

## Michigan Becomes 24th Right to Work State with Public Acts 348 and 349 of 2012

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December 12, 2012

**As promised, yesterday evening, Governor Rick Snyder signed two separate bills into law: SB-01116, now known as Public Act 348 of 2012 and HB-4003, now known as Public Act 349 of 2012.** The Acts prohibit private and public sector employees in unionized workplaces or public entities from being required to pay any dues, fees, assessments, or other charges or expenses of any kind or amount, or provide anything of value to a labor organization or bargaining representative.

The Acts will take effect in late March or early April 2013, ninety days after the close of this legislative session, and will apply to an "agreement, contract, understanding, or practice that takes effect or is extended or renewed after the effective date."

Public Act 349, pertaining to the public sector, amends the **Public Employment Relations Act** and specifically excludes public police and fire department employees. Public Act 348 amends the **Labor Mediation Act**, and applies to most private sector employees in Michigan, with a few exceptions including employees covered under the **Railway Labor Act**.

Under Public Acts 348 and 349, employees retain the right to organize together to form, join or assist labor organizations, to engage in lawful protected concerted activity for the purpose of collective negotiation and bargaining and to bargain with their employers through representatives of their choice.

The Acts prohibit any person by force, intimidation, or unlawful threats to compel or attempt to compel any employee to:

- Become or remain a member of a labor organization or otherwise affiliate with or financially support a labor organization or bargaining representative
- Refrain from becoming a member of a labor organization or otherwise affiliate with or financially support a labor organization or bargaining representative
- Pay to any charitable organization or third party an amount in lieu of any portion of dues, fees or assessments, required of union members represented by a labor organization

Moreover, any requirement that would violate the Acts is a prohibited subject of bargaining. Public Acts 348 and 349 each appropriate \$1,000,000 for fiscal year 2012-2013 to the Michigan Department of Licensing and Regulatory Affairs to:

- Respond to public inquires regarding the Acts
- Provide the Employment Relations Commission with staff and resources to implement the Acts
- Inform public employers, public employees, and labor organizations regarding their rights and responsibilities under the Acts

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- Carry out any other purpose that is necessary to implement the Acts

A person, employer, or labor organization that violates Public Act 348 or 349 is liable for a civil fine of not more than \$500. And, a person who suffers an injury as a result of a violation or threatened violation of the act may bring a civil action for damages, injunctive relief, or both. In addition, an individual that prevails in such an action may recover reasonable attorney fees. Finally, the Michigan Court of Appeals has exclusive original jurisdiction over any action challenging the validity of the Acts.

Although it is anticipated that several challenges may be filed contesting the legality of Public Acts 348 and 349, it is recommended that employers with represented workforces be proactive and begin planning for the implementation of this new law as soon as possible. Experts in Miller Canfield's **Employment + Labor Group** have been following this legislation and are available to assist you with both the legal and practical factors that will need to be considered as you move forward in this process.