon completion of the investigation, if disciplinary action is not taken, the investigative file and all copies of the material in it must be destroyed.

(2) An employer that is a criminal justice agency and that is involved in the investigation of an alleged criminal activity or the violation of an agency rule by an employee shall maintain a separate confidential file of information relating to the investigation. Upon completion of the investigation, if disciplinary action is not taken, the employee must be notified that an investigation was conducted. If the investigation reveals that the allegations are unfounded or unsubstantiated or if disciplinary action is not taken, the separate file must contain a notation of the final disposition of the investigation and information in the file must not be used in any future consideration for promotion, transfer, additional compensation, or disciplinary action. The employer may release information in the separate file to a prospective employing law enforcement agency if the information is part of a record regarding the reason or reasons for, and circumstances surrounding, a separation of service under section 5 of the law enforcement officer separation of service record act, 2017 PA 128, MCL 28.565. The employer shall release information in the separate file to the Michigan commission on law enforcement standards upon the request of the Michigan commission on law enforcement standards.

History: 1978, Act 397, Eff. Jan. 1, 1979 ;— Am. 2018, Act 521, Eff. Mar. 28, 2019

Popular Name: Right-to-Know

423.510 Right of access to records not diminished.

Sec. 10.

This act shall not be construed to diminish a right of access to records as provided in Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, or as otherwise provided by law.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.511 Violation; action to compel compliance; jurisdiction; contempt; damages.

Sec. 11.

If an employer violates this act, an employee may commence an action in the circuit court to compel compliance with this act. The circuit court for the county in which the complainant resides, the circuit court for the county in which the complainant is employed, or the circuit court for the county in which the personnel record is maintained shall have jurisdiction to issue the order. Failure to comply with an order of the court may be punished as contempt. In addition, the court shall award an employee prevailing in an action pursuant to this act the following damages:

(a) For a violation of this act, actual damages plus costs.

(b) For a wilful and knowing violation of this act, \$200.00 plus costs, reasonable attorney's fees, and actual

damages.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know

423.512 Effective date.

Sec. 12.

This act shall take effect January 1, 1979.

History: 1978, Act 397, Eff. Jan. 1, 1979

Popular Name: Right-to-Know