

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---|---|-------------|
| CHICAGO REGIONAL COUNCIL OF |) | |
| CARPENTERS, |) | |
| Plaintiff, |) | |
| v. |) | |
| |) | No. |
| JAMES REILLY, as Trustee of the |) | |
| Metropolitan Pier and Exposition Authority, |) | Judge: |
| METROPOLITAN PIER AND EXPOSITION |) | |
| AUTHORITY, a body politic and municipal |) | Mag. Judge: |
| corporation, and LISA MADIGAN, as Attorney |) | |
| General for the State of Illinois, |) | |
| |) | |
| Defendants. |) | |

COMPLAINT

Plaintiff, CHICAGO REGIONAL COUNCIL OF CARPENTERS (“CARPENTERS UNION”) by its undersigned attorneys Terrance B. McGann, Gregory N. Freerksen and Karen M. Rioux complains of Defendants JAMES REILLY, in his capacity as Trustee of the Metropolitan Pier and Exposition Authority, METROPOLITAN PIER AND EXPOSITION AUTHORITY, (“MPEA”) a body politic and municipal corporation, and LISA MADIGAN, in her capacity as Attorney General for the State of Illinois (collectively described as “Defendants”) as follows:

NATURE OF THE ACTION

1. This is an action pursuant to 42 U.S.C. 1983 to challenge legislation recently enacted by the General Assembly of the State of Illinois pertaining to tradeshow work performed at MPEA facilities. The challenge is on federal constitutional grounds together with a supplemental state claim based upon the Illinois Constitution.

2. Plaintiff CARPENTERS UNION seeks a declaration of unconstitutionality of the recent amendments to the Metropolitan Pier and Exposition Authority Act (“MPEA Act”) as contained in Public Act 898 which was enacted by both the houses of the Illinois General Assembly and which the Illinois Governor’s amendatory veto was overridden.

3. The CARPENTERS UNION brings this action on behalf of itself and its constituent members who are affected by the legislation.

4. Plaintiff’s challenge seeks declaratory and injunctive relief based upon five constitutional grounds. Four based upon the Constitution of the United States and one based upon the Illinois Constitution of 1970.

5. In Count I, Plaintiff claims the MPEA Act, as amended, is preempted by the National Labor Relations Act (“NLRA”) and is void pursuant to the Supremacy Clause of the United States Constitution, Article VI, Clause 2 under the doctrine of *Machinists* preemption (*Machinists v. Wisconsin Employment Relations Commission*, 427 U.S. 132 (1976)).

6. In Count II, Plaintiff claims the MPEA Act, as amended, is preempted by the National Labor Relations Act (“NLRA”) and is void pursuant to the Supremacy Clause of the United States Constitution, Article VI, Clause 2 under the doctrine of *Garmon* preemption (*San Diego Bldg. Trades Council v. Garmon*, 359 U.S. 236, 245, 3 L. Ed. 2d 775, 79 S. Ct. 773 (1959)).

7. In Count III, Plaintiff claims the MPEA Act, as amended, violates the Contracts Clause of the United States Constitution, Article I, Section 10, Clause 1 because it substantially impairs an existing contract between the Plaintiff and the Defendant MPEA which is known as the Labor Agreement for the Metropolitan Pier and

Exposition Authority with the effective date of January 1, 1999 together with its subsequent amendment entered into on June 1, 2008.

8. In Count IV, Plaintiff claims the MPEA Act, as amended, violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because the amendments create unreasonable and arbitrary legislative classification of “union employees” which unlike non-union employees have legislative restrictions placed upon their ability to negotiate the terms of their wages, hours and working conditions.

9. In Count V, Plaintiff claims the MPEA Act, as amended, violates Section 13 of Article IV of the Illinois Constitution of 1970 because it is a special law which makes classifications discriminating in favor of non-union workers by restricting the rights of union employees to negotiate with their employer in regard to their wages, hours and working conditions.

10. Plaintiff seeks a declaration that the amendments to the MPEA Act, as contained in Public Act 898 are unconstitutional under the United States Constitution and under the Illinois Constitution of 1970. Plaintiff further seeks a permanent injunction prohibiting Defendant from enforcing the amendments. Plaintiff also seeks money damages as well as costs and fees under 42 U.S.C. 1988.

JURISDICTION AND VENUE

11. The Court has federal question jurisdiction of the subject matter of this lawsuit pursuant to 28 U.S.C. 1331, 28 U.S.C. 2201 and 2202 and 42 U.S.C. 1983.

12. The Court has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. 1367(a).

13. Venue is proper in this Court pursuant to 28 U.S.C. 1391 in that Defendants JAMES REILLY and MPEA are residents of this judicial district in the State of Illinois.

PARTIES

14. Plaintiff CARPENTERS UNION is an unincorporated association of union employees.

15. Plaintiff CARPENTERS UNION is a labor organization as defined by the NLRA, 29 U.S.C. 152(5).

16. Defendant JAMES REILLY is the Trustee of the Defendant MPEA and is sued in his official capacity as Trustee. It is the duty of the Trustee “to ensure the proper administration of the authority.” (70 ILCS 210/14.5 (2010)). Among other things, it is the duty of Defendant REILLY to implement and enforce the MPEA Act, as amended.

17. Defendant MPEA is a body politic and municipal corporation. This Defendant has the capacity to be sued in its corporate name and has its principal office in the City of Chicago. (70 ILCS 210/3 (2010))

18. Defendant LISA MADIGAN is the Attorney General of the State of Illinois. She is the chief legal officer of the State of Illinois and has the obligation to enforce the laws passed by the General Assembly of the State of Illinois. (Illinois Constitution 1970, Article V, Section 15) Among other things it is the duty of Defendant MADIGAN to enforce the MPEA Act, as amended.

ALLEGATIONS COMMON TO ALL COUNTS

19. The MPEA is a political subdivision of the State of Illinois subject to the plenary authority of the Illinois General Assembly. It was created for the benefit of the

general public to promote business, industry, commerce and tourism within the City of Chicago and the State of Illinois.

20. The MPEA owns and operates McCormick Place and Navy Pier, both of which are located in the City of Chicago. The MPEA is supported in its operation through tourism related taxes, and fees on rental of exhibit space and meeting rooms, electrical and utility service, food and beverage services, and on parking, and hotel revenues.

21. MPEA rents space at its facilities to Tradeshow Managers who organize and sponsor tradeshows. Typically, the Tradeshow Managers then rent space to individual Exhibitors who wish to display their products or services during the Tradeshow.

22. Show Managers enter into agreements with General Contractors who are primarily responsible for constructing the information centers at the tradeshows, providing labor to transport equipment and materials, assemble and dismantle the tradeshows which include carpet or floor covering, machinery, the erection and dismantlement of exhibitor booths and signs. While there are several General Contractors who work in the tradeshow industry throughout the country, Global Experience Specialists ("GES") and Freeman Decorating are the largest and most successful.

23. The General Contractors performing work at MPEA facilities directly employ workers under collective bargaining agreements entered into with various trade unions including the Carpenters Union to perform these services.

24. In addition to the work performed by the General Contractors, individual exhibitors may employ their own contractors to assemble and dismantle the exhibitor's

booth and signage. These contractors are typically referred to as Exhibitor Appointed Contractors. Like the General Contractors, Exhibitor Appointed Contractors at MPEA facilities directly employ workers under collective bargaining agreements entered into with various trade unions including the Carpenters Union.

25. In 1998, in response to calls from the City of Chicago to make changes in the tradeshow industry in order to make MPEA more competitive with other tradeshow venues around the country, the Labor Agreement for the Metropolitan Pier and Exposition Authority (“MPEA Agreement 1999”) was created. The parties to this agreement included MPEA and various trade unions working at MPEA facilities including the Carpenters Union. The Agreement included various concessions by the Carpenters Union including reduced overtime wages and healthcare and pension benefits, composite work crews, arbitration provisions and, for the first time, allowed exhibitors to assemble and dismantle their own booths which were no larger than 300 square feet in size.

26. In 2008, the Carpenters Union agreed to amend the MPEA Agreement to incorporate further concessions for tradeshow contractors on hours of work and overtime provisions. (“MPEA Agreement 2008”). The current MPEA Agreement remains in effect through January 2014.

27. The MPEA Act, as amended, specifically regulates and restricts the ability of union employees to negotiate with their employer with respect to wages, hours and working conditions for work performed on the MPEA premises.

28. The amendments do not by their terms restrict the ability of non-union employees to negotiate with their employer the terms of the wages, hours and working conditions for work performed on the MPEA premises.

29. The MPEA Act, as amended defines and classifies “union employees” in 70 ILCS 210/5.4(b):

"union employees" means workers represented by a labor organization, as defined in the National Labor Relations Act, providing skilled labor services to exhibitors, a show manager, or a show contractor on Authority premises.

30. The members of the CARPENTES UNION who work on the premises of the MPEA are workers represented by a labor organization – the CARPENTERS UNION – and they provide skilled labor services to exhibitors, show managers, and show contractors on the premises of the MPEA. These members are classified as “union employees” under the statutory definition of the MPEA Act, as amended.

31. The MPEA Act, as amended, regulates and restricts the ability of union employees to negotiate with their employers with respect to wages, hours and working conditions for work performed on the premises of the MPEA in 70 ILCS 210/5.4(c)(6) through (14):

(6) On Monday through Friday for any consecutive 8-hour period during the hours of 6:00 a.m. and 10:00 p.m., union employees on authority premises shall be paid straight-time hourly wages plus fringe benefits. Union employees shall be paid straight-time and a half hourly wages plus fringe benefits for labor services provided after any consecutive 8-hour period; provided, however, that between the hours of midnight and 6:00 a.m. union employees shall be paid double straight-time wages plus fringe benefits for labor services.

(8) On Saturdays for any consecutive 8-hour period, union employees on authority premises shall be paid straight-time and a half hourly wages plus fringe benefits. after any consecutive 8-hour period, union employees on authority premises shall be paid double straight-time hourly wages plus fringe benefits; provided, however, that between the hours of midnight and 6:00 a.m. union employees shall be paid double straight-time wages plus fringe benefits for labor services.

(10) On Sundays and on state and federal holidays, union employees on authority premises shall be paid double straight-time hourly wages plus fringe benefits.

(12) The Authority has the power to determine, after consultation with the advisory council, the work jurisdiction and scope of work of union employees on Authority premises during the move-in, move-out, and run of a show, provided that any affected labor organization may contest the authority's determination through a binding decision of an independent, third-party arbitrator. When making the determination, the Authority or arbitrator, as the case may be, shall consider the training and skills required to perform the task, past practices on Authority premises, safety, and the need for efficiency and exhibitor satisfaction. These factors shall be considered in their totality and not in isolation. Nothing in this item permits the Authority to eliminate any labor organization representing union employees that provide labor services on the move-in, move-out, and run of the show as of the effective date of this amendatory act of the 96th General Assembly.

(13) During the run of a show, all stewards of union employees shall be working stewards. Subject to the discretion of the authority, no more than one working steward per labor organization representing union employees providing labor services on authority premises shall be used per building and per show.

(14) An exhibitor or show manager may request by name specific union employees to provide labor services on authority premises consistent with all state and federal laws. Union employees requested by an exhibitor shall take priority over union employees requested by a show manager.

In 70 ILCS 210/5.4(c) the MPEA Act, as amended states:

(c) Exhibitor rights.

In order to control costs, increase the competitiveness, and promote and provide for the economic stability of Authority premises, all Authority contracts with exhibitors, contractors, and managers shall include the following minimum terms and conditions:

(1) Consistent with safety and the skills and training necessary to perform the task, as determined by the Authority, an exhibitor and exhibitor employees are permitted in a booth of any size with the use of the exhibitor's ladders and hand tools to:

(i) set-up and dismantle exhibits displayed on Authority premises;

(ii) assemble and disassemble materials, machinery, or equipment on Authority premises; and

(iii) install all signs, graphics, props, balloons, other decorative items, and the exhibitor's own drapery, including the skirting of exhibitor tables, on the Authority's premises.

(2) An exhibitor and exhibitor employees are permitted in a booth of any size to deliver, set-up, plug in, interconnect, and operate an exhibitor's electrical equipment, computers, audio-visual devices, and other equipment.

(3) An exhibitor and exhibitor employees are permitted in a booth of any size to skid, position, and re-skid all exhibitor material, machinery, and equipment on Authority premises.

32. The amendments to the MPEA Act set and regulate labor policy on MPEA premises.

33. The amendments to the MPEA Act are unlimited in duration and will continue in perpetuity unless the amendments are repealed.

34. The amendments to the MPEA Act are not narrowly tailored for one particular show or particular job or a specific project.

35. The amendments to the MPEA Act specifically targets union employees for discriminatory treatment and arbitrarily fails to regulate the ability of similarly situated non-union employees to negotiate with respect to wages, hours or conditions of employment.

COUNT I.
MACHINISTS PREEMPTION

36. Plaintiff incorporates by reference paragraphs 1 through 35 above, as if fully set out in this Count I.

37. Congress has regulated the field of labor relations by passing the National Labor Relations Act, 29 U.S.C. 151-169 ("NLRA") and by that legislation Congress has enacted an integrated scheme of regulation of labor relations in the private sector.

38. In regulating the field of labor relations, Congress has intended to preempt the individual states from enacting legislation which would regulate labor relations in the private sector. In particular, Congress has intended to preempt the states from

enacting legislation which would regulate the ability of private sector employees to negotiate with their private employer with respect to the terms of wages, hours and working conditions.

39. In addition to enacting its own regulations in the NLRA, Congress has also intended to create a zone free from all regulations, whether federal or state, in regard to the ability of unions and their members to negotiate with their employers in regard to wages, hours and working conditions. In doing so, Congress has left these labor relations to the free-play of economic forces.

40. The MPEA Act, as amended, unlawfully regulates the ability of the Plaintiff and its members to negotiate with employers who perform work on the premises of the MPEA with respect to the union employee's wages, hours and working conditions. Accordingly, it offends the intent of Congress to preempt the states' attempts to regulate labor relations on such matters.

41. The MPEA Act, as amended, violates the Supremacy Clause of the United States Constitution, Article VI, Clause 2, and for that reason is unconstitutional and void.

42. Defendants are either enforcing the above specified amendments to the MPEA Act or are threatening to enforce those amendments. Defendants are acting under color of state law to violate the rights of the Plaintiff as guaranteed by the United States Constitution and pursuant to 42 U.S.C. 1983 this Court may grant relief.

WHEREFORE, Plaintiff prays that this Court enter an Order:

A. Declaring that the MPEA Act, as amended, is preempted by the NLRA,

B. Declaring that the MPEA Act, as amended, violates the violates the Supremacy Clause of the United States Constitution, Article VI, Clause 2, and for that reason is unconstitutional and void.

C. Declaring that Defendants have acted under color of state law in infringing on the rights of Plaintiff and its members and Plaintiff is entitled to relief under 42 U.S.C. 1983.

D. Enter a permanent injunction prohibiting Defendants from enforcing the above specified amendments to the MPEA Act.

E. Enter a judgment for money damages lost wages and fringe benefit contributions for each and every member of the collective bargaining unit who lost wages and fringe benefit contributions by reason of the unconstitutional amendments to the MPEA Act.

F. Grant Plaintiff leave to file their petition for costs and attorneys fees pursuant to 42 U.S.C. 1988.

COUNT II.
GARMON PREEMPTION

43. Plaintiff incorporates by reference paragraphs 1 through 42 above, as if fully set out in this Count II.

44. In enacting the NLRA, Congress issued regulations which expressly regulate conduct which the MPEA Act, as amended, also now attempts to regulate.

45. In Section 7 of the NLRA, 29 U.S.C. 157, employees are guaranteed the “right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or

protection, and shall also have the right to refrain from any or all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).”

46. In Section 8(a)1 of the NLRA, 29 U.S.C. 158(a)(1) Congress made it an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7, 29 U.S.C. 157.

47. The MPEA Act, as amended, denies the Carpenters Union and its signatory employers the federally protected right to bargain over mandatory subjects which include wages, fringe benefits, hours of work, scope of work, assignment of work, dispute resolution process and procedures, and terms of employment.

48. The MPEA Act, as amended, results in direct violation of the NLRA by not only denying members of the Carpenters Union their guaranteed rights under Section 7 of the NLRA but also by unilaterally changing the terms and conditions of existing collective bargaining agreements between the Carpenters Union and its signatory employers in violation of Section 8(a)(5) of the NLRA and the express terms of the MPEA Agreement which remains in effect until 2014.

49. The MPEA Act, as amended, results in unwarranted discrimination against members of the Carpenters Union on the basis of union affiliation which is prohibited by under Section 8(a)(3) of the NLRA. The MPEA, Act essentially creates a two tiered scale under which “union employees” are burdened by the MPEA regulations and “non-union employees” performing the same work remain unbridled and unregulated.

50. The MPEA Act, as amended, authorizes employers who employ members of the Carpenters Union to perform work on MPEA facilities to commit unfair labor practices under Section 8(a)(1), 8(a)(3) and 8(a)(5) of the NLRA with impunity.

51. For the reasons stated in the above paragraphs, the MPEA Act, as amended, requires or allows employer to commit unfair labor practices which are prohibited by Congress by its passage of the NLRA.

52. The MPEA Act, as amended, unlawfully regulates the ability of the Plaintiff and its members to negotiate with employers who perform work on the premises of the MPEA with respect to the union employee's wages, hours and working conditions and it accordingly offends the intent of Congress to preempt the States' attempts to regulate labor relations on such matters.

53. The MPEA Act, as amended, violates the Supremacy Clause of the United States Constitution, Article VI, Clause 2, and for that reason is unconstitutional and void.

54. Defendants are either enforcing the above specified amendments to the MPEA Act or are threatening to enforce those amendments. Defendants are acting under color of state law to violate the rights of the Plaintiff as guaranteed by the United States Constitution and pursuant to 42 U.S.C. 1983 this Court may grant relief.

WHEREFORE, Plaintiff prays that this Court enter an Order:

- A. Declaring that the MPEA Act, as amended, is preempted by the NLRA,
- B. Declaring that the MPEA Act, as amended, violates the Supremacy Clause of the United States Constitution, Article VI, Clause 2, and for that reason is unconstitutional and void.

C. Declaring that Defendants have acted under color of state law in infringing on the rights of Plaintiff and its membership and are entitled to relief under 42 U.S.C. 1983.

D. Enter a permanent injunction prohibiting Defendants from enforcing the above specified amendments to the MPEA Act.

E. Enter a judgment for money damages, lost wages and fringe benefit contributions for each and every member of the collective bargaining unit who lost wages and fringe benefit contributions by reason of the unconstitutional amendments to the MPEA Act.

F. Grant Plaintiff leave to file their petition for costs and attorneys fees pursuant to 42 U.S.C. 1988.

COUNT III.
VIOLATION OF CONTRACTS CLAUSE

55. Plaintiff incorporates by reference paragraphs 1 through 54 above as if fully set out in this Count III.

56. There exists an unexpired executory contract between Defendant MPEA and the Plaintiff known as the Labor Agreement for the Metropolitan Pier and Exposition Authority (“MPEA Agreement”)

57. The MPEA Agreement was originally entered into by Defendant MPEA and became effective on January 1, 1999.

58. On that date, the MPEA Agreement was entered into by Plaintiff's predecessor the Chicago and Northeast Illinois District Council of Carpenters. As successor, Plaintiff and its members are entitled to the benefits of this contract.

59. The MPEA Agreement is a multi-lateral contract which in addition to the MPEA and the Plaintiff, also included as parties, Local 17U of the United Steelworkers of America, AFL-CIO-CLC, the Teamsters Local 714, International Brotherhood of Teamsters, and the Riggers and Machinery Movers Local 136.

60. Pursuant to Section 10 of the MPEA Agreement, the contract continues in full force and effect unless notice is given. The MPEA Agreement continues in full force and effect unless notice was given by a signatory party of its intent to modify the contract on or before January 2010. No party to the contract gave notice of intent to modify the contract and, accordingly, the contract continues in full force and effect for the period of four years subsequent to January 2010 which is until January 2014.

61. The MPEA Agreement contains provisions concerning the terms of wages, hours, and working conditions of union employees which are substantially different and which are more favorable to union employees than the terms of the wages, hours, and working conditions of the MPEA Act, as amended.

62. In Section 1(A) of the MPEA Agreement, the parties agreed as pertinent:

Pursuant to this Agreement, all exhibitor work that was traditionally within the jurisdiction of one or the other of these unions may be performed by the members of either union, provided that the labor available to perform such work will be compromised on the basis of a ratio to be agreed upon by the Decorators and Carpenters.

63. Section 1(A) of the MPEA Agreement was substantially impaired by the MPEA Act, as amended.

64. In Section 1(B) of the MPEA Agreement, the parties agreed:

In consideration for the Decorators, Carpenters, Riggers and Teamsters agreement to the covenants set forth in this Agreement, the Authority recognizes, their separate identities and affirms that it has not and will not take any action, the purpose or object of which is to revoke, modify or eliminate any Union's current recognition, certification as an exclusive bargaining agent or to otherwise

adversely affect their traditional jurisdictional prerogative, except as set forth in the preceding paragraph. ***The Authority further agrees to require, as a condition of access to its facilities, that general and independent contractors who erect and dismantle such trade shows, conventions and other similar events, recognize and maintain the traditional jurisdictions of these unions with respect to all work performed by them*** other than work performed by the unified labor force. (emphasis added)

65. Section 1(B) of the MPEA Agreement was substantially impaired by the MPEA Act, as amended.

66. In Section 2(B)(1) of the MPEA Agreement, the parties agreed:

1. Monday through Friday Hourly Rate and Overtime Rate

The regular work day Monday through Friday shall be from 8:00 a.m. and paid at straight time pay. All work performed between 4:30 p.m. and 8:30 p.m. shall be paid at time-and-one-half pay, except that Riggers, Decorators and Carpenters who have not worked for at least eight (8) hours at straight time on that day shall be entitled to double time after 6:30 p.m.

67. Section 2(B)(1) of the MPEA Agreement was substantially impaired by the MPEA Act, as amended.

68. In Section 2(B)(2) of the MPEA Agreement, the parties agreed:

2. Tear-Down Work

Tear-down work on Monday through Friday from 4:30 p.m. to 8:30 p.m. shall be paid at time-and on-half pay. For tear-down work that begins prior to 4:30 p.m., hours worked between 4:30 and 6:30 p.m. shall be paid at time-and-one-half. The first two hours of tear down work on Saturday shall be paid at time-and-one-half pay.

69. Section 2(B)(2) of the MPEA Agreement was substantially impaired by the MPEA Act, as amended.

70. In Section 2(B)(3) and 2(B)(5) of the MPEA Agreement 2008, the parties agreed:

4. On the day a trade show breaks from Monday through Friday, the Carpenters shall be paid at the rate of straight time for all

hours of work performed from the time that the show breaks up to 8:30 p.m. Thereafter, the Carpenters shall be paid at the rate of time and one half through 12:00 midnight. This does not alter that overtime will be paid after 8 hours of work.

5. Carpenters working between 6:00 a.m. to 6:30 p.m. on Saturday shall be paid at the rate of time and one-half for all hours worked. All hours worked before 6:00 a.m. and after 6:30 p.m. shall be paid at the rate of double time.

71. Sections 2(B)(4) and 2(B)(5) of the MPEA Agreement 2008 was substantially impaired by the MPEA Act, as amended.

72. In Section 3 Exhibitor Booth Work of the MPEA Agreement, the parties agreed:

In connection with exhibits no larger than 300 net square feet, an exhibitor or a full-time company representative may erect and tear down booths by hand without mechanical assistance or ladders. In booths no larger than 300 net square feet, union labor is not required to hang signs or graphics.

73. Section 3 of the MPEA Agreement was substantially impaired by the MPEA Act, as amended.

74. The MPEA Act, as amended, violates the Contracts Clause of the United States Constitution, Article I, Section 10, Clause 1 because it substantially impairs an existing contract between the Plaintiff and the Defendant MPEA; and, because the MPEA Act, as amended, abridges rights which fundamentally induced the Plaintiff to initially enter into the MPEA Agreement; and, the MPEA Act as amended abridges legitimate expectations upon which the Plaintiff reasonably relied upon in entering into that contract.

75. Defendants are either enforcing the above specified amendments to the MPEA Act or are threatening to enforce those amendments. Defendants are acting

under color of state law to violate the rights of the Plaintiff as guaranteed by the United States Constitution and pursuant to 42 U.S.C. 1983, this Court may grant relief.

WHEREFORE, Plaintiff prays that this Court enter an Order:

- A. Declaring that the MPEA Act, as amended, violates the violates the Contracts Clause of the United States Constitution, Article I, Section 10, Clause 1 because it substantially impairs an existing contract between the Plaintiff and the Defendant MPEA and for that reason is unconstitutional and void.
- B. Declaring that Defendants have acted under color of state law in infringing on the rights of Plaintiff and its membership and are entitled to relief under 42 U.S.C. 1983.
- C. Enter a permanent injunction prohibiting Defendants from enforcing the above specified amendments to the MPEA Act.
- D. Enter a judgment for money damages for lost wages and fringe benefit contributions for each and every member of the collective bargaining unit who lost wages and fringe benefit contributions by reason of the unconstitutional amendments to the MPEA Act.
- E. Grant Plaintiff leave to file their petition for costs and attorneys fees pursuant to 42 U.S.C. 1988.

COUNT IV.

EQUAL PROTECTION – ARBITRARY CLASSIFICATION

76. Plaintiff incorporates by reference paragraphs 1 through 75 above as if fully set out in this Count IV.

77. The MPEA Act, as amended, classifies “union employees” and treats union employees more restrictively and less favorably than it does non-union employees i.e.

employees who bargain on behalf of themselves without the agency of a labor organization as their representatives.

78. Under the MPEA Act, as amended, union employees are restricted as to the days and hours in which they may negotiate for overtime pay with their employer and Union employees may not bargain for more favorable days, hours and wages regarding overtime pay than the terms which are prescribed in the MPEA Act, as amended.

79. Similarly situated non-union employees are not restricted as to the days and hours in which they may negotiate for overtime pay with their employers.

80. Only non-union employees may negotiate with their employers for more favorable terms for overtime pay than the terms set out for overtime in the MPEA Act, as amended.

81. The purpose and motivation for the Illinois General Assembly to classify “union employees” was to target union employees politically for unfavorable treatment and to favor similarly situated non-union employees for work on MPEA premises for purely political reasons which are not rationally related to any legitimate legislative motive or purpose.

82. The MPEA Act, as amended, violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because the amendments create a legislative classification of “union employees” that are unreasonable and arbitrary.

83. Defendants are either enforcing the above specified amendments to the MPEA Act or are threatening to enforce those amendments. Accordingly, they are

acting under color of state law to violate the rights of the Plaintiff as guaranteed by the United States Constitution and pursuant to 42 U.S.C. 1983 this Court may grant relief.

WHEREFORE, Plaintiff prays that this Court enter an Order:

- A. Declaring that the MPEA Act, as amended, creates an unreasonable and arbitrary classification of “union employees”.
- B. Declaring that the MPEA Act, as amended, violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because the amendments create a legislative classification of “union employees” which is unreasonable and arbitrary and for that reason the above specified amendments to the MPEA Act are unconstitutional and void.
- C. Declaring that Defendants have acted under color of state law in infringing on the rights of Plaintiff and its membership and are entitled to relief under 42 U.S.C. 1983.
- D. Enter a permanent injunction prohibiting Defendants from enforcing the above specified amendments to the MPEA Act.
- E. Enter a judgment for money damages, lost wages and fringe benefit contributions for each and every member of the collective bargaining unit who lost wages and fringe benefit contributions by reason of the unconstitutional amendments to the MPEA Act.
- F. Grant Plaintiff leave to file their petition for costs and attorneys fees pursuant to 42 U.S.C. 1988.

COUNT V.
ILLINOIS CONSTITUTION - SPECIAL LEGISLATION

84. Plaintiff incorporates by reference paragraphs 1 through 83 above, as if fully set out in this Count V.

85. Illinois Constitution of 1970, Article IV, Section 13 bans special legislation and states the following:

The General Assembly shall pass no special or local law when a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination.

86. The Supreme Court of Illinois has long held that this provision prohibits the General Assembly from making arbitrary classifications which discriminate in favor of a select class of persons and against a similarly situated disfavored class of persons without a sound and reasonable basis.

87. The MPEA Act, as amended, classifies “union employees” by virtue of a definition which states that “union employees” means workers represented by a labor organization, as defined in the National Labor Relations Act, providing skilled labor services to exhibitors, a show manager, or a show contractor on Authority premises.”

88. By creating a class of “union employees”, the General Assembly of Illinois also necessarily created a class of non-union employees which are the workers who are not represented by a labor organization providing skilled labor services to exhibitors, a show manager, or show contractor on Authority premises.”

89. As specified in detail in the prior Count IV, the MPEA Act, as amended, treats union employees more restrictively and less favorably than it does non-union employees who are performing similar work.

90. The classification of non-union employees by the MPEA Act, as amended, provides for favorable treatment with no rational basis.

91. The classification of similarly situated union employees by the MPEA Act as amended, for special disfavored treatment has no rational basis.

92. The MPEA Act, as amended, discriminates in favor of non-union employees without a sound and reasonable basis and is prohibited as special legislation under Article IV, Section 13 of the Illinois Constitution of 1970.

93. Defendants are either enforcing the above specified amendments to the MPEA Act or are threatening to enforce those amendments. They are acting under color of state law to violate the rights of the Plaintiff as guaranteed by the Illinois Constitution of 1970 and pursuant to Article IV, Section 13, this Court is authorized to grant relief.

WHEREFORE, Plaintiff prays that this Court enter an Order:

A. Declaring that the MPEA Act, as amended, creates an arbitrary and irrational classification of “union employees” which classification discriminates in favor of union employees and discriminate against similarly situated non-union employees without a sound and reasonable basis.

B. Declaring that the MPEA Act, as amended, violates the Article IV, Section 13 of the Illinois Constitution of 1970 because the amendments create a legislative classification of unreasonably favors non-union employees and discriminates against similarly situated union employees.

C. Enter a permanent injunction prohibiting Defendants from enforcing the above specified amendments to the MPEA Act.

D. Enter a judgment for money damages, lost wages and fringe benefit contributions for each and every member of the collective bargaining unit who lost

wages and fringe benefit contributions by reason of the unconstitutional amendments to the MPEA Act.

Respectfully submitted,

/s/ Terrance B. McGann
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