
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1127 Session of 1995

INTRODUCED BY GLADECK, BUNT, ZUG, MELIO, FICHTER, CHADWICK,
FAIRCHILD, LEH, CIVERA, FLICK, CLARK, MCGILL, PICCOLA,
KENNEY, COWELL, BELFANTI, DALEY, HANNA, M. COHEN, SCHULER,
SURRA, STEELMAN, PITTS, TULLI, HERSHEY, KING, TIGUE, CAWLEY,
PHILLIPS, SATHER, BATTISTO, CARONE, PLATTS, PESCI, REBER,
BOSCOLA, BEBKO-JONES, WALKO, YEWCIC, SHANER, CURRY,
TRAVAGLIO, HALUSKA, BARLEY, STABACK, NAILOR, BARD,
E. Z. TAYLOR, ALLEN, BAKER, BROWNE, ROONEY, HESS, GODSHALL,
LaGROTTA, SAINATO, VANCE, RUBLEY, PETRARCA, WAUGH AND DeLUCA,
MARCH 13, 1995

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 19, 1995

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, further providing for prohibition of the
3 delegation of certain powers.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby resolves as follows:

6 Section 1. The following amendment to the Constitution of
7 Pennsylvania is proposed in accordance with Article XI:

8 That section 31 of Article III be amended to read:

9 § 31. Delegation of certain powers prohibited.

10 (a) The General Assembly shall not delegate to any special
11 commission, private corporation or association, any power to
12 make, supervise or interfere with any municipal improvement,
13 money, property or effects, whether held in trust or otherwise,

1 or to levy taxes or perform any municipal function whatever.

2 ~~(b) Notwithstanding the [foregoing limitation] provisions of~~ <—
3 ~~subsection (a) or any other provision of the Constitution, the~~
4 ~~General Assembly may enact laws which provide that the findings~~
5 ~~of panels or commissions, selected and acting in accordance with~~
6 ~~law for the adjustment or settlement of grievances or disputes~~
7 ~~or for collective bargaining between policemen and firemen and~~
8 ~~their public employers shall be binding upon all parties and~~
9 ~~shall constitute a mandate to the head of the political~~
10 ~~subdivision which is the employer, or to the appropriate officer~~
11 ~~of the Commonwealth if the Commonwealth is the employer, with~~
12 ~~respect to matters which can be remedied by administrative~~
13 ~~action, and to the lawmaking body of such political subdivision~~
14 ~~or of the Commonwealth, with respect to matters which require~~
15 ~~legislative action, to take the action necessary to carry out~~
16 ~~such findings.~~

17 ~~(c) Notwithstanding the provisions of subsection (a) or any~~
18 ~~other provision of the Constitution, the adjustment or~~
19 ~~settlement of grievances or disputes or collective bargaining~~
20 ~~agreements between teachers and their public employers shall be~~
21 ~~by binding arbitration. Arbitration shall be limited to those~~
22 ~~issues not agreed to in writing prior to the start of~~
23 ~~arbitration. The arbitration of collective bargaining agreements~~
24 ~~between teachers and their public employers shall be done by a~~
25 ~~single judge or by a panel of three judges of the court of~~
26 ~~common pleas of the judicial district having jurisdiction over~~
27 ~~the school district which is the public employer. The~~
28 ~~determination of the court with regard to the arbitration of a~~
29 ~~collective bargaining agreement shall be confined to a choice~~
30 ~~between the last contract offer of the public employer, taken as~~

~~1 a whole, and the last contract offer of the employees or their
2 representative, taken as a whole. The arbitration determination
3 of the court shall be binding upon all parties and shall
4 constitute a mandate to the head of the school which is the
5 employer, with respect to matters which can be remedied by
6 administrative action, and to the school board of the school
7 district, with respect to matters which require legislative
8 action, to take the action necessary to carry out the findings.
9 The arbitration of collective bargaining agreements shall begin
10 not later than 60 days prior to the scheduled beginning of the
11 school year and shall be concluded not later than seven days
12 prior to the scheduled beginning of the school year. The
13 arbitration determination of the court may be subject to a
14 binding referendum of the voters of the school district if there
15 is submitted to the appropriate election board within 30 days of
16 the arbitration determination of the court a petition
17 challenging the determination by 25% of the residents of the
18 school district who voted in the last election. Upon
19 certification of a valid petition, a referendum shall be
20 scheduled; and the choices submitted before the court shall be
21 placed on the ballot at the next scheduled election. The
22 electorate shall be limited to the choices presented to the
23 court. Any adjustment of economic or financial considerations
24 required as a result of the referendum shall be prorated over
25 the term of the collective bargaining agreement. No teacher may
26 strike or participate in a strike or similar interruption of
27 government service. Any strike or interruption of government
28 service prohibited by this subsection shall constitute an
29 actionable breach of duty to members of the public affected by
30 the interruption, who shall have a right to remedy and redress~~

1 ~~in the courts. This subsection shall be self executing. Nothing~~
2 ~~in this subsection shall prohibit the General Assembly from~~
3 ~~enacting laws not inconsistent with this section which provide~~
4 ~~that the findings of panels or commissions, acting in accordance~~
5 ~~with law for the adjustment or settlement of grievances or~~
6 ~~disputes between teachers and their public employers, shall be~~
7 ~~binding upon all parties and shall constitute a mandate to the~~
8 ~~head of the political subdivision which is the employer, with~~
9 ~~respect to matters which can be remedied by administrative~~
10 ~~action, and to the lawmaking body of the political subdivision,~~
11 ~~with respect to matters which require legislative action, to~~
12 ~~take the action necessary to carry out the findings. In the~~
13 ~~absence of enabling legislation for the arbitration of~~
14 ~~grievances and disputes, such arbitration shall be done by a~~
15 ~~single judge or by a panel of three judges of the court of~~
16 ~~common pleas of the judicial district having jurisdiction over~~
17 ~~the school district which is the public employer.~~

18 (B) NOTWITHSTANDING THE FOREGOING LIMITATION OR ANY OTHER <—
19 PROVISION OF THE CONSTITUTION, THE GENERAL ASSEMBLY MAY ENACT
20 LAWS WHICH PROVIDE THAT THE FINDINGS OF PANELS OR COMMISSIONS,
21 SELECTED AND ACTING IN ACCORDANCE WITH LAW FOR THE ADJUSTMENT OR
22 SETTLEMENT OF GRIEVANCES OR DISPUTES OR FOR COLLECTIVE
23 BARGAINING BETWEEN POLICEMEN [AND], FIREMEN AND SCHOOL EMPLOYEES
24 AND THEIR PUBLIC EMPLOYERS SHALL BE BINDING UPON ALL PARTIES AND
25 SHALL CONSTITUTE A MANDATE TO THE HEAD OF THE POLITICAL
26 SUBDIVISION WHICH IS THE EMPLOYER, OR TO THE APPROPRIATE OFFICER
27 OF THE COMMONWEALTH IF THE COMMONWEALTH IS THE EMPLOYER, WITH
28 RESPECT TO MATTERS WHICH CAN BE REMEDIED BY ADMINISTRATIVE
29 ACTION, AND TO THE LAWMAKING BODY OF SUCH POLITICAL SUBDIVISION
30 OR OF THE COMMONWEALTH, WITH RESPECT TO MATTERS WHICH REQUIRE

1 LEGISLATIVE ACTION, TO TAKE THE ACTION NECESSARY TO CARRY OUT
2 SUCH FINDINGS. WHERE THE GENERAL ASSEMBLY PROVIDES FOR BINDING
3 RESOLUTION FOR COLLECTIVE BARGAINING BETWEEN POLICEMEN, FIREMEN
4 OR SCHOOL EMPLOYEES AND THEIR PUBLIC EMPLOYERS, STRIKES AGAINST
5 THEIR PUBLIC EMPLOYERS BY SUCH POLICEMEN, FIREMEN OR SCHOOL
6 EMPLOYEES AND LOCKOUTS OF THEIR POLICEMEN, FIREMEN OR SCHOOL
7 EMPLOYEES BY SUCH PUBLIC EMPLOYERS ARE PROHIBITED.

8 SECTION 2. (A) UPON THE FIRST PASSAGE BY THE GENERAL
9 ASSEMBLY OF THIS PROPOSED CONSTITUTIONAL AMENDMENT, THE
10 SECRETARY OF THE COMMONWEALTH SHALL PROCEED IMMEDIATELY TO
11 COMPLY WITH THE ADVERTISING REQUIREMENTS OF SECTION 1 OF ARTICLE
12 XI OF THE CONSTITUTION OF PENNSYLVANIA AND SHALL TRANSMIT THE
13 REQUIRED ADVERTISEMENTS TO TWO NEWSPAPERS IN EVERY COUNTY IN
14 WHICH SUCH NEWSPAPERS ARE PUBLISHED IN SUFFICIENT TIME AFTER
15 PASSAGE OF THIS PROPOSED CONSTITUTIONAL AMENDMENT.

16 (B) UPON THE SECOND PASSAGE BY THE GENERAL ASSEMBLY OF THIS
17 PROPOSED CONSTITUTIONAL AMENDMENT, THE SECRETARY OF THE
18 COMMONWEALTH SHALL PROCEED IMMEDIATELY TO COMPLY WITH THE
19 ADVERTISING REQUIREMENTS OF SECTION 1 OF ARTICLE XI OF THE
20 CONSTITUTION OF PENNSYLVANIA AND SHALL TRANSMIT THE REQUIRED
21 ADVERTISEMENTS TO TWO NEWSPAPERS IN EVERY COUNTY IN WHICH SUCH
22 NEWSPAPERS ARE PUBLISHED IN SUFFICIENT TIME AFTER PASSAGE OF
23 THIS PROPOSED CONSTITUTIONAL AMENDMENT. THE SECRETARY OF THE
24 COMMONWEALTH SHALL SUBMIT THIS PROPOSED CONSTITUTIONAL AMENDMENT
25 TO THE QUALIFIED ELECTORS OF THIS COMMONWEALTH AT THE FIRST
26 PRIMARY, GENERAL OR MUNICIPAL ELECTION OCCURRING AT LEAST THREE
27 MONTHS AFTER THE PROPOSED CONSTITUTIONAL AMENDMENT IS PASSED BY
28 THE GENERAL ASSEMBLY WHICH MEETS THE REQUIREMENTS OF AND IS IN
29 CONFORMANCE WITH SECTION 1 OF ARTICLE XI OF THE CONSTITUTION OF
30 PENNSYLVANIA.