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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 294      Session of  
1991

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INTRODUCED BY KOSINSKI, MCGEEHAN, PESCI, LEVDANSKY, TRELLO,  
BELARDI, VEON, COHEN, BISHOP, CARN, RICHARDSON, OLIVER,  
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KENNEY, J. TAYLOR, O'BRIEN, PERZEL, WOGAN, MCHUGH, MELIO,  
MAIALE, McNALLY, RIEGER, DONATUCCI AND ROEBUCK,  
FEBRUARY 5, 1991

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REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 5, 1991

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AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," further providing for collective  
6 bargaining for school administrators in school districts of  
7 the first class.

8 The General Assembly declares that it is the public policy of  
9 this Commonwealth and the purpose of this act to promote  
10 orderly, constructive and harmonious relationships between each  
11 school district of the first class and its school administrative  
12 employees, subject, however, to the paramount right of the  
13 citizens of this Commonwealth to keep inviolate the guarantees  
14 for their health, safety and welfare and to the duty and  
15 responsibility of the boards of public education of school  
16 districts of the first class to provide an appropriate education  
17 to the children of their districts. Unresolved disputes between  
18 boards of public education of school districts of the first

1 class and their employees charged with managing, supervising and  
2 administering the educational programs may be injurious to the  
3 public and pupils. The delineation of the responsibilities, the  
4 clarification of the administrative roles and the facilitation  
5 of communications are vital to the functioning of the  
6 educational system. Recognizing that continuing harmonious  
7 relationships between school districts of the first class and  
8 their management, supervisory and administrative employees are  
9 essential to the educational process, the General Assembly has  
10 determined that the overall policy may best be accomplished by  
11 requiring school districts of the first class to negotiate and  
12 bargain with employee organizations representing their  
13 management, supervisory and administrative employees and to  
14 enter into written agreements evidencing the result of such  
15 bargaining.

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

18 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
19 as the Public School Code of 1949, is amended by adding a  
20 section to read:

21 Section 2134. Collective Bargaining.--(a) Upon the written  
22 request of an employe organization, the appropriate  
23 representatives of the board of public education of a school  
24 district of the first class shall be required to enter into  
25 collective bargaining with representatives of the school  
26 administrator's employe organization for the purpose of reaching  
27 agreement upon all questions concerning wages, hours and other  
28 terms and conditions of employment. Any agreement reached as a  
29 result of such collective bargaining shall contain, but shall  
30 not be limited to, provisions concerning school administrators'

1 salaries and fringe benefits and a procedure for the resolution  
2 of grievances which shall contain provisions for final, binding  
3 arbitration of disputes or grievances arising out of the  
4 interpretation of the provisions of the collective bargaining  
5 agreement. The procedure to be adopted is a proper subject of  
6 bargaining.

7 (b) Once an agreement is reached between a school district  
8 of the first class and the school administrator's employe  
9 organization, the agreement shall be reduced to writing and  
10 signed by the parties. Any provisions of the contract requiring  
11 legislative action will be effective only if such legislation is  
12 enacted. Such agreement shall continue in effect until the time  
13 specified in the agreement, but in no event for less than one  
14 school year.

15 (c) (1) If in any case where the collective bargaining  
16 process reaches an impasse and stalemate with the result that  
17 said school district of the first class and the school  
18 administrators' organization are unable to effect a settlement,  
19 then either party to the dispute, after written notice to the  
20 other party containing specifications of the issue or issues in  
21 dispute, may request the appointment of a board of arbitration.  
22 An impasse or stalemate shall be deemed to occur in the  
23 collective bargaining process if the parties do not reach a  
24 settlement of the issue or issues in dispute by way of a written  
25 agreement within six months after collective bargaining  
26 proceedings have been initiated.

27 (2) The board of arbitration shall be composed of three  
28 persons, one appointed by the board of public education, one  
29 appointed by the employe representative and a third member to be  
30 agreed upon by the board of public education and employe

1 representative. The members of the board representing the board  
2 of public education and the employe representative shall be  
3 named within five days from the date of the request for the  
4 appointment of such board. If, after a period of ten days from  
5 the date of the appointment of the two arbitrators appointed by  
6 the board of public education and by the employe representative,  
7 the third arbitrator has not been selected by them, then either  
8 arbitrator may request the American Arbitration Association, or  
9 its successor in function, to furnish a list of three members of  
10 said association who are residents of this Commonwealth from  
11 which the third arbitrator shall be selected. The arbitrator  
12 appointed by the board of public education shall eliminate one  
13 name from the list within five days after publication of the  
14 list, following which the arbitrator appointed by the employe  
15 representative shall eliminate one name from the list within  
16 five days thereafter. The individual whose name remains on the  
17 list shall be the third arbitrator and shall act as chairman of  
18 the board of arbitration. The board of arbitration thus  
19 established shall commence the arbitration proceedings within  
20 ten days after the third arbitrator is selected and shall make  
21 its determination within thirty days after the appointment of  
22 the third arbitrator.

23 (3) The determination of the majority of the board of  
24 arbitration thus established shall be final on the issue or  
25 issues in dispute and shall be binding upon the board of public  
26 education and the employe representative. Such determination  
27 shall be in writing and a copy thereof shall be forwarded to  
28 both parties to the dispute. No appeal therefrom shall be  
29 allowed to any court. Such determination shall constitute a  
30 mandate to the board of public education to take the action

1 necessary to carry out the determination of the board of  
2 arbitration.

3 (4) With respect to matters which require legislative action  
4 by the board of public education for implementation, such action  
5 shall be taken within one month following publication of the  
6 findings. The effective date of any such action shall be the  
7 first day of the fiscal year following the fiscal year during  
8 which the action is thus taken.

9 (5) The compensation, if any, of the arbitrator appointed by  
10 the employe representative shall be paid by them. The  
11 compensation of the other two arbitrators, as well as all  
12 stenographic and other expenses incurred by the arbitration  
13 panel in connection with the arbitration proceedings, shall be  
14 paid by the board of public education.

15 (d) School administrators shall continue to be subject to  
16 the prohibition against strikes contained in the act of June 30,  
17 1947 (P.L.1183, No.492), referred to as the Public Employe Anti-  
18 Strike Law.

19 (e) The following words, when used in this section, shall  
20 have the following meaning, except where the context clearly  
21 indicates or requires a different meaning:

22 "Collective bargaining," "bargain" and "negotiate" shall mean  
23 the performance of the mutual obligation of school districts and  
24 the employe representative to meet at reasonable times and  
25 confer in good faith with respect to wages, hours and other  
26 terms and conditions of employment, or the negotiation of an  
27 agreement or any question arising thereunder and the execution  
28 of a written contract incorporating any agreement reached, but  
29 such obligation does not compel either party to agree to a  
30 proposal or require the making of a concession, but shall not

1 include a requirement to bargain over matters of inherent  
2 managerial policy nor the implementation of any provision which  
3 would be in violation of, or inconsistent with, or in conflict  
4 with, any statute or statutes of the Commonwealth, excluding,  
5 however, section 704 of the act of July 23, 1970 (P.L.563,  
6 No.195), known as the "Public Employe Relations Act."

7 "Employe organization" shall mean an organization or any  
8 agency or employe representation committee or plan in which  
9 membership is limited to school administrators and which exists  
10 for the purpose, in whole or in part, of dealing with school  
11 districts concerning grievances, employe-employer disputes,  
12 wages, hours of employment or conditions of work, but shall not  
13 include any organization which practices discrimination in  
14 membership because of race, color, creed, national origin or  
15 political affiliation.

16 "School administrator" shall mean all supervisory and  
17 administrative employes of a school district below the rank of  
18 superintendent, district superintendent, executive director,  
19 associate superintendent, assistant superintendent or assistant  
20 executive director, but including the rank of first level  
21 supervisor, who, by virtue of assigned duties, is in or is  
22 eligible to be in a "meet and discuss unit" as defined and  
23 created under the act of July 23, 1970 (P.L.563, No.195), known  
24 as the "Public Employe Relations Act," and all other employes  
25 except those specified in this definition. The term shall not  
26 include those in or eligible to be in a rank and file unit of  
27 public employes as created under the aforesaid "Public Employe  
28 Relations Act," or any employe who has the duties and  
29 responsibilities of a personnel director.

30 Section 2. The act of July 23, 1970 (P.L.563, No.195), known

1 as the Public Employe Relations Act, is repealed insofar as it  
2 is inconsistent with the provisions of this act.

3 Section 3. This act shall take effect immediately.