

HOUSE BILL No. 4777

June 16, 2011, Introduced by Rep. Opsommer and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

A bill to amend 1947 PA 336, entitled

"An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act,"

by amending section 15 (MCL 423.215), as amended by 2011 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 15. (1) A public employer shall bargain collectively with
2 the representatives of its employees as described in section 11 and
3 may make and enter into collective bargaining agreements with those
4 representatives. Except as otherwise provided in this section, for
5 the purposes of this section, to bargain collectively is to perform
6 the mutual obligation of the employer and the representative of the

1 employees to meet at reasonable times and confer in good faith with
2 respect to wages, hours, and other terms and conditions of
3 employment, or to negotiate an agreement, or any question arising
4 under the agreement, and to execute a written contract, ordinance,
5 or resolution incorporating any agreement reached if requested by
6 either party, but this obligation does not compel either party to
7 agree to a proposal or make a concession.

8 (2) A public school employer has the responsibility,
9 authority, and right to manage and direct on behalf of the public
10 the operations and activities of the public schools under its
11 control.

12 (3) Collective bargaining between a public school employer and
13 a bargaining representative of its employees shall not include any
14 of the following subjects:

15 (a) Who is or will be the policyholder of an employee group
16 insurance benefit. This subdivision does not affect the duty to
17 bargain with respect to types and levels of benefits and coverages
18 for employee group insurance. A change or proposed change in a type
19 or to a level of benefit, policy specification, or coverage for
20 employee group insurance shall be bargained by the public school
21 employer and the bargaining representative before the change may
22 take effect.

23 (b) Establishment of the starting day for the school year and
24 of the amount of pupil contact time required to receive full state
25 school aid under section 1284 of the revised school code, 1976 PA
26 451, MCL 380.1284, and under section 101 of the state school aid
27 act of 1979, 1979 PA 94, MCL 388.1701.

1 (c) The composition of school improvement committees
2 established under section 1277 of the revised school code, 1976 PA
3 451, MCL 380.1277.

4 (d) The decision of whether or not to provide or allow
5 interdistrict or intradistrict open enrollment opportunity in a
6 school district or of which grade levels or schools in which to
7 allow such an open enrollment opportunity.

8 (e) The decision of whether or not to act as an authorizing
9 body to grant a contract to organize and operate 1 or more public
10 school academies under the revised school code, 1976 PA 451, MCL
11 380.1 to 380.1852.

12 (f) The decision of whether or not to contract with a third
13 party for 1 or more noninstructional support services; or the
14 procedures for obtaining the contract for noninstructional support
15 services other than bidding described in this subdivision; or the
16 identity of the third party; or the impact of the contract for
17 noninstructional support services on individual employees or the
18 bargaining unit. However, this subdivision applies only if the
19 bargaining unit that is providing the noninstructional support
20 services is given an opportunity to bid on the contract for the
21 noninstructional support services on an equal basis as other
22 bidders.

23 (g) The use of volunteers in providing services at its
24 schools.

25 (h) Decisions concerning use of experimental or pilot programs
26 and staffing of experimental or pilot programs and decisions
27 concerning use of technology to deliver educational programs and

1 services and staffing to provide the technology, or the impact of
2 these decisions on individual employees or the bargaining unit.

3 (i) Any compensation or additional work assignment intended to
4 reimburse an employee for or allow an employee to recover any
5 monetary penalty imposed under this act.

6 (4) Except as otherwise provided in subsection (3)(f), the
7 matters described in subsection (3) are prohibited subjects of
8 bargaining between a public school employer and a bargaining
9 representative of its employees, and, for the purposes of this act,
10 are within the sole authority of the public school employer to
11 decide.

12 (5) If a public school is placed in the state school
13 reform/redesign school district or is placed under a chief
14 executive officer under section 1280c of the revised school code,
15 1976 PA 451, MCL 380.1280c, then, for the purposes of collective
16 bargaining under this act, the state school reform/redesign officer
17 or the chief executive officer, as applicable, is the public school
18 employer of the public school employees of that public school for
19 as long as the public school is part of the state school
20 reform/redesign school district or operated by the chief executive
21 officer.

22 (6) A public school employer's collective bargaining duty
23 under this act and a collective bargaining agreement entered into
24 by a public school employer under this act are subject to all of
25 the following:

26 (a) Any effect on collective bargaining and any modification
27 of a collective bargaining agreement occurring under section 1280c

1 of the revised school code, 1976 PA 451, MCL 380.1280c.

2 (b) For a public school in which the superintendent of public
3 instruction implements 1 of the 4 school intervention models
4 described in section 1280c of the revised school code, 1976 PA 451,
5 MCL 380.1280c, if the school intervention model that is implemented
6 affects collective bargaining or requires modification of a
7 collective bargaining agreement, any effect on collective
8 bargaining and any modification of a collective bargaining
9 agreement under that school intervention model.

10 (7) Each collective bargaining agreement entered into between
11 a public employer and public employees under this act after March
12 16, 2011 shall include a provision that allows an emergency manager
13 appointed under the local government and school district fiscal
14 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, to reject,
15 modify, or terminate the collective bargaining agreement as
16 provided in the local government and school district fiscal
17 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531. Provisions
18 required by this subsection are prohibited subjects of bargaining
19 under this act.

20 (8) Collective bargaining agreements under this act may be
21 rejected, modified, or terminated pursuant to the local government
22 and school district fiscal accountability act, 2011 PA 4, MCL
23 141.1501 to 141.1531. This act does not confer a right to bargain
24 that would infringe on the exercise of powers under the local
25 government and school district fiscal accountability act, 2011 PA
26 4, MCL 141.1501 to 141.1531.

27 (9) A unit of local government that enters into a consent

1 agreement under the local government and school district fiscal
2 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, is not
3 subject to subsection (1) for the term of the consent agreement, as
4 provided in the local government and school district fiscal
5 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531.

6 (10) If the charter of a city, village, or township with a
7 population of 500,000 or more specifies the selection of a retirant
8 member of the municipality's fire department, police department, or
9 fire and police department pension or retirement board, the method
10 of selection of that member is a prohibited subject of bargaining.

11 (11) A PUBLIC EMPLOYER'S DECISION TO CONSOLIDATE PUBLIC
12 EMPLOYERS OR PUBLIC SERVICES THROUGH A MERGER OR INTERLOCAL
13 AGREEMENT AS PERMITTED BY LAW AND A PUBLIC EMPLOYER'S DECISION TO
14 RENEGOTIATE AN EXISTING, APPLICABLE BARGAINING AGREEMENT UPON A
15 CONSOLIDATION ARE SOLELY AT THE DISCRETION OF THE PUBLIC EMPLOYER
16 AND ARE PROHIBITED SUBJECTS OF BARGAINING UNDER THIS ACT.

17 (12) EACH COLLECTIVE BARGAINING AGREEMENT ENTERED INTO BETWEEN
18 A PUBLIC EMPLOYER AND PUBLIC EMPLOYEES UNDER THIS ACT AFTER THE
19 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION
20 SHALL INCLUDE A PROVISION PERMITTING THE PUBLIC EMPLOYER TO
21 RENEGOTIATE AN EXISTING BARGAINING AGREEMENT AS TO AFFECTED PUBLIC
22 EMPLOYEES UPON CONSOLIDATION OF PUBLIC EMPLOYERS OR PUBLIC SERVICES
23 THROUGH MERGER OR INTERLOCAL AGREEMENT AS PERMITTED BY LAW.