

April 2012

Digital Instruction and Rights: Impact on Collective Bargaining Agreements and Contract Language - Challenges to Collective Bargaining in Ohio, Wisconsin, and Michigan

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Recommended Citation

Frumkin, Jeffery (2012) "Digital Instruction and Rights: Impact on Collective Bargaining Agreements and Contract Language - Challenges to Collective Bargaining in Ohio, Wisconsin, and Michigan," *Journal of Collective Bargaining in the Academy*: Vol. 0, Article 19.

DOI: <https://doi.org/10.58188/1941-8043.1070>

Available at: <https://thekeep.eiu.edu/jcba/vol0/iss7/19>

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**National Center for the Study of Collective Bargaining in Higher Education and the Professions
National Conference
April 3, 2012**

**Challenges to Collective Bargaining in Ohio, Wisconsin, and Michigan
Recent Michigan Legislation Impacting Collective Bargaining**

**Presented by Jeffery Frumkin, Associate Vice Provost for Academic Human Resources,
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In the past year, there have been over 70 pieces of legislation introduced in the Michigan state legislature that could negatively impact collective bargaining and employee rights. Although much of the legislation focuses on public school teachers and local government, there are several bills that could affect collective bargaining in higher education. Out of the approximately 70 bills introduced, 24 have been enacted.

Breakdown of the legislation:¹

General Subject	Introduced	Enacted
Direct effect on collective bargaining in higher education	18	5
Indirect effect on collective bargaining in higher education	17	3
Benefits issues	14	5
Regulatory issues (MIOSHA, ergonomics, etc.)	4	1
Workers compensation	2	1
Unemployment compensation	5	1
K-12 issues exclusively	21	6
Union rights issues (dues, picketing, strikes, etc.)	8	1
Right to work	4	0

The enacted bills include:

- **Publicly Funded Health Insurance Contribution Act (Public Act 152 of 2011):** Imposes a mandatory 80/20 cost-sharing model regarding benefits for public employers, with penalties imposed in the event the employer fails to adhere to that minimum. The bill authorizes a public employer to allocate the employee share of the medical benefit plan costs among its employees as it sees fit; however, elected public officials would have to pay 20 percent or more of the total annual costs of their plan.
- **Wage and benefits freeze during collective bargaining (Public Act 54 of 2011):** Amends the Public Employment Relations Act (PERA) to require that wage and benefit levels are frozen following the expiration of a CBA (e.g. no step movement following expiration); prohibits retroactive wage and benefits increases following the expiration of a CBA; and requires that employees bear any increased cost of maintaining health, dental, vision, prescription, and other insurance benefits that occurs after the expiration date of a CBA.

¹ The list of subjects may contain overlapping bills. For example, a bill might be counted in the benefits issues section as well as in K-12 issues section.

- **Public Employee Domestic Partner Benefit Restriction Act (Public Act 297 of 2011²):** Eliminates the right of public employers to offer other qualified adult (domestic partner) medical benefits or other fringe benefits. Governor Snyder asserted in his signing statement that the act does not apply to public universities.
- **Definition of public employee (Public Act 45 of 2012):** Amend PERA to specify that an individual serving as a graduate student research assistant or its equivalent, and any individual whose position does not have sufficient indicia of an employer-employee relationship using the 20-factor test announced by the IRS in Revenue Ruling 87-41, would not be a public employee entitled to representation or collective bargaining rights under the Act. The law is currently being challenged based on alleged procedural issues with its passage.

An Act that does not affect Higher Education but has received some national attention:

- **The Emergency Financial Manager Law (Public Act 4 of 2011³):** Greatly expands the role and power of emergency financial managers, including when an emergency financial manager can be appointed. The EFM has the right to renegotiate, alter or void existing collective bargaining agreements and may remove public administrators and elected officials should they fail to adhere to the terms imposed by the EFM. The EFM may also suspend collective bargaining for up to five years if the local government is placed into receivership.

Constitutional Amendment on the Right to Bargain

In addition to the legislation, a coalition of unions and other organizations is currently seeking to obtain enough signatures to put a proposed constitutional amendment on the November ballot. The amendment would specify certain collective bargaining rights in the state constitution. The amendment would also effectively repeal several of the bills already enacted during this legislative session.

The wording of the proposed ballot proposal can be found at: <http://protectourjobs.com/>

² See also HB 4771 amending MCL 423.215

³ See also Public Acts 5-9 and Public Act 45 of 2011.