

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 959

Session of  
1985

INTRODUCED BY HUTCHINSON, APRIL 17, 1985

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 17, 1985

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," further providing for  
14 collective bargaining agreements; and providing for  
15 arbitration in certain cases.

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

18 Section 1. Sections 703 and 802 of the act of July 23, 1970  
19 (P.L.563, No.195), known as the Public Employee Relations Act,  
20 are amended to read:

21 Section 703. [The] Except as provided in section 802(b), the  
22 parties to the collective bargaining process shall not effect or  
23 implement a provision in a collective bargaining agreement if  
24 the implementation of that provision would be in violation of,

1 or inconsistent with, or in conflict with any statute or  
2 statutes enacted by the General Assembly of the Commonwealth of  
3 Pennsylvania or the provisions of municipal home rule charters.

4 Section 802. (a) Once mediation has commenced, it shall  
5 continue for so long as the parties have not reached an  
6 agreement. If, however, an agreement has not been reached within  
7 twenty days after mediation has commenced or in no event later  
8 than one hundred thirty days prior to the "budget submission  
9 date," the Bureau of Mediation shall notify the board of this  
10 fact. Upon receiving such notice the board may in its discretion  
11 appoint a fact-finding panel which panel may consist of either  
12 one or three members. If a panel is so designated or selected it  
13 shall hold hearings and take oral or written testimony and shall  
14 have subpoena power. If during this time the parties have not  
15 reached an agreement, the panel shall make findings of fact and  
16 recommendations:

17 (1) The findings of fact and recommendations shall be sent  
18 by registered mail to the board and to both parties not more  
19 than forty days after the Bureau of Mediation has notified the  
20 board as provided in the preceding paragraph.

21 (2) Not more than ten days after the findings and  
22 recommendations shall have been sent, the parties shall notify  
23 the board and each other whether or not they accept the  
24 recommendations of the fact-finding panel and if they do not,  
25 the panel shall publicize its findings of fact and  
26 recommendations.

27 (3) Not less than five days nor more than ten days after the  
28 publication of the findings of fact and recommendations, the  
29 parties shall again inform the board and each other whether or  
30 not they will accept the recommendations of the fact-finding

1 panel.

2 (4) The Commonwealth shall pay one-half the cost of the  
3 fact-finding panel; the remaining one-half of the cost shall be  
4 divided equally between the parties. The board shall establish  
5 rules and regulations under which panels shall operate,  
6 including, but not limited to, compensation for panel members.

7 (b) If the impasse is not resolved ninety days prior to the  
8 budget submission date, the court of common pleas of the county  
9 in which the dispute is located, or the Commonwealth Court in  
10 the case of a dispute involving the Commonwealth, may, upon  
11 petition by either party to the court of common pleas of the  
12 county in which the dispute is located, or the Commonwealth  
13 Court in the case of a dispute involving the Commonwealth,  
14 submit the dispute to final arbitration. The court shall select  
15 one individual to serve as the arbitrator. The arbitrator acting  
16 as a master of the court of common pleas or the Commonwealth  
17 Court shall identify the issues in dispute and direct each of  
18 the parties to submit its final offer of settlement within ten  
19 days. A copy of the offer shall be served upon the opposing  
20 parties. The final offer shall contain a proposal on each of the  
21 disputed issues identified by the arbitrator. The arbitrator  
22 shall present his opinion, in writing, within three days of  
23 receipt of final offers by both sides to the appropriate court  
24 and shall mail or otherwise deliver a true copy thereof to the  
25 parties and their representatives and to the board. The  
26 arbitrator shall adopt, as his opinion, the last offer of  
27 settlement on each issue which the arbitrator believes to be  
28 more reasonable. The arbitrator shall take into consideration  
29 and accord substantial weight to the financial ability of the  
30 public employer to pay the cost of any increase in wages or

1 fringe benefits. "Financial ability to pay" shall mean the  
2 financial ability of the public employer to pay the cost of any  
3 increase in wages or fringe benefits without requiring an  
4 increase in the level of taxes existing at the time of the  
5 commencement of mediation or binding arbitration.

6 (c) Within two days of receipt of the final recommendation  
7 the court of common pleas or the Commonwealth Court shall issue  
8 the arbitration order and shall direct the parties to comply  
9 with the order as finalized by the arbitrator. The arbitration  
10 order shall be final and binding upon both parties. The award of  
11 the arbitrator is binding and may not be vacated or modified by  
12 a court of this Commonwealth unless it is clearly shown that a  
13 party was denied a hearing or that fraud, misconduct, corruption  
14 or other irregularity caused the rendition of an unjust,  
15 inequitable or unconscionable award.

16 Section 2. Section 1003 of the act is repealed.

17 Section 3. This act shall take effect immediately.