

A STUDY FROM THE
MACKINAC CENTER'S
LABOR POLICY INITIATIVE

NATHAN MEHRENS

BRINGING FINANCIAL TRANSPARENCY TO MICHIGAN'S PUBLIC SECTOR UNIONS



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The Mackinac Center for Public Policy

Bringing Financial Transparency to Michigan's Public Sector Unions

By Nathan Mehrens

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Foreword

By the Honorable Elaine L. Chao

Congress passed the Labor-Management Reporting and Disclosure Act in 1959, after widespread publicity over union financial mismanagement led to a groundswell of support from labor union members demanding transparency and accountability in how their union dues were being spent. Among other tools, the LMRDA mandates that unions file annual financial disclosure reports with the U.S. Department of Labor and provides mechanisms to foster union democracy as well.

During my tenure as U. S. Secretary of Labor, it was brought to my attention that the regulations promulgated to enforce the LMRDA were woefully inadequate, and that much still needed to be done to deliver on the promises of transparency and accountability made to union members in 1959. Not only were the implementing regulations woefully inadequate for the 21st-century workforce, but the office charged with administering the LMRDA regulations — the Office of Labor-Management Standards — was understaffed, demoralized and lacking the resources to do its job.

New leadership was provided to update union financial disclosure reporting forms, to work with labor union officials to ensure they understood how to comply with the new regulations, and to make these annual reports accessible to union members by posting them on the Labor Department's website. In addition, the professional OLMS staff was strengthened and provided with the resources necessary to accomplish its mission of protecting union members. As a result, for the first time, rank and file union members had unprecedented access to detailed information about how their union dues were being spent by the officials they had elected. Between 2001 and 2008, OLMS obtained more than 1,000 indictments and 929 convictions against union officers and employees for malfeasance, financial corruption and other crimes.

These hard-won reforms apply to private sector and federal employee unions. Unions representing employees of state and local governments, however, are outside the jurisdiction of the U.S. Department of Labor and under the jurisdiction of the states. In the following analysis, Nathan Mehrens — who was part of the team involved in the federal sector LMRDA reforms — provides the information necessary to understand the background and importance of union financial transparency. His analysis reveals that more than 50 years after the passage of the LMRDA, rank and file union members working for Michigan's state and local governments *still* do not fully enjoy the benefits and protections of increased transparency and accountability. It is time to provide state and local union members with the same protections afforded their counterparts in private and federal sector unions.

The Honorable Elaine L. Chao served as the 24th Secretary of Labor from 2001-2009 and is the longest-serving Secretary of Labor since World War II.

Executive Summary

Unionized public sector employees in Michigan pay hundreds and sometimes thousands of dollars per year in dues to unions. These unions have a duty to use this revenue in ways that benefit union members. Unfortunately, under current Michigan law, union members cannot easily assess whether their union is making good use of their money to effectively represent their interests, because the state lacks effective financial reporting requirements for public sector unions.

This report shows how Michigan policymakers could fix this problem. There is a model in place of union financial transparency requirements that Michigan could easily adopt — they are the federal government's long-standing reporting requirements of private sector unions, established by the Labor-Management Reporting and Disclosure Act of 1959. These disclosure rules provide timely and detailed information about how private sector unions are spending their members' money, and they have been instrumental in uncovering financial corruption by union officials.

Michigan currently has in place some financial reporting requirements of public sector unions, but these are woefully inadequate. They only require unions to disclose spending on three broad areas: collective bargaining, contract administration and grievance adjustments. And, based on publicly available information in 2013, it appears that many public sector unions in Michigan do not even provide these data, though they are required by law to do so. Unionized public employees in Michigan are not provided the opportunity to determine how well their hard-earned dues money is being spent by their union.

The federal requirements, on the other hand, provide a meaningful and appropriate level of financial disclosure. Among other things, unions must report all of their assets, liabilities, receipts, loans, investments, gifts and grants. The salaries and disbursements of union officials and employees must also be reported. Further, certain disbursements must be itemized, so that union members can see precisely how the union is spending their money. For instance, the federal disclosure laws require unions to itemize their spending on political contributions and lobbying. Finally, current and past data are easily accessible online and may be downloaded for thorough analyses.

Appendix A of this report provides model legislation for implementing these well-established federal financial reporting requirements. Michigan policymakers should consider adopting these rules. Bringing financial transparency to public sector unions in Michigan will make it more difficult for union officials to misuse members' money and allow members to make better decisions about whether they should continue financially supporting the union operating in their workplace.

Introduction

For 55 years, employees working in the private sector who are members of labor organizations have been protected by the federal Labor-Management Reporting and Disclosure Act of 1959, also known as the Landrum-Griffin Act.* For the last 10 years, the financial reporting regulations that implement the LMRDA have provided union members, the government and the public a good level of transparency concerning labor organization finances.

Public sector employees at the state and local level who are union members, however, usually are not afforded this benefit, because the LMRDA's coverage does not reach them. This paper explains the differences in financial reporting for private sector unions and public sector unions in the state of Michigan; it shows the benefits of financial disclosure; and it suggests how to improve transparency standards for Michigan's public sector unions.

History of Private Sector Union Financial Transparency

Faced with the problem of corruption within organized labor, the U.S. Congress began a long series of hearings in the late 1950s aimed at finding a solution. The Select Committee on Improper Activities in the Labor or Management Field (also known as the McClellan Committee) was formed. Robert F. Kennedy, who would later become the U.S. attorney general during the presidency of his brother, John F. Kennedy, served as the Committee's chief counsel.

The solution Congress chose was to create a financial disclosure regime for labor organizations, protections for union members and new enforcement powers for the U.S. Department of Labor. Union members were also given the right to vote for their officers, and theft of union funds became a federal crime.†

George Meany, the president of the American Federation of Labor and Congress of Industrial Organizations, supported the bill.¹

On April 14, 1959, Sen. John F. Kennedy submitted the committee report on S. 1555, the Senate version of the bill that became the LMRDA.² In discussing the importance of union financial integrity, the report stated:

A union treasury should not be managed as the private property of union officers, however well intentioned, but as a fund governed by fiduciary standards appropriate to this type of organization. *The members who are the real owners of the money and property of the organization are entitled to a full accounting of all transactions involving their property.*³ (emphasis added)

* A "labor organization," as defined by section 3(i) of the LMRDA, is a part of a subset of the universe of labor unions. When used in this paper, "labor organization" refers to a labor union that is covered by the LMRDA. 29 U.S.C. § 402(i).

† The bill that became the Labor-Management Reporting and Disclosure Act passed the U.S. Senate with a 95-2 vote and the U.S. House of Representatives with a 352-52 vote. These votes came after Congress held 270 days of hearings over a two-year period, calling over 1,500 witnesses to testify. Michael J. Nelson, "Slowing Union Corruption: Reforming the Landrum-Griffin Act to Better Combat Union Embezzlement," *George Mason Law Review* 8, no. 3 (2000): 527; National Labor Relations Board, *Legislative History of the Labor-Management Reporting and Disclosure Act of 1959*, vol. 2 (Washington, D.C.: U.S. Government Publishing Office, 1985), 1453, 1738-39.

...

The Committee is confident that union members armed with adequate information and having the benefit of secret elections ... would rid themselves of untrustworthy or corrupt officers. In addition, the exposure to public scrutiny of all vital information concerning the operation of trade unions will help deter repetition of the financial abuses disclosed by the McClellan committee.⁴

The LMRDA and the regulations promulgated to implement it were designed to provide this “full accounting” to union members and transparency to government officials and the general public. The ultimate aim is to make labor organizations free from corruption and provide a means to remedy corruption when it occurs.

For years, unfortunately, various U.S. secretaries of labor did not take a serious interest in enforcing the LMRDA. This changed during the administration of George W. Bush, when Secretary of Labor Elaine L. Chao and Deputy Assistant Secretary Don Todd led the effort to update and revise the LMRDA's regulations.

Before these reforms were enacted, the disclosure reports filed by unions with the DOL required little detail, and some unions reported tens of millions of dollars in expenditures on a single line.

For instance, on the old financial reports, unions reported items such as “\$7,805,827 for ‘Civic Organizations,’ \$3,927,968 for ‘Sundry Expenses,’ and \$7,863,527 for ‘Political Education.’”⁵ Unions also reported \$68,712,248 as “grants to joint projects with state and local affiliates,” \$22,991,729 in “financial assistance” for local union entities, and \$19,322,938 “for organizing and servicing.”⁶ The reporting of such large sums made it difficult for union members, the public and the government to uncover corruption.

This difficulty was used to full advantage by one union officer who, over a period of a few years, improperly spent over \$1.5 million. The DOL noted in 2002 that the lack of detail in the then-current financial reports helped to conceal the crimes of this officer. It stated:

Although the fraudulent reporting was ultimately uncovered, the lack of supporting detail in the latter category enabled the officials to hide in excess of \$1.5 million in personal dining, drinking and entertainment expenses from 1992 to 1999. This case demonstrates that detailed reporting can be an effective deterrent[.]⁷

The ability of labor unions to report mere summary data for such massive expenditures changed when the DOL promulgated the version of the reporting regulations that are now in effect.⁸ As will be discussed in further detail below, the current regulations require detailed, itemized disclosure of disbursements in a number of functional expense categories for labor organizations with receipts of \$250,000 or more. No longer can private sector unions hide millions of dollars in expenditures behind vague and overly broad categories.

The Reach of the LMRDA

The LMRDA's union financial transparency requirements apply to any private sector union that is "engaged in an industry affecting commerce." This includes various types of labor groups "in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment."⁹

A labor organization will be "deemed to be engaged in an industry affecting commerce" if it meets one of several triggers, such as being certified by the National Labor Relations Board or the National Mediation Board, acting as the representative of employees, or operating as a subordinate to a national labor organization.¹⁰ This definition is "intended to provide comprehensive coverage of labor organizations engaged in any degree in the representation of employees or administration of collective bargaining agreements."¹¹

This generally means, with a few exceptions, that labor organizations are covered by the LMRDA if they have at least one private sector member or have a union in the hierarchy below them which has at least one private sector member.* Additionally, unions that are covered by the Civil Service Reform Act and the Foreign Service Act are subject to the disclosure requirements. This means that most unions representing federal employees are covered by the same disclosure requirements.

While some public sector unions in Michigan, such as the Michigan Education Association, have at least one private sector affiliate and must disclose financial information under the LMRDA, most public sector unions in Michigan do not. This means that public school employees, state and county workers and all the other unionized public employees in Michigan do not have access to detailed financial information about the union to which they pay dues.

Trusts

One area of labor organization-related finances where financial transparency is currently lacking concerns "trusts in which a labor organization is interested."¹² Examples of such trusts "include credit unions, strike funds, development or investment groups, training funds, apprenticeship programs, pension and welfare plans, building funds, and educational funds."¹³

The Obama administration rescinded the reporting regulation before any trust reports were ever filed.¹⁴ A state could partially fix this by mandating that its public sector unions file a disclosure report for trusts. Doing so would disclose one activity for which financial transparency is lacking.

* The relevant regulations previously provided for coverage of certain state-level organizations that did not have any private sector members or unions under them with private sector members, so long as they were subservient to a national organization that itself was covered. For instance, many of the unions representing teachers do not have any private sector members or local unions with private sector members and, under the current regulations, are not covered by the LMRDA's disclosure requirements. The U.S. Department of Labor successfully litigated this issue in *Alabama Education Association v. Chao*, 539 F. Supp. 2d 378 (D.D.C. 2008), but subsequently the Obama administration rescinded the regulation on point.

Benefits to Members of Disclosure and Enforcement of Embezzlement Laws

Disclosure allows members, the public and government officials to uncover illegal and improper financial activities. Below are a few examples of how individuals have used the federal union financial disclosure forms (primarily the Form LM-2, which is filed by labor organizations with receipts of \$250,000 or more) to expose corruption. If these financial disclosure reports were not publicly available, in many instances, these improper activities may never have been uncovered.

Los Angeles Times SEIU Investigation

In 2008, Paul Pringle, a writer for the Los Angeles Times, reviewed the financial reports of a large California local labor union, the United Long Term-Care Workers Union (an affiliate of the Service Employees International Union). His research detailed how the union's president, Tyrone Freeman, had used the union's funds as his personal piggy bank.

Pringle's review of the Form LM-2s filed by the union with the DOL showed that the "union local and a related charity have paid hundreds of thousands of dollars to firms owned by the wife and mother-in-law of the labor organization's president."¹⁵ Within a few weeks, Freeman was removed as head of the union and the local was placed in trusteeship.¹⁶ Subsequently, the DOL began its own investigation into the union's spending, and the U.S. House of Representatives' Committee on Education and Labor launched an inquiry.¹⁷

In addition to the spending problems that were discovered through the union's Form LM-2, Freeman was later "accused of billing the union for \$8,100 in hotel, restaurant, bar, rental car and massage charges incurred during his wedding" in Hawaii.¹⁸ Freeman was also alleged to have failed to provide documentation to support the legitimacy of a second trip to Hawaii.¹⁹ After the SEIU conducted its own investigation, it banned Freeman for life and sought repayment from him of more than \$1 million to cover his misappropriations.²⁰

In July 2012, Freeman was indicted on a variety of charges related to these activities, including seven counts of embezzling union funds, four counts of mail fraud, three counts of filing false tax returns and one count of making false statements to a federally insured institution.²¹ A jury convicted him on fourteen counts in January of 2013.²² He was sentenced to 33 months of imprisonment and ordered to pay restitution.²³

Kansas City Star Boilermakers Investigation

Judy L. Thomas, a reporter for The Kansas City Star, also uncovered misuse of union funds after reading financial disclosure reports. Thomas found that Newton B. Jones, the president of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, a Kansas City union with 59,000 members, received a salary and reimbursements worth more than \$600,000 in one year.²⁴

Thomas found other extravagances. In addition to Jones's high salary, the union maintained partial ownership in two private airplanes at a cost of over \$500,000 per year. Union officers were

treated to exotic hunting and fishing expeditions. Some officers were supplementing their union income with salaries from the union's bank, a practice that added \$250,000 a year to the salary of at least two officers. Union officers' family members were on the payroll as well. The union even spent \$43,000 to send Newton's 23-year-old son to film school in British Columbia. The union also maintained a suite at the Kansas Speedway racetrack, which cost \$40,000 per year.²⁵

Recent Union Corruption in Michigan

Due to the disclosure requirements that apply to Michigan's private sector unions, those who would steal from union members have been forced to either use cash transactions or to falsify reports in an attempt to avoid detection. Thanks in part to federal financial reporting requirements, their misdeeds often catch up with them.

For example, James Killingsworth, president of Communications Workers of America Local 84555 in Webberville, together with Billie Jo Killingsworth, the union treasurer, embezzled \$19,197 by making unauthorized cash withdrawals from ATMs.²⁶ Their acts were discovered, and, upon pleading guilty, each was sentenced to six months in prison.²⁷

Similarly, on Jan. 16, 2015, Ann Marie Shaffer of Livonia was sentenced in the U.S. District Court for the Eastern District of Michigan for embezzling union assets. Along with her sentence of 12 months plus one day, she was also ordered to pay restitution of \$340,267.²⁸

These examples illustrate how disclosure requirements in the private sector help uncover corruption and excessive spending, enabling union members to take action to rid themselves of officers who are not acting in their best interests.

Michigan's Public Sector Union Financial Disclosure System


Under current Michigan law, unions representing public employees are required to have "an independent examiner" review their finances.* The union then files a report, the "Union Audit Filing Coversheet," with the Michigan Employment Relations Commission's Bureau of Employment Relations.²⁹ MERC is then required to post this financial document on its website.³⁰

The examiner verifies that the union has accurately allocated costs associated with collective bargaining, administering union contracts and handling employee grievances.³¹ The form filed by Michigan public sector unions discloses just these three areas of expenditures for a particular union. There is no itemization of the people or entities to which disbursements for these activities occurred. While public sector union members have some assurance that the amounts disclosed on this form are correct given that these amounts must be verified by an independent examiner, the information disclosed certainly does not provide a "full accounting of all transactions involving their property" as would be required if they were covered by the LMRDA.

* With some exceptions, "public employee" generally means "an individual holding a position by appointment or employment in the government of this state, in the government of 1 or more of the political subdivisions of this 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." MCL § 423.201(1)(e).

An example of an audit cover sheet filed by the Southwest Michigan Education Association for 2012 is below.

Graphic 1: Union Audit Filing Coversheet, Southwest Michigan Education Association, 2012



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
BUREAU OF EMPLOYMENT RELATIONS
RUTHANNE OKUN
DIRECTOR

RICK SNYDER
GOVERNOR

STEVE ARWOOD
DIRECTOR

UNION AUDIT FILING COVERSHEET

MERC ASSIGNED REGISTRATION NUMBER: [REDACTED] R064789

NAME & ADDRESS OF LABOR ORGANIZATION:

Southwest Michigan Education Association
4341 S. Westredge Ave Suite #210
Kalamazoo MI 49008

EXPENDITURES SUMMARY:

AUDIT PERIOD (12 months): Jan 1, 12 through Dec 31, 12

Collective Bargaining Costs: \$ 2247,21

Contract Administration Costs: \$ 2105,07

Grievance Adjustment Costs: \$ ~~4352,28~~ 0

For questions or other information regarding the content of the attached audit, contact:

LABOR ORGANIZATION DESIGNEE:

Name: Craig Evans

E-mail: sturgis.math.god@hotmail.com

Phone: 269-344-7428

THIS COVER SHEET MUST BE ATTACHED AS THE COVER PAGE OF YOUR
INDEPENDENT AUDIT BEFORE SUBMITTING TO MERC BY E-MAIL TO:
unionaudits@michigan.gov

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There are 564 reports available on the MERC website for fiscal year 2013.³² Since most of the more than 540 school districts, 15 public universities, 83 counties and hundreds of other municipalities in Michigan have unions representing their public employees (many with more than one union), it is unlikely that these reports are available to every unionized public sector worker in Michigan.

Federal Disclosure Requirements under the LMRDA

In stark contrast to the three lines of disclosures required for public sector unions in Michigan, the LMRDA requires much more detailed reporting in a number of categories. The LMRDA has specified minimum categories of disclosure and then grants the Secretary of Labor the duty to promulgate regulations further defining “other disbursements made by it including the purposes thereof; all in such categories as the Secretary may prescribe.”³³

The minimum categories include:

- (1) The labor organization’s assets and liabilities, both at the beginning and end of the fiscal year;
- (2) Receipts obtained by the labor organization, along with information identifying the source of such receipts;
- (3) Salary and other disbursements to each officer of the labor organization, and the same for any employee who received \$10,000 from the reporting labor organization or any affiliated labor organization;
- (4) Information on loans made to officers, employees and members, including the terms of any such loans;
- (5) Information on loans to any “business enterprise,” including the terms of any such loans; and
- (6) “Other disbursements” as defined by the Secretary of Labor.³⁴

The LMRDA further provides that the Secretary of Labor has the “authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed.”³⁵ Using this authority, the Secretary of Labor has promulgated three financial reports that are to be filed by covered labor organizations. The report filed depends on the size of the reporting labor organization.

The largest labor organizations, those with annual receipts of \$250,000 or more, file the most detailed financial reports on the DOL’s Form LM-2.³⁶ Unions that have receipts of less than \$250,000 file a simplified report, the Form LM-3.* Smaller unions, those with receipts of less than \$10,000, file an even more simplified report, the Form LM-4.³⁷

Labor organizations are required to file their annual financial disclosure reports within 90 days after the end of their fiscal year.³⁸ For 2013, the latest year for which data is available, 4,356 labor organizations filed the Form LM-2.³⁹

* 29 C.F.R. § 403.4(a)(1). Note that due to a drafting error in the regulatory text of the Obama administration’s Oct. 13, 2009, Final Rule, 74 Fed. Reg. 52,401, the regulatory text in this part states that the filing of the simplified report, the Form LM-3, is an option for labor organizations with receipts of less than \$200,000, rather than for labor organizations with receipts of less than \$250,000. The preamble, however, clearly indicates that the threshold is \$250,000.

Basic Elements of the Form LM-2

The Form LM-2 begins with identifying information for the labor organization, such as its name, address and the file number that has been assigned by the Office of Labor-Management Standards. The labor organization then answers a series of questions, including whether it has a trust or political action committee, whether its books have been audited, whether it has discovered any loss or shortage of funds or other assets, the dollar amount of bonds for employees who handle their funds, and more. The labor organization also reports the number of members that it has at the end of its fiscal year and the rates and types of dues these members pay.

Disclosure of Financial Positions

This general information is followed by summarized financial data, starting with statements on the assets and liabilities of the labor organization (Statement A), then statements for their receipts and disbursements (Statement B). Details about each of these areas are reported in different categories, or schedules: Assets are reported in five categories, liabilities in three categories, receipts in four categories and disbursements in nine categories. Below are examples of Statements A and B from the 2014 Form LM-2 for the national headquarters of the United Auto Workers.

Graphic 2: Statement A, Assets and Liabilities, from UAW LM-2, 2014

	ASSETS			
	ASSETS	Schedule Number	Start of Reporting Period (A)	End of Reporting Period (B)
	22. Cash		\$2,217,535	\$3,227,239
	23. Accounts Receivable	1	\$5,996,261	\$8,053,264
	24. Loans Receivable	2	\$59,899,674	\$64,757,318
	25. U.S. Treasury Securities		\$61,947,240	\$57,838,315
	26. Investments	5	\$721,723,266	\$717,621,686
	27. Fixed Assets	6	\$109,828,766	\$98,309,507
	28. Other Assets	7	\$28,335,656	\$28,299,937
	29. TOTAL ASSETS		\$989,948,398	\$978,107,266

	LIABILITIES			
	LIABILITIES	Schedule Number	Start of Reporting Period (A)	End of Reporting Period (B)
	30. Accounts Payable	8	\$2,792,308	\$1,539,673
	31. Loans Payable	9	\$345,000	\$345,000
	32. Mortgages Payable		\$0	\$0
	33. Other Liabilities	10	\$4,242,970	\$4,703,888
	34. TOTAL LIABILITIES		\$7,380,278	\$6,588,561

	35. NET ASSETS		\$982,568,120	\$971,518,705
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Form LM-2 (Revised 2010)

Graphic 3: Statement B, Receipts and Disbursements, from UAW LM-2, 2014

CASH RECEIPTS			CASH DISBURSEMENTS		
	SCH	AMOUNT		SCH	AMOUNT
36. Dues and Agency Fees		\$0	50. Representational Activities	15	\$101,894,937
37. Per Capita Tax		\$116,785,381	51. Political Activities and Lobbying	16	\$10,426,241
38. Fees, Fines, Assessments, Work Permits		\$60	52. Contributions, Gifts, and Grants	17	\$1,338,819
39. Sale of Supplies		\$42,229	53. General Overhead	18	\$14,784,615
40. Interest		\$35,627,945	54. Union Administration	19	\$12,250,349
41. Dividends		\$9,312	55. Benefits	20	\$43,339,765
42. Rents		\$173,975	56. Per Capita Tax		\$3,518,823
43. Sale of Investments and Fixed Assets	3	\$17,421,174	57. Strike Benefits		\$2,877,016
44. Loans Obtained	9	\$0	58. Fees, Fines, Assessments, etc.		\$0
45. Repayments of Loans Made	2	\$364,436	59. Supplies for Resale		\$172,158
46. On Behalf of Affiliates for Transmittal to Them		\$13,569,022	60. Purchase of Investments and Fixed Assets	4	\$2,368,750
47. From Members for Disbursement on Their Behalf		\$0	61. Loans Made	2	\$4,498,027
48. Other Receipts	14	\$35,814,868	62. Repayment of Loans Obtained	9	\$0
49. TOTAL RECEIPTS		\$219,808,402	63. To Affiliates of Funds Collected on Their Behalf		\$14,144,484
			64. On Behalf of Individual Members		\$0
			65. Direct Taxes		\$7,323,112
			66. Subtotal		\$218,937,096
			67. Withholding Taxes and Payroll Deductions		
			67a. Total Withheld		\$35,787,832
			67b. Less Total Disbursed		\$35,649,434
			67c. Total Withheld But Not Disbursed		\$138,398
			68. TOTAL DISBURSEMENTS		\$218,798,698

Form LM-2 (Revised 2010)

After these statements come Schedules 1-10. The schedules contain the information described in the table below.

Graphic 4: LM-2 Schedules 1 through 10

Schedule	Title	Description
Schedule 1	Accounts Receivable Aging Schedule	Reports name of entities, amounts due and aging schedule.
Schedule 2	Loans Receivable	Reports name of entities, amount loaned, terms of agreements, repayments made and ending balance.
Schedule 3	Sale of Investments and Fixed Assets	Reports cost, book value, gross sales price and amount received.
Schedule 4	Purchase of Investments and Fixed Assets	Reports cost, book value, gross sales price and cash paid.
Schedule 5	Investments	Reports, for investments other than Treasury Securities, the name and amount for each investment with a book value over \$5,000 and that is more than 5 percent of the total investment portfolio.
Schedule 6	Fixed Assets	Reports assets such as autos, buildings and fixtures. Includes information on the amount depreciated and value of each asset.
Schedule 7	Other Assets	Reports assets such as supplies for resale and certain travel advances.
Schedule 8	Accounts Payable Aging Schedule	Reports name of entities, amounts owed and aging schedule.
Schedule 9	Loans Payable	Reports name of entities, amounts owed, repayments and ending balance.
Schedule 10	Other Liabilities	Reports liabilities such as accrued vacation and pension benefits.

Disclosure of Union Officer and Employee Compensation

The names of union officers, their titles, status (new, current, or past officer) and disbursements made to them are disclosed in Schedule 11. The labor organization discloses each officer's gross salary, allowances received on a periodic basis, disbursements for official business (such as meal allowances) and other disbursements that "were essentially for the personal benefit of the officer and not necessary for conducting official business."⁴⁰

Additionally, the union is required to estimate the percentage of the officers' time that is spent conducting business in five categories: representational activities, political activities and lobbying, contributions, general overhead, and administration. These categories are important because they allow dues-paying union members to compare how much time their officers are spending on representing their interests compared to other priorities.

Unions must report the same information described above on Schedule 12 of a Form LM-2 for employees who made \$10,000 or more.

Below is a sample of the Schedule 11 from the 2014 Form LM-2 for the United Auto Workers National Headquarters. The format for Schedule 12 is the same as that for Schedule 11.

Graphic 5: Schedule 11, All Officers and Disbursements to Officers, from UAW LM-2, 2014

	(A) Name	(B) Title	(C) Status	(D) Gross Salary Disbursements (before any deductions)	(E) Allowances Disbursed	(F) Disbursements for Official Business	(G) Other Disbursements not reported in (D) through (F)	(H) TOTAL		
A	ADAMS, L SCOTT									
B	REGIONAL DIRECTOR			\$41,061	\$1,124	\$2,686	\$0	\$44,871		
C	P									
I	Schedule 15 Representational Activities	100 %	Schedule 16 Political Activities and Lobbying	0 %	Schedule 17 Contributions	0 %	Schedule 18 General Overhead	0 %	Schedule 19 Administration	0 %
A	ASHTON, JOSEPH									
B	VICE PRESIDENT			\$135,388	\$3,336	\$2,804	\$0	\$141,528		
C	P									
I	Schedule 15 Representational Activities	92 %	Schedule 16 Political Activities and Lobbying	4 %	Schedule 17 Contributions	0 %	Schedule 18 General Overhead	0 %	Schedule 19 Administration	4 %

Disclosure of the Number and Type of Union Members

A breakdown of the types of membership in a labor organization is reported on Schedule 13. The example below comes from the 2014 Form LM-2 for the Michigan Education Association.

Graphic 6: Schedule 13, Membership Status, from MEA LM-2, 2014

Category of Membership (A)	Number (B)	Voting Eligibility (C)
EA	78,924	Yes
ESP	28,944	Yes
Life	4	Yes
Student	482	No
Associate	42	No
Retired	34,159	No
Members (Total of all lines above)	142,555	
Agency Fee Payers*	483	
Total Members/Fee Payers	143,038	

*Agency Fee Payers are not considered members of the labor organization.

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Detailed Reporting of Receipts and Disbursements in the LM-2

Schedules 14 through 19 of a Form LM-2 disclose the most detailed financial information. Schedule 14 reports “other receipts,” while Schedules 15 through 19 disclose disbursements in functional expense categories. For each of these six schedules, the labor organization reports on an individual line any “major” receipts or disbursements of \$5,000 or more.⁴¹ Additionally, the amounts per payer and payee are aggregated for the year, and if together they equal \$5,000 or more, a separate line item with identifying information on the payer or payee is included.

For example, if a union disburses \$20,000 to one entity over the course of its fiscal year in four equal installments of \$5,000, it would report each \$5,000 payment on a separate line. If the labor organization made 20 disbursements to one entity of \$1,000 each over the course of its fiscal year it would still identify the entity, but would not itemize each \$1,000 payment.

For each listed entity in these six schedules, the labor organization reports its name and address, and the type or classification of the entity, such as printing company or political action committee. It then discloses the purpose for each transaction that is \$5,000 or more, such as support for organizing campaign, support for worker solidarity programs or legal advice. The union also reports the amount and date for each transaction that is \$5,000 or more.

For the labor organization member who desires to obtain a good understanding of the entities that are receiving his union's business, these six schedules provide valuable information. It was information disclosed in these schedules that enabled reporters and members in the examples described above to uncover corruption.

Disclosure of Expenditures for Representational Activities

Schedule 15 discloses the disbursements made by a labor organization for representational activities and requires the itemization described above. These activities include disbursements associated with negotiations with an employer for a collective bargaining agreement, the administration of the collective bargaining agreement, campaigns to become the representative of employees, campaigns to avoid being decertified as the representative of employees, and other disbursements to attract and retain members.⁴² Disbursements in this category represent expenditures to perform the core function of a labor organization, representing employees regarding the terms and conditions of their employment.

The example below from the 2014 Form LM-2 for the MEA shows how these disclosures are presented.

Graphic 7: Schedule 15, Representational Activities, from MEA LM-2, 2014

Name and Address (A)	Purpose (C)	Date (D)	Amount (E)
AMERICAN ARBITRATION ASSOCIATION 950 WARREN AVE EAST PROVIDENCE RI 02914-0000	REP ACTIVITY BILLING FEES	12/16/2013	\$10,000
	REP ACTIVITY BILLING FEES	03/31/2014	\$10,000
	REP ACTIVITY BILLING FEES	08/05/2014	\$10,000
	Total Itemized Transactions with this Payee/Payer		\$30,000
Total Non-Itemized Transactions with this Payee/Payer		\$0	
Type or Classification (B)	Total of All Transactions with this Payee/Payer for This Schedule		\$30,000
legal			

Disclosure of Disbursements for Politics and Lobbying

Of particular interest to union members is Schedule 16, which reports a labor organization’s disbursements for political activities and lobbying. Lobbying activities include disbursements “associated with dealing with the executive and legislative branches of the Federal, state, and local governments and with independent agencies and staffs to advance the passage or defeat of existing or potential laws or the promulgation of any other action with respect to rules or regulations (including litigation expenses).”⁴³

Political activities include disbursements “intended to influence the selection, nomination, election, or appointment of anyone to a Federal, state, or local executive, legislative or judicial public office, or office in a political organization, or the election of Presidential or Vice Presidential electors, and support or opposition to ballot referenda.”⁴⁴ The types of disbursements disclosed on this schedule can range from airline tickets to robocalls.

Using this schedule, the public is able to see just how much unions spend on politics. Based on what unions report, spending for political purposes is so important that, in some situations, unions take on multimillion dollar debts in order to free up cash to spend.

The SEIU, one of the nation’s largest unions, appears to structure its finances largely around disbursements for presidential elections. In 2009, *The Wall Street Journal* reported:

An SEIU spokeswoman says the union works on a four-year cycle, in which it goes “all out for the presidential election” and then rebuilds its finances. She adds the union has paid back more than \$10 million of the \$25 million it borrowed [in 2008].⁴⁵

A review of data from 2012, the most recent presidential election year, reveals that SEIU was the top spender among unions on political activities and lobbying, spending \$113.8 million.⁴⁶ The chart below shows the top 10 unions in terms of spending on political activity and lobbying in 2012.⁴⁷ These 10 labor organizations unions spent a combined \$379 million in 2012.

Graphic 8: Top Ten Labor Organizations in Political Spending, 2012

Labor Organization	Political Spending
Service Employees International Union	\$113,820,009
American Federation of State, County and Municipal Employees	\$70,011,153
American Federation of Labor and Congress of Industrial Organizations	\$45,026,246
National Education Association	\$39,854,561
United Auto Workers	\$29,880,534
American Federation of Teachers	\$21,457,153
Service Employees International Union-California	\$20,994,035
United Food and Commercial Workers	\$13,186,535
United Health Care Workers East (SEIU)	\$13,031,548
United Steelworkers	\$11,295,205

Source: "Download Yearly Data" (U.S. Department of Labor, May 30, 2015), <http://goo.gl/vLGT9O> (accessed June 2, 2015).

Information from this schedule helps union members and the public understand not only the political spending by individual unions, but also the effect that the aggregate spending has on elections. A 2012 Wall Street Journal analysis of LM-2 data revealed that between 2005 and 2011 labor organizations reported spending \$4.4 billion on political activities and lobbying.⁴⁸ The paper found that the time spent on political activities and lobbying by union officers and employees in 2010 was "equivalent to 3,242 full-time operatives with a payroll of \$214 million," essentially a large political army.⁴⁹

The example below shows how these disbursements are reported on Schedule 16 and comes from the 2014 Form LM-2 for the United Food and Commercial Workers Local 876, located in Madison Heights, Michigan.

Graphic 9: Schedule 16, Political Activities and Lobbying, from UFCW Local 876 LM-2, 2014

Name and Address (A)	Purpose (C)	Date (D)	Amount (E)
DEMOCRATIC GOVERNOR'S ASSOCIATION 1401 K STREET NW, SUITE 200 WASHINGTON, DC 20005 MI 48071	POLITICAL CONTRIBUTION	09/08/2014	\$350,000
	POLITICAL CONTRIBUTION	09/15/2014	\$150,000
	Total Itemized Transactions with this Payee/Payer		\$500,000
	Total Non-Itemized Transactions with this Payee/Payer		
	Total of All Transactions with this Payee/Payer for This Schedule		\$500,000
Type or Classification (B)	POLITICAL CONTRIBUTION		

Disclosure of Contributions, Gifts and Grants

Schedule 17 of a Form LM-2 discloses any contributions, gifts or grants made by a labor organization. The example below from the National Education Association's 2014 Form LM-2 demonstrates how large some of these grants can be. Altogether, the NEA reported spending over \$100 million in these categories in 2014.

Graphic 10: Schedule 17, Contributions, Gifts and Grants, from NEA LM-2, 2014

Name and Address (A)	Purpose (C)	Date (D)	Amount (E)
ACTION FUND/LATINO ENGAGEMENT ACTN FND SUITE 425 1575 EYE ST NW WASHINGTON DC 20005	contribution/natl partnership grant	09/05/2013	\$250,000
Type or Classification (B)	Total Itemized Transactions with this Payee/Payer		\$250,000
Voter Advocacy Organization	Total Non-Itemized Transactions with this Payee/Payer		\$0
	Total of All Transactions with this Payee/Payer for This Schedule		\$250,000

Other Disclosed Information

Schedule 18 discloses general overhead disbursements “that cannot be allocated to any of the other disbursement categories.”⁵⁰ An example would be costs associated with maintenance of the labor organization's office.

Schedule 19 discloses the union's disbursements for administration, including those related to union officer elections, membership meetings, union disciplinary proceedings, handling trusteeships and apprenticeship and education programs.⁵¹

The last schedule on the Form LM -2, Schedule 20, is for officer and employee benefits. Here the labor organization details the gross amounts disbursed as benefits to the labor organization's officers, employees, members and beneficiaries. This schedule reports items such as health insurance premiums. Unlike Schedules 14 through 19, this schedule is not itemized by individual disbursement. In addition to a description of the reason for the disbursement, the type of entity that received the disbursement and the amounts is disclosed. An example of this schedule from the 2014 Form LM-2 for the Michigan Education Association is below.

Graphic 11: Schedule 20, Benefits, from MEA LM-2, 2014

Description (A)	To Whom Paid (B)	Amount (C)
Retirement	Various	\$4,772,416
Retiree Health	Various	\$4,308,904
Retiree Health	Various	\$12,104,871
Long-Term Care	Various	\$16,705
Total of all lines above (Total will be automatically entered in Item 55.)		\$21,202,896

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The last part of the Form LM-2 is Item 69, which reports information in response to the questions asked at the top of the form, and provides a place for the labor organization to provide more information for other items that require an explanation. For example, if the union has a trust or a political action committee, the identifying information on those is reported in this section. An example of this section, from the 2014 Form LM-2 for UFCW Local 876, is below.

Graphic 12: Item 69, Additional Information Summary, from UCFW Local 876 LM-2, 2014

Address of Record: 44744 Helm Street, Plymouth, MI 48170

Question 10: Name of Trust: UFCW Local 876 Staff Retiree Life Insurance Plan, 876 Horace Brown Drive, Madison Heights, MI 48701 Purpose: To provide post retirement life insurance benefits for eligible participants.

Question 11(b): UFCW Local 876 Political Fund, a 527 organization. 876 Horace Brown Drive, Madison Heights, MI 48071. Purpose: To provide financial support to political candidates. Its financial condition is included in this Form LM2.

Question 15: The organization disposed of some Fixed Assets that have either become obsolete or destroyed.

Question 12: Independent certified audit of Local's books performed by independent outside accounting firm, UHY Advisors of Southfield, MI

Statement A,

Loans Receivable Begin Total: The amount was zero. It has not changed.

Statement A, Other Asset Book Value Begin Total: This change resulted from adjustments made prior to the audit being finalized.

Statement A,

Loans Payable Begin Total: This amount is zero. It has not changed.

Statement A, Other Liabilities Amount Begin Total: This change resulted from adjustments made prior to the audit being finalized.

Schedule 13, Row1: Full Dues are paid. No voting restrictions

Schedule 13, Row1: No voting restrictions

Schedule 13, Row2: This membership category does not grant voting rights. Full dues are paid.

Schedule 13, Row2: This membership category does not grant voting rights

Form LM-2 (Revised 2010)

Lessons for Michigan

As the description above shows, the Form LM-2 gives labor organization members, government officials, and the public a wealth of information that can help them keep union officials accountable. While no disclosure regime is perfect, the information provided by the Form LM-2 gives union members the ability to easily find the most important information on the financial practices of labor organizations they support with their union dues.

The Form LM-2 is filed electronically with the U.S. Department of Labor and most of the data can be imported directly from an accounting program that most labor organizations already use.

The reports are posted online at www.unionreports.gov. Labor organizations' reports can be viewed there, and users can compare data between different unions. Additionally, the customized data reports can be generated and downloaded, allowing users to compare data from different unions and states over multiple years. This comprehensive database provides information going back to 2000, and detailed data from 2005 forward.

In stark contrast, the information publicly available for Michigan's public sector unions is severely lacking. There are only three lines of information that report only summary data. There is no database of information to use for running comparisons. There is no raw data to download. All of this puts members of Michigan public sector unions in a much different position than their private sector counterparts. While private sector union members can perform a review of their union's itemized expenditures, there is no comparable information available for public sector union members, who find it much more difficult to determine whether their officers have been good stewards of their money and to exercise their democratic rights within the union.

Recommendations to Increase Union Transparency

As discussed above, the current disclosure regime for Michigan's public sector unions is required by statute. Given the specifications provided in the statutes, the best solution for increasing transparency in this area is to amend Michigan's statute to provide for more transparency.

There are at least two options available to the Michigan Legislature: Pass a LMRDA-type bill that covers public sector unions, or require public sector unions that are not filing reports with the DOL to file similar reports (Form LM-2, LM-3, or LM-4, depending on size) with the Michigan Employment Relations Commission. Although both options would improve the level of transparency of public sector unions in Michigan, the better option would be for Michigan to enhance its own reporting regime rather than incorporating by reference the federal regulations.

Bringing LMRDA-Style Disclosure to Michigan

As noted above, when Congress passed the LMRDA, it crafted an act that reaches almost every type of private sector labor organization in the country. Regulation of public sector labor unions that represent employees of state or local governments is left primarily to the states. As such, the states are free to set their own standards as they apply to items such as financial disclosure. Unfortunately, Michigan has fallen short by requiring only the filing of the Audit Cover Sheet.

The first, and best, option for enhancing disclosure for Michigan's public sector unions is to pass legislation creating an enhanced disclosure regime that provides information similar to that found on the Form LM-2. For smaller Michigan public sector unions, simplified reporting could be created, or the current Audit Cover Sheet could be retained.

Placing the enhanced disclosure requirements into statute, as opposed to delegating that authority to MERC, would help ensure that the disclosure requirements remain in place. Changing a statute is generally a much more difficult process than changing a regulation. Thus, once in place in the statute, the disclosure requirements would be more likely to remain over the long term than if they were merely regulatory.

Incorporating Federal Regulations into Michigan Practice

A second option for enhancing transparency is for Michigan to enact a statute requiring public sector unions to file a copy of the Form LM-2, LM-3, or LM-4, depending on its size, with MERC. One benefit of this approach would be that members of the labor community, along with the accountants and lawyers who serve them, are generally familiar with the LM reporting requirements. As such, applying the LM filing requirements to a new universe of potential filers would likely result in a lower initial paperwork burden than would creating a new disclosure regime.

This approach, however, means that the state would not have control over the content of the forms if a future federal administration decided to change the Form LM-2. Therefore, the best option to ensure that the meaningful and solid disclosure requirements remain in place long term is for the Michigan Legislature to enact legislation requiring and enforcing enhanced disclosure requirements.

Conclusion

The LMRDA's disclosure requirements and the regulations that implement them are designed to enable union members to take effective action in exercising their democratic rights within a labor organization. The information received by members as a result of these disclosure requirements enable them to make informed decisions on issues, such as whether the union officers have been wise stewards of the members' money, or whether it is time for new officers.

For Michigan's unionized public employees these disclosures are lacking. The amount of information required of Michigan's public sector unions is minuscule. The state has the ability to change this by enacting enhanced disclosure requirements. Doing so will bring disclosure for public sector unions into line with that required for private sector labor organizations and will ultimately lead to unions that are more accountable to their members.

About the Author

Nathan Mehrens is president of Americans for Limited Government Foundation. He previously served as ALGF's General Counsel. Before his service at ALGF, he was Special Assistant to the Deputy Assistant Secretary of Labor. He previously served as Director of Research and General Counsel for several nonprofit organizations that monitor and advocate on labor union issues.

At the Labor Department, Mehrens drafted many of the regulatory reforms that the department promulgated to increase labor union financial transparency, including regulations on the Form LM-2, Form T-1 and Form LM-30. He shepherded each of these through the approval process from beginning to end. Mehrens worked closely with the department's career lawyers on enforcement matters in the areas of white-collar crime and labor union officer elections.

Mehrens monitors regulations as a watchdog. He has drafted and filed regulatory comments with many federal agencies, including the U.S. Department of the Treasury, the U.S. Department of Health and Human Services and the U.S. Department of Labor. In addition he has litigation experience on regulatory matters representing amici before the U.S. Court of Appeals and the National Labor Relations Board.

Mehrens has significant experience with the Freedom of Information Act. He manages ALGF's FOIA program and has a history of bringing successful challenges when agencies attempt to withhold records. He has handled FOIA matters before every executive branch department and many of the independent agencies.

Mehrens is a frequent media commentator and has been quoted by The Wall Street Journal, the Washington Times, Fox News, Fox Business, the Daily Caller, the Washington Examiner and other media outlets.

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Appendix A: Model Legislation for Public Sector Union Financial Disclosure Reform*

The suggested language below builds on the requirements of the LMRDA and its implementing regulations, adding in details in areas where experience has shown that further disclosures are warranted. The itemization threshold has also been placed at \$1,000 as this will capture more transactions and thus provide for a greater level of transparency.

The category of "representational activities" as found on the Form LM-2 is divided into two categories in the suggested language below, one category for contract administration and one category for organizational activities. Similarly, the category "political activities and lobbying," as found on the Form LM-2, is divided into two categories: one for political activity and one for lobbying.

Additionally, the identifying information for parties that conduct certain transactions with the union is enhanced, such as by requiring disclosure of people or entities that purchase assets from the union. This is done to ensure that transactions are done at arm's length and that no unjust enrichment, such as a sweetheart deal, occurs.

The language below also incorporates the LMRDA's requirement of an initial report, to be filed within 90 days of the union becoming subject to the new requirements. The union must file copies of documents, such as its constitution, bylaws, and other information.

The model legislation is below.

AN ACT

To provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations, and for other purposes.

Declaration of Findings, Purposes, and Policy

The Legislature finds that employees represented by private sector labor organizations have been well-served by the disclosure requirements prescribed by the federal Labor-Management Reporting and Disclosure Act and its implementing regulations, and that enactment of legislation providing financial transparency for public employees of this state will bring that same benefit to such employees.

The Legislature further finds and declares that the enactment of this Act is necessary to eliminate or prevent improper practices on the part of labor organizations.

Definitions

Sec. 1. As used in this act:

(a) "Person" includes one or more individuals or labor organizations.

* Some of the language in this model legislation is identical to portions of the LMRDA, its current and past implementing regulations, proposed rulemakings from the U.S. Department of Labor, and also appears in previously published work by this author.

(b) "Public Employer" means any employer of public employees which are defined by MCL § 423.201(1)(e).

(c) "Labor Organization" means a labor organization of any kind, any agency, or public employee representation committee, group, association, or plan so engaged in which public employees participate and which exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and includes any other type of labor organization which is exempt from taxation under Section 501(c)(5) of the Internal Revenue Code, excluding those labor organizations which are covered by the Labor-Management Reporting and Disclosure Act of 1959.

(d) "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.

(e) "Member" when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

(f) "Commission" means the employment relations commission referred to in MCL § 423.201(1)(b).

Initial Report

Sec. 2. (a) Every labor organization shall, within ninety days of becoming subject to this Act, adopt a constitution and bylaws and shall file a copy thereof with the Commission, together with a report, signed by its president and secretary or corresponding principal officers, containing the following information:

- (1) the name of the labor organization, its mailing address, and any other address at which it maintains its principal office or at which it keeps the records referred to in this Act;
- (2) the name and title of each of its officers;
- (3) the initiation fee or fees required from a new or transferred member and fees for work permits required by the reporting labor organization;
- (4) the regular dues or fees or other periodic payments required to remain a member of the reporting labor organization; and
- (5) detailed statements, or references to specific provisions of documents filed under this subsection which contain such statements, showing the provisions made and procedures followed with respect to each of the following:
 - (i) qualifications for or restrictions on membership,
 - (ii) levying of assessments,

- (iii) participation in insurance or other benefit plans,
- (iv) authorization for disbursement of funds of the labor organization,
- (v) audit of financial transactions of the labor organization,
- (vi) the calling of regular and special meetings,
- (vii) the selection of officers and stewards and of any representatives to other bodies composed of labor organizations' representatives, with a specific statement of the manner in which each officer was elected, appointed, or otherwise selected,
- (viii) discipline or removal of officers or agents for breaches of their trust,
- (ix) imposition of fines, suspensions, and expulsions of members, including the grounds for such action and any provision made for notice, hearing, judgment on the evidence, and appeal procedures,
- (x) authorization for bargaining demands,
- (xi) ratification of contract terms,
- (xii) authorization for strikes, and
- (xiv) issuance of work permits.

Any change in the information required by this subsection shall be reported to the Commission at the time the reporting labor organization files with the Commission the annual financial report required by Sec. 2(b).

Annual Report

(b) Every labor organization shall, within ninety days after the end of its fiscal year, file annually with the Commission a financial report signed by its president and treasurer or corresponding principal officers containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year:

- (1) assets at the beginning and end of the fiscal year, including a schedule disclosing on separate lines the totals for:
 - (i) cash;
 - (ii) accounts receivable, including a detailed schedule which discloses:
 - (A) the name of the entity or individual's name;
 - (B) the total amount receivable from that entity or individual;
 - (C) any amounts that are 90-180 days past due;
 - (D) any amounts that are over 180 days past due; and
 - (E) any amounts that have been liquidated;
 - (iii) loans receivable, including a detailed schedule which discloses:

- (A) the name of the person or entity receiving the loan;
 - (B) the purpose for the loan;
 - (C) the security received for the loan;
 - (D) the terms of repayment;
 - (E) the amount of loans outstanding from the person or entity at the start of the period;
 - (F) the amount of loans made to the person or entity during the period;
 - (G) the amount of cash repayments made during the period;
 - (H) the amounts of repayments made by means other than cash; and
 - (I) the amount of loans outstanding for each person or entity at the end of the reporting period;
- (iv) U.S. Treasury securities,
 - (v) investments, including a detailed schedule which discloses:
 - (A) the name and amount of each marketable security which has a book value of \$5,000 or more and which exceeds 5% of the total of all marketable securities;
 - (B) the name and amount of each other investment which has a book value of \$5,000 or more and which exceeds 5% of the total of all other investments;
 - (vi) fixed assets, including a detailed schedule which discloses:
 - (A) location, cost, book value, and value of land;
 - (B) location, cost, total depreciation or amount expensed, book value and value of buildings;
 - (C) cost, total depreciation or amount expensed, book value and value of automobiles and other vehicles;
 - (D) cost, total depreciation or amount expensed, book value and value of office furniture and equipment;
 - (E) cost, total depreciation or amount expensed, book value and value of other fixed assets;
 - (vii) other assets; including a detailed schedule which discloses the description and value of the asset;
- (2) liabilities at the beginning and end of the fiscal year, including a schedule disclosing on separate lines the totals for:
 - (i) accounts payable, including a detailed schedule which discloses the name of the entity or individual, the total amount payable, amounts that are 90-180 days past due, amounts that are more than 180 days past due, and liquidated amounts;

- (ii) loans payable, including a detailed schedule which discloses on separate lines for each loan,
 - (A) the source of loans payable at any time during the reporting period;
 - (B) amount owed at the beginning of the reporting period;
 - (C) loans obtained during the reporting period;
 - (D) cash repayments made during the reporting period;
 - (E) repayments made by other than cash during the reporting period;
 - (F) total owed at the end of the reporting period;
 - (iii) mortgages payable, including a detailed schedule which discloses on separate lines for each mortgage,
 - (A) the source of mortgages payable at any time during the reporting period;
 - (B) amount owed at the beginning of the reporting period;
 - (C) mortgages obtained during the reporting period;
 - (D) cash repayments made during the reporting period;
 - (E) repayments made by other than cash during the reporting period;
 - (F) total owed at the end of the reporting period; and
 - (iv) other liabilities, and additionally a separate detailed schedule which discloses on separate lines a description of each individual liability and the amount owed at the end of the reporting period;
- (3) receipts of any kind and the sources thereof, including a schedule disclosing on separate lines the totals for:
- (i) dues and agency fees, and additionally a separate, detailed schedule which discloses on separate lines any amounts received from employers through a checkoff arrangement, and dues transmitted to the organization by a parent body or other affiliate;
 - (ii) per capita tax, and additionally a separate, detailed schedule which discloses on separate lines capita tax portion of dues received directly by the reporting labor organization from members of affiliates, per capita tax received from subordinates, either directly or through intermediaries, and the per capita tax portion of dues received through a checkoff arrangement whereby local dues are remitted directly to an intermediate or parent body by employers;
 - (iii) fees, fines, assessments, and work permits,
 - (iv) sale of supplies,
 - (v) interest,

- (vi) dividends,
 - (vii) rents,
 - (viii) sale of investments and fixed assets, including a detailed schedule which discloses,
 - (A) a description of the investment, including the address if the investment is land or buildings,
 - (B) cost of the investment,
 - (C) book value of the investment,
 - (D) gross sales price, and
 - (E) amount obtained;
 - (ix) loans obtained,
 - (x) repayments of loans made,
 - (xi) receipts on behalf of affiliates for transmittal to them, and
 - (xii) receipts on behalf of members for disbursement on their behalf,
- (4) salary, allowances, and other direct or indirect disbursements (including reimbursed expenses), benefits, and an estimation of the amount of time spent in the functional expense categories of contract administration, organizing activities, political activities, lobbying, contributions, gifts and grants, general overhead, and union administration for each officer and also to each employee who, during such fiscal year, received more than \$10,000 in the aggregate from such labor organization and any other labor organization affiliated with it or with which it is affiliated, or which is affiliated with the same national or international labor organization;
- (5) direct and indirect loans made to any officer, public employee, or member, which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment;
- (6) direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment;
- (7) for purchases of investments and fixed assets a detailed schedule which discloses,
 - (i) a description of the investment, including the address if the investment is land or buildings,
 - (ii) cost of the investment,
 - (iii) book value of the investment,
 - (iv) gross sales price, and
 - (v) amount paid;

(8) for the categories that follow, an itemization schedule that discloses the name and address, purpose, date, amount, and type or classification for each payer or payee for whom there is (1) an individual receipt or disbursement of \$1,000 or more, or (2) total receipts or disbursements that aggregate to \$1,000 or more during the reporting period;

- (i) other receipts;
- (ii) contract administration;
- (iii) organizing activities
- (iv) political activities;
- (v) lobbying;
- (vi) contributions, gifts, and grants;
- (vii) general overhead;
- (viii) union administration;
- (ix) benefits; and

(9) other disbursements made by it including the purposes thereof, all in such categories as the Commission may prescribe.

Additional Information Available to Labor Organization Members

Sec. 3. Every labor organization required to submit a report under this Act shall make available the information required to be contained in such report to all of its members, and every such labor organization and its officers shall be under a duty enforceable at the suit of any member of such organization in any court of competent jurisdiction, to permit such member for just cause to examine any books, records, and accounts necessary to verify such report. The court in such action may, in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

Reports Made Public Information

Sec. 4. The contents of the reports and documents filed with the Commission pursuant to this Act shall be public information and shall be posted on the Commission's public website. The Commission shall develop a system for electronically filing all reports required to be filed by this Act. Labor organizations shall use this system for filing all reports required under this Act, unless granted a temporary hardship exemption by the Commission. The Commission shall compile and make available on its website the raw data from all reports that are filed under this Act, and shall make that data searchable on the Commission's website. The Commission may publish any information and data which it obtains pursuant to the provisions of this Act. The Commission may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as it may deem appropriate.

Retention of Records

Sec. 5. Every labor organization required to file any report under this Act shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Commission may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

Effective Date

Sec. 6. This Act shall become effective sixty days after enactment.

Rules and Regulations

Sec. 7. The Commission shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under this Act and such other reasonable rules and regulations (including rules prescribing reports concerning trusts in which a labor organization is interested) as it may find necessary to prevent the circumvention or evasion of such reporting requirements. In exercising its power under this section, the Commission shall prescribe by general rule simplified reports for labor organizations with receipts of less than \$250,000 in the fiscal year, but the Commission may revoke such provision for simplified forms of any labor organization if it determines, after such investigation as it deems proper and due notice and opportunity for a hearing, that the purposes of this section would be served thereby.

Criminal Provisions

Sec. 8. (a) Any person who willfully violates this Act shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(b) Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this Act shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(c) Any person who willfully makes a false entry in or willfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept by any provision of this Act shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(d) Each individual required to sign reports under this Act shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

Civil Monetary Penalty for Failure to File Reports

Sec. 9. Any labor organization required to file a report under this Act that fails to file the report within 90 days after the end of its fiscal year shall be fined \$100 per day for such failure to file. A

civil fine recovered under this section shall be submitted to the state treasurer for deposit in the general fund of this state.

Civil Enforcement

Sec. 10. Whenever it shall appear that any person has violated or is about to violate any of the provisions of this Act, the Commission may bring, in any court of competent jurisdiction, a civil action for such relief (including injunctions) as may be appropriate.

Investigations

Sec. 11. The Commission shall have power when it believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act to make an investigation and in connection therewith it may enter such places and inspect such records and accounts and question such persons as it may deem necessary to determine the facts relative thereto. The Commission may report to interested persons or officials concerning the facts required to be shown in any report required by this Act and concerning the reasons for failure or refusal to file such a report or any other matter which it deems to be appropriate as a result of such an investigation.

Severability Provision

Sec. 12. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Endnotes

- 1 George Meany, Testimony before the House Labor Committee, June 1959. See also, 67 Fed. Reg. 79,280, 1 (Dec. 27, 2002).
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- 3 S. Rep. No. 187 on S. 1555, *supra*, at p. 8.
- 4 *Ibid.*, 9.
- 5 67 Fed Reg. 79,280, 1 (Dec. 27, 2002).
- 6 *Ibid.*, 1-2.
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- 8 Labor Organization Annual Financial Reports, U.S. Department of Labor, Office of Labor-Management Standards, 68 Fed. Reg. 58,374 (Oct. 9, 2003.)
- 9 29 U.S.C. § 402(i).
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- 11 S. Rep No. 187, *supra*, at p. 53.
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- 21 Paul Pringle and Richard Winton, "Former Leader of SEIU Local Is Indicted," *Los Angeles Times*, Aug. 1, 2012, <http://perma.cc/GBV5-KWDV>.
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- 23 Paul Pringle, "Former SEIU Local Leader Gets 33 Months in Prison," *Los Angeles Times*, Oct. 7, 2013, <http://perma.cc/AT6Y-G68P>.
- 24 Judy L. Thomas, "Boilermakers Union Leaders Receive Lofty Pay, Benefits," *The Kansas City Star*, May 12, 2012, <http://perma.cc/F7FU-XNHF>.
- 25 Ibid.
- 26 *U.S. v. Killingsworth*, Case No. 12CR20742-1 (ED MI 2013).
- 27 Ibid.
- 28 *U.S. v. Shaffer*, Case No. 13CR20943-1, (ED MI 2015).
- 29 Copies of the reports are located online at: <http://goo.gl/ZROrRi> (accessed June 1, 2015).
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