



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 185 (Substitute S-5 as passed by the Senate)
Sponsor: Senator Jeff Irwin
Committee: Labor

Date Completed: 4-26-23

CONTENT

The bill would amend the public employment relations Act to delete a provision that excludes graduate student research assistants and other individuals who don't have sufficient indications of an employee-employer relationship from being considered a public employee. In addition, the bill specifies that the definition of "public employee" would include an individual serving as a graduate student research assistant or an equivalent position.

Generally, the Act prescribes certain rights and responsibilities of public employees. Among other things, public employees may organize for purposes of collective bargaining and may not strike.

Under the Act, "public employee" means an individual holding a position by appointment or employment in the government of the State, in the government of one or more of the political subdivisions of the 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. The Act specifies that the following individuals are not included in this definition:

- An individual serving as a graduate student research assistant or equivalent position.
- Any individual whose position does not have sufficient indicia of an employer-employee relationship using the 20-factor test announced by the Internal Revenue Service in revenue ruling 87-41, 1997-1 C.B. 296.

The bill would delete the exceptions to the definition.

(According to the Unemployment Insurance Agency, the 20-factor test is a set of criteria used to determine if an individual is an employee or an independent contractor. The 20 factors are split between three general categories: Behavioral Control Factors, Financial Control Factors, and Relationship Factors.)

MCL 423.201

BRIEF RATIONALE

In 2012, graduate student research assistants at the University of Michigan (UM) organized in support of improved working conditions. According to testimony, Public Act (PA) 45 of 2012 was enacted in response to the UM organization; the PA had a provision specifying that graduate student research assistants are not public employees and may not organize. Some people believe that graduate student research assistants should be allowed to organize and so it has been suggested that the provision added by PA 45 be deleted.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have no direct fiscal impact on the State, local units of governments, or public universities. The provisions of the bill would allow certain workers to be defined as public employees, entitled to representation or collective bargaining rights under the Act. The bill does not mandate action to be taken; therefore, any fiscal impact would depend on the actions of those employees.

Fiscal Analysts: Ryan Bergan
Cory Savino, PhD
Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.