
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2886 Session of
2004

INTRODUCED BY WANSACZ, CAWLEY, STABACK, BELARDI, YUDICHAK AND
TIGUE, OCTOBER 5, 2004

REFERRED TO COMMITTEE ON LABOR RELATIONS, OCTOBER 5, 2004

AN ACT

1 Providing for third-party binding resolution of collective
2 bargaining disputes between public school employees and their
3 public employers; imposing duties on the Secretary of the
4 Commonwealth and the Legislative Reference Bureau; and making
5 repeals.

6 TABLE OF CONTENTS

7 Section 1. Short title.
8 Section 2. Definitions.
9 Section 3. Neutral third-party resolution.
10 Section 4. Bargaining process.
11 Section 5. Panel selection.
12 Section 6. Costs of resolution.
13 Section 7. Procedure.
14 Section 8. Determination.
15 Section 9. Strikes and lockouts prohibited.
16 Section 10. Standing to enforce.
17 Section 11. Existing agreements.
18 Section 12. Time frame.
19 Section 13. Constitutional amendment as prerequisite and

1 notice.

2 Section 14. Construction.

3 Section 15. Repeals.

4 Section 16. Effective date.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Public School
9 Collective Bargaining Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Appropriate court." The court of common pleas in the
15 judicial district in which:

16 (1) a school entity subject to impasse is located; or

17 (2) the most populous portion of a school entity subject
18 to impasse is located.

19 "Bureau." The Pennsylvania Bureau of Mediation.

20 "Employee organization." Any of the following:

21 (1) A public school employee organization of any kind.

22 (2) An agency or employee representation committee or
23 plan in which membership is limited to public school
24 employees and that exists for the purpose, in whole or in
25 part, of dealing with public school employers concerning
26 grievances, public school employee-public school employer
27 disputes, wages, rates of pay, hours of employment or
28 conditions of work. The term does not include an organization
29 that practices discrimination in membership because of race,
30 color, creed, national origin or political affiliation.

1 "Impasse." The failure of a public employer and an employee
2 organization to reach a collective bargaining agreement in the
3 course of negotiations.

4 "Public employer." A school entity. The term does not
5 include an employer covered or presently subject to coverage
6 under the act of June 1, 1937 (P.L.1168, No.294), known as the
7 Pennsylvania Labor Relations Act, or the National Labor
8 Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.).

9 "Representative." An individual acting for a public employer
10 or a school employee. The term includes an employee
11 organization.

12 "School employee." An employee of a school entity who
13 bargains collectively with the school entity. The term does not
14 include:

15 (1) an employee covered or presently subject to coverage
16 under the act of June 1, 1937 (P.L.1168, No.294), known as
17 the Pennsylvania Labor Relations Act, or the National Labor
18 Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.); or

19 (2) a management-level employee of any other school
20 district.

21 "School entity." A public school district, intermediate unit
22 or area vocational-technical school.

23 "Secretary." The Secretary of Education of the Commonwealth.
24 Section 3. Neutral third-party resolution.

25 Notwithstanding any other provision of law to the contrary,
26 the adjustment or settlement of an impasse shall be by neutral
27 third-party resolution pursuant to this act.

28 Section 4. Bargaining process.

29 A representative shall commence a successor collective
30 bargaining agreement no later than January 5 of the year in

1 which the collective bargaining agreement between the parties
2 shall by its terms expire. Both parties shall submit to
3 mediation by the bureau by February 28 if no collective
4 bargaining agreement is reached between the parties. Mediation
5 shall continue for so long as the parties have not reached a
6 collective bargaining agreement. If no collective bargaining
7 agreement is reached by April 30, both parties shall submit the
8 impasse to neutral third-party resolution.

9 Section 5. Panel selection.

10 The neutral third-party resolution of an impasse shall be
11 conducted by a three-member panel knowledgeable and qualified in
12 the areas necessary to make a determination. By May 7, the
13 employee organization shall designate one panel member; and the
14 public employer shall designate one panel member. The two panel
15 members designated by the parties shall by agreement designate a
16 neutral panel member. If a neutral panel member is not so
17 designated by the panel members designated by the parties by May
18 21, the president judge of the appropriate court shall, by May
19 31, designate the neutral panel member from a list provided by
20 the bureau of qualified persons who reside in the region in
21 which the appropriate court sits. The bureau shall compile and
22 maintain a list for each of six geographical regions of persons
23 who reside in that region and are qualified and knowledgeable in
24 the school-related fields of budget, finance, educational
25 programs and taxation necessary to make a determination. The six
26 regions shall be:

27 Northeast Region.--Eleventh District, Twenty-first
28 District, Twenty-second District, Twenty-sixth District,
29 Thirty-fourth District, Forty-third District, Forty-
30 fourth District, Forty-fifth District, Fifty-sixth

District and Sixtieth District.

Southeast Region.--First District, Third District, Seventh District, Fifteenth District, Twenty-third District, Thirty-first District, Thirty-second District and Thirty-eighth District.

Northcentral Region.--Fourth District, Eighth District, Seventeenth District, Twenty-fifth District, Twenty-ninth District, Forty-second District, Forty-ninth District and Fifty-fifth District.

Southcentral Region.--Second District, Ninth District, Twelfth District, Nineteenth District, Twentieth District, Twenty-fourth District, Thirty-ninth District, Forty-first District Fifty-first District, Fifty-second District, Fifty-seventh District and Fifty-eighth District.

Northwest Region.--Sixth District, Eighteenth District, Twenty-eighth District, Thirtieth District, Thirty-fifth District, Thirty-seventh District, Forty-sixth District, Forty-eighth District, Fifty-fourth District and Fifty-ninth District.

Southwest Region.--Fifth District, Tenth District, Thirteenth District, Fourteenth District, Sixteenth District, Twenty-seventh District, Thirty-third District, Thirty-sixth District, Fortieth District, Forty-seventh District, Fiftieth District and Fifty-third District.

Section 6. Costs of resolution.

Each party shall pay the compensation, if any, of the panel member designated by that party. The Commonwealth shall pay the compensation, if any, of the neutral panel member and any costs or expenses incurred by the panel in connection with proceedings

1 under this act.

2 Section 7. Procedure.

3 (a) Scope.--Neutral third-party resolution shall be limited
4 to those issues which may be bargained under Article VII of the
5 act of July 23, 1970 (P.L.563, No.195), known as the Public
6 Employe Relation Act, and which are not agreed to in writing
7 prior to the start of neutral third-party resolution.

8 (b) Operation.--By June 5, each representative shall submit
9 to the panel that party's best offer with certification that the
10 offer was delivered to the opposing party. Thereafter, members
11 of the panel shall meet with both parties at least four times
12 prior to June 30 in an effort to resolve the impasse through
13 mediation. If no collective bargaining agreement between the
14 parties is reached by June 30, each party shall submit, on that
15 date, to the neutral member of the panel that party's final best
16 offer. Once a final best offer is submitted to the panel, a
17 party may not make changes to the offer. The neutral party may
18 not submit a final best offer to the other two members of the
19 panel until both final best offers have been received. The
20 determination of the panel shall be confined to a choice between
21 the final best offer of the public employer taken in its
22 entirety and the final best offer of the employee organization
23 taken in its entirety. The parties may voluntarily settle the
24 impasse at any time prior to the final determination of the
25 panel.

26 (c) Falsification.--Documents submitted under this section
27 are subject to 18 Pa.C.S. § 4904 (relating to unsworn
28 falsification to authorities).

29 Section 8. Determination.

30 (a) General rule.--The panel shall begin hearings no later

1 than July 5. By August 31, the panel shall make a final
2 determination in writing. The final determination of a majority
3 of the panel shall be binding upon the public employer and the
4 employee organization.

5 (b) Judicial review.--

6 (1) Except as provided in paragraph (2), no appeal of a
7 determination under subsection (a) shall be allowed to any
8 court.

9 (2) A determination under subsection (a) is subject to
10 judicial review for any of the following:

11 (i) Jurisdiction of the arbitrators.

12 (ii) Regularity of the proceedings.

13 (iii) Excess in exercise of power.

14 (iv) Constitutional issues.

15 (c) Effect.--The final determination shall constitute a
16 mandate to the public employer to take whatever action necessary
17 to carry out the determination. The executed agreement shall be
18 enforceable by each party in the manner as provided by law,
19 including the mandatory arbitration of disputes or grievances
20 under the act of July 23, 1970 (P.L.563, No.195), known as the
21 Public Employee Relations Act. If a public employer or an
22 employee organization refuses to execute a written collective
23 bargaining agreement under this section, the employee
24 organization or the public employer may institute a cause of
25 action in the appropriate court to compel compliance with this
26 section and, as appropriate, specific performance of the
27 determination.

28 Section 9. Strikes and lockouts prohibited.

29 No school employee may strike or participate in a strike or
30 similar interruption of government service. No public employer

1 may conduct a lockout or similar interruption of government
2 service. Any strike, lockout or interruption of government
3 service prohibited by this section shall constitute an
4 actionable breach of duty to members of the public.

5 Section 10. Standing to enforce.

6 The following may petition the appropriate court for an
7 injunction and other appropriate equitable relief to enforce the
8 provisions of this act:

9 (1) Parties to an impasse under this act.

10 (2) A panel member designated under this act.

11 (3) A parent or guardian of a student affected by an
12 impasse under this act.

13 (4) A resident of the school district involved in an
14 impasse under this act.

15 (5) The secretary.

16 Section 11. Existing agreements.

17 A provision of a collective bargaining agreement in existence
18 on the effective date of this act which is inconsistent with
19 this act shall continue valid until the expiration of the
20 collective bargaining agreement. The procedure for entering into
21 any new collective bargaining agreement, however, shall be
22 governed by this act.

23 Section 12. Time frame.

24 The time periods set forth in this act are mandatory and
25 shall not be construed to be directory.

26 Section 13. Constitutional amendment as prerequisite and
27 notice.

28 If the Constitution of Pennsylvania is amended to authorize
29 the procedure set forth in this act, the Secretary of the
30 Commonwealth shall transmit notice of the ratification of the

1 amendment to the Legislative Reference Bureau and the
2 Legislative Reference Bureau shall publish such notice in the
3 Pennsylvania Bulletin.

4 Section 14. Construction.

5 (a) Pari materia.--This act is to be construed in pari
6 materia with the act of July 23, 1970 (P.L.563, No.195), known
7 as the Public Employee Relations Act.

8 (b) Retirement.--

9 (1) Except as provided in paragraph (2), nothing in this
10 act or any other law shall be construed to do any of the
11 following:

12 (i) Permit or require collective bargaining,
13 mediation or binding arbitration to establish or modify
14 pension or retirement benefits set forth in 24 Pa.C.S.
15 Pt. IV (relating to retirement for school employees) or
16 administered by the Public Employees' Retirement Board.

17 (ii) Permit or require a public employer, through
18 collective bargaining, mediation, binding arbitration or
19 otherwise, to establish or modify a pension or retirement
20 plan or to pay pension or retirement benefits or other
21 compensation that modifies or supplements the benefits
22 set forth in 24 Pa.C.S. Pt. IV or administered by the
23 Public School Employees' Retirement Board.

24 (2) Notwithstanding paragraph (1), the parties may
25 negotiate and agree to early retirement incentive or
26 severance pay provisions if the provisions:

27 (i) do not affect the retirement benefits identified
28 in paragraph (1); and

29 (ii) would not result in the Public School
30 Employees' Retirement System's failure to be a qualified

1 plan under the Internal Revenue Code of 1986 (Public Law
2 99-514, 26 U.S.C. § 1 et seq.).

3 Section 15. Repeals.

4 (a) Absolute.--Article XI-A of the act of March 10, 1949
5 (P.L.30, No.14), known as the Public School Code of 1949, is
6 repealed.

7 (b) General.--All other acts and parts of acts are repealed
8 insofar as they are inconsistent with this act.

9 Section 16. Effective date.

10 This act shall take effect as follows:

11 (1) Section 13 and this section shall take effect
12 immediately.

13 (2) The remainder of this act shall take effect January
14 1 following the publication of the notice under section 13.