

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 222 Session of 2019

INTRODUCED BY HUGHES, L. WILLIAMS, SCHWANK, BREWSTER, KEARNEY, BLAKE, FONTANA, LEACH, MUTH, FARNESE, COLLETT, SANTARSIERO, YUDICHAK, SABATINA, BOSCOLA, STREET, TARTAGLIONE, A. WILLIAMS, HAYWOOD, DINNIMAN AND COSTA, APRIL 10, 2019

REFERRED TO LABOR AND INDUSTRY, APRIL 10, 2019

AN ACT

1 Amending the act of July 23, 1970 (P.L.563, No.195), entitled
 2 "An act establishing rights in public employes to organize
 3 and bargain collectively through selected representatives;
 4 defining public employes to include employes of nonprofit
 5 organizations and institutions; providing compulsory
 6 mediation and fact-finding, for collective bargaining
 7 impasses; providing arbitration for certain public employes
 8 for collective bargaining impasses; defining the scope of
 9 collective bargaining; establishing unfair employe and
 10 employer practices; prohibiting strikes for certain public
 11 employes; permitting strikes under limited conditions;
 12 providing penalties for violations; and establishing
 13 procedures for implementation," in representation, providing
 14 for bargaining representative; and providing for new employee
 15 orientation and information.

16 The General Assembly of the Commonwealth of Pennsylvania
 17 hereby enacts as follows:

18 Section 1. The act of July 23, 1970 (P.L.563, No.195), known
 19 as the Public Employe Relations Act, is amended by adding a
 20 section to read:

21 Section 608. (a) Notwithstanding any other provision of
 22 this article, when an employe, group of employes or any employe
 23 organization acting on their behalf files a petition alleging

1 that a majority of employes in a unit appropriate for collective
2 bargaining purposes wish to be represented by an individual or
3 employe organization for such purposes, the public employer
4 shall investigate the petition. If the employer finds that a
5 majority of the employes in a unit appropriate for bargaining
6 purposes have signed valid authorizations designating the
7 individual or employe organization specified in the petition as
8 their bargaining representative and that no other individual or
9 employe organization is currently certified or recognized as the
10 exclusive representative of any of the employes in the unit, the
11 employer shall certify the individual or employe organization as
12 the bargaining representative for that unit.

13 (b) The board shall develop guidelines and procedures for
14 the designation of a bargaining representative by employes under
15 subsection (a). The guidelines and procedures shall include:

16 (1) Model collective bargaining authorization language that
17 may be used for purposes of making the designations.

18 (2) Procedures to be used by public employers to establish
19 the validity of signed authorizations designating bargaining
20 representatives.

21 Section 2. The act is amended by adding an article to read:

22 ARTICLE VI-A

23 NEW EMPLOYEE ORIENTATION AND INFORMATION

24 Section 601-A. Definitions.

25 The following words and phrases when used in this article
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Bureau." The Bureau of Mediation within the Department of
29 Labor and Industry of the Commonwealth.

30 "Interest arbitration." A process in which an employer and

1 an exclusive representative submit a dispute concerning the
2 terms of access to new employee orientations for resolution to a
3 third-party arbitrator who is then authorized to approve either
4 party's proposal in its entirety, approve a proposal using both
5 parties' final proposals or to modify the proposals by the
6 parties.

7 "New employee orientation." The process for a newly hired
8 public employee, whether in person, online or through other
9 means or mediums, in which the employee is advised of the
10 employee's employment status, rights, benefits, duties and
11 responsibilities or any other employment-related matters.

12 "Newly hired public employee." An employee, whether
13 permanent, temporary, full time, part time or seasonal, hired by
14 a public employer who has not received new employee orientation.
15 Section 602-A. Access to new employee orientations.

16 Each public employer shall provide the employee organization
17 access to its new employee orientations. The employee
18 organization shall receive no less than 10 days' notice in
19 advance of an orientation, except that a shorter notice may be
20 provided in a specific instance where there is an urgent need
21 critical to the employer's operations that was not reasonably
22 foreseeable. The structure, time and manner of employee
23 organization access shall be determined through mutual agreement
24 between the employer and the employee organization.

25 Section 603-A. Negotiations.

26 (a) Topics of negotiation.--Upon request of the employer or
27 employee organization, the parties shall negotiate regarding the
28 structure, time and manner of the access of the employee
29 organization to a new employee orientation. Failure to reach an
30 agreement on the structure, time and manner of the access shall

1 be subject to compulsory interest arbitration under this
2 section.

3 (b) Disputes.--

4 (1) (i) Except as provided in subparagraph (ii), when
5 negotiating access to a new employee orientation, if a
6 dispute is not resolved within 45 days after the first
7 meeting of the parties, or within 60 days after the
8 initial request to negotiate, whichever is first, either
9 party may make a demand for compulsory interest
10 arbitration, and if a demand is made, the procedure
11 prescribed by this subsection shall apply. The arbitrator
12 selection process under paragraph (2) shall commence no
13 later than 14 days prior to the end of the negotiation
14 period provided in this subsection. A party may not
15 submit a proposal to compulsory interest arbitration that
16 was not the parties' final proposal during the parties'
17 negotiations. In the case of a school district employer
18 whose administrative offices are closed during the
19 summer, the timeline on this subsection shall commence on
20 the first day that the district administrative office
21 reopens.

22 (ii) Notwithstanding subparagraph (i), the parties
23 may mutually agree to submit their dispute to compulsory
24 interest arbitration at any time.

25 (2) Except as provided in paragraph (4), the appointment
26 of an arbitrator for compulsory interest arbitration shall be
27 made by the bureau using the process to obtain a panel of
28 arbitrators. Within seven days of receipt of a request for a
29 panel, the bureau shall send the parties a list of seven
30 arbitrators selected from the bureau's roster. Within seven

1 days following the receipt of the list, the parties shall
2 make their selection. Unless the parties agree on an
3 alternate selection procedure, the parties shall
4 alternatively strike one name from the list provided until
5 only one name remains. A coin toss shall determine which
6 party shall strike the first name. In lieu of this process,
7 the parties may mutually select an individual to serve as the
8 arbitrator. A party that fails to participate in the
9 selection of an arbitrator within the prescribed period
10 waives its rights to strike names from the list. Compulsory
11 interest arbitration shall commence either on the
12 arbitrator's earliest available date or any other date to
13 which the parties agree and shall be completed within no less
14 than 30 days. The decision of the arbitrator shall be issued
15 within 10 days and shall be final and binding on the parties.
16 The decision shall provide the exclusive representative with
17 reasonable access to the new employee orientations. The
18 arbitrator shall consider, weigh and be guided by the
19 following criteria:

20 (i) The ability of the exclusive representative to
21 communicate with the public employees it represents.

22 (ii) The legal obligations of the exclusive
23 representative to the public employees.

24 (iii) Federal, State and local laws that are
25 applicable to the employer.

26 (iv) Stipulations of the parties.

27 (v) The interests and welfare of the public and the
28 financial condition of the public employer.

29 (vi) The structure, time and manner of access of an
30 exclusive representative to a new employee orientation by

1 comparable public employers, including the access
2 provisions in other memoranda of understanding or
3 collective bargaining agreements containing such
4 provisions.

5 (vii) Any other facts that are normally or
6 traditionally taken into consideration in establishing
7 the structure, time and manner of access of an exclusive
8 representative to a new employee orientation.

9 (3) The parties shall equally share all costs of
10 arbitration.

11 (4) If a municipality or county objects to the procedure
12 for appointment of an arbitrator under paragraph (2), that
13 municipality or county, within five days of a demand for
14 arbitration by the employee organization, may request that
15 the board appoint an administrative law judge or other
16 employee to serve as the arbitrator in lieu of an arbitrator
17 appointed by the bureau. The municipality or county shall pay
18 for the cost of the arbitrator. The board shall appoint the
19 arbitrator within five days of receiving the request. The
20 same procedures, criteria and timeline for arbitrations under
21 paragraph (2) shall apply.

22 (c) Existing agreements.--During the period between the
23 effective date of this section and the expiration of an existing
24 memorandum of understanding or collective bargaining agreement
25 between the parties, a request to meet and confer under
26 subsection (a) shall reopen the existing memorandum of
27 understanding or collective bargaining agreement solely for the
28 limited purpose of negotiating an agreement regarding access of
29 the employee organization to the new employee orientations.
30 Either party may elect to negotiate a side letter or similar

1 agreement in lieu of reopening the existing memorandum of
2 understanding or collective bargaining agreement. This
3 subsection does not abrogate existing agreements between public
4 employers and recognized employee organizations.

5 (d) Other requirements.--This section does not prohibit an
6 agreement between a public employer and an employee organization
7 that provides for new employee orientations that vary from the
8 requirements of this article. If such an agreement is
9 negotiated, the requirements of this article shall not apply to
10 the extent that they are inconsistent with the agreement. In the
11 absence of a mutual agreement regarding new employee
12 orientations, this article shall apply.

13 (e) Modification.--This section shall not modify the scope
14 of collective bargaining or representation under any applicable
15 employer-employee relations statute.

16 Section 604-A. Employee information.

17 (a) General rule.--The public employer shall provide the
18 employee organization with the name, job title, department, work
19 location, work, home and personal cellular telephone numbers and
20 personal email address on file with the employer, and home
21 address of any newly hired employee within 30 days of the date
22 of hire or by the first pay period of the month following hire.
23 The public employer shall also provide the employee organization
24 with a list of information for all employees in the collective
25 bargaining unit at least every 120 days unless more frequent or
26 more detailed lists are required by an agreement with the
27 employee organization. The information identified in this
28 section shall be provided to the employee organization
29 regardless of whether the newly hired public employee was
30 previously employed by the public employer and shall be

1 confidential. The public employer and employee organization
2 shall adhere to any confidentiality guidelines established by
3 the board.

4 (b) Timing.--This section does not preclude a public
5 employer and employee organization from agreeing to a different
6 time interval within which the public employer provides the
7 employee organization with the name, job title, department, work
8 location, work, home and personal cellular telephone numbers,
9 personal email addresses and home address of any newly hired
10 employee or member of the bargaining unit.

11 Section 3. This act shall take effect in 60 days.