

ALLOW INCLUSION OF CERTAIN TOPICS DURING COLLECTIVE BARGAINING UNDER PERA

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House Bill 4356 as enacted
Public Act 143 of 2023
Sponsor: Rep. Brenda Carter

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4357 as enacted
Public Act 144 of 2023
Sponsor: Rep. Rachel Hood

House Committee: Labor
Senate Committee: Labor
Revised 4-30-24

SUMMARY:

House Bill 4356 amends 1947 PA 336, the public employment relations act (PERA), to allow the inclusion of certain topics during collective bargaining for public school employees. House Bill 4357 amends the State School Aid Act to effectively reinstate certain recently repealed prohibitions on collective bargaining agreements (see **Background**, below).

House Bill 4356 amends PERA to remove restrictions on collective bargaining negotiations between schools and employees for noninstructional support service contracts. Under the bill, the following subjects, which previously could not be included in negotiations when a bargaining unit that provides noninstructional support services can bid on a contract on an equal basis with other bidders, are no longer prohibited topics:

- The decision to contract with a third party for the services.
- The procedures for obtaining a contract.
- The identity of the third party.
- The impact of the contract for the services on individual employees or on the bargaining unit.

MCL 423.215

House Bill 4357 amends the State School Aid Act to reenact section 164h of the act without including previous prohibitions on collective bargaining agreements entered into by a school district or intermediate school district (ISD) that include automatic payroll deductions for union dues¹ or methods of compensation that do not comply with section 1250 of the Revised School Code.²

MCL 388.1764h

BACKGROUND:

Public Act 103 of 2023 (the school aid budget act for the 2023-24 fiscal year) repealed section 164h of the State School Aid Act on October 1, 2023. Section 164h previously established a

¹ This change was made to PERA by 2023 PA 114.

² Section 1250 pertains to performance-based methods of compensation for teachers and school administrators.

penalty in an amount equal to 5% of state aid if a district or ISD entered into a collective bargaining agreement that established racial or religious preferences, automatically deducted union dues from paychecks, conflicted with any state or federal transparency laws, or used a method of compensation that did not comply with section 1250 of the Revised School Code.

House Bill 4357 was signed into law on October 3, 2023, as Public Act 144. As passed by the legislature and enrolled in June, the bill would have amended section 164h to strike out the two provisions described above pertaining to automatic paycheck deductions for union dues and unlawful methods of compensation. However, because section 164h was completely repealed before House Bill 4357 was signed, the bill has been determined instead to have added or reenacted the section in a different form, effectively reinstating the 5% penalty for districts and ISDs that enter into a collective bargaining agreement that establishes racial or religious preferences or that conflicts with transparency laws. The section now reads as follows:

- (1) Beginning October 1, 2017, a district or intermediate district shall not enter into a collective bargaining agreement that does either of the following:
 - (a) Establishes racial or religious preferences for employees.
 - (b) Is in conflict with any state or federal law regarding district or intermediate district transparency.
- (2) A district or intermediate district that enters into a collective bargaining agreement in violation of subsection (1) shall forfeit an amount equal to 5% of the funds due to the district or intermediate district under this article.

FISCAL IMPACT:

The bills would have an indeterminate, but likely minimal, fiscal impact on local school districts, intermediate school districts (ISDs), and public school academies (PSAs). Any fiscal impact for an individual district, ISD, or PSA would be directly related to the assumed costs or benefits of any new collective bargaining agreement under the provisions of the bills compared to the prior or alternative status of any collective bargaining agreement that prohibited certain subjects from being collectively bargained.

Because House Bill 4357 amends and reenacts section 164h of the School Aid Act, the bill reinstates a penalty on a district or ISD that enters into a collective bargaining agreement that establishes racial or religious preferences for employees or is in conflict with any state or federal law regarding transparency. Any district or ISD found in violation of this section would incur a penalty equal to 5% of funds due under Article I of the School Aid Act.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.