

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2544 Session of
2000

INTRODUCED BY METCALFE, ROHRER, BARRAR AND HERSHEY, MAY 11, 2000

REFERRED TO COMMITTEE ON EDUCATION, MAY 11, 2000

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 the definition of "strike," for fact-finding
7 panels, for final best-offer arbitration, for strikes and
8 lockouts and for injunctive relief; and making a repeal.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The definition of "strike" in section 1101-A of
12 the act of March 10, 1949 (P.L.30, No.14), known as the Public
13 School Code of 1949, added July 9, 1992 (P.L.403, No.88), is
14 amended to read:

15 Section 1101-A. Definitions.--When used in this article, the
16 following words and phrases shall have the following meanings:

17 * * *

18 "Strike" shall mean concerted action in failing to report for
19 duty, the wilful absence from one's position, the stoppage of
20 work, slowdown or the abstinence, in whole or in part, from the
21 full, faithful and proper performance of the duties of

1 employment for the purpose of inducing, influencing or coercing
2 a change in the conditions or compensation or the rights,
3 privileges or obligations of employment. [The employe
4 organization having called a strike once and unilaterally
5 returned to work may only call a lawful strike once more during
6 the school year. A written notice of the intent to strike shall
7 be delivered by the employe organization to the superintendent,
8 executive director or the director no later than forty-eight
9 (48) hours prior to the commencement of any strike, and no
10 strike may occur sooner than forty-eight (48) hours following
11 the last notification of intent to strike. Upon receipt of the
12 notification of intent to strike, the superintendent, executive
13 director or the director may cancel school for the effective
14 date of the strike. A decision to cancel school may, however, be
15 withdrawn by the superintendent, executive director or the
16 director. Any subsequent change of intents to strike shall not
17 affect the decision to cancel school on the day of the intended
18 strike. For the purposes of this article, the decision to cancel
19 school on the day of the intended strike shall not be considered
20 a lockout.]

21 Section 2. Sections 1122-A(a)(4), 1125-A(a), (b) and (m),
22 1131-A and 1132-A of the act, added July 9, 1992 (P.L.403,
23 No.88), are amended to read:

24 Section 1122-A. Fact-finding Panels.--(a) * * *

25 (4) The board may implement fact-finding and appoint a panel
26 as provided for in clause (2) at a time other than that mandated
27 in this section[, except that fact-finding may not be
28 implemented between the period of notice to strike and the
29 conclusion of a strike or] during final best-offer arbitration.
30 If the board chooses not to implement fact-finding prior to a

1 strike, the board shall issue a report to the parties listing
2 the reasons for not implementing fact-finding if either party
3 requests one.

4 * * *

5 Section 1125-A. Final Best-Offer Arbitration.--(a) At any
6 time prior to mandated final best-offer arbitration, either the
7 employer or the employe organization may request final best-
8 offer arbitration unless fact-finding has been initiated as
9 provided in section 1122-A. If fact-finding has been initiated,
10 the parties shall complete fact-finding before requesting final
11 best-offer arbitration. If either party requests final best-
12 offer arbitration, the requesting party shall notify the Bureau
13 of Mediation, the board and the opposing party in writing. The
14 opposing party shall, within ten (10) days of the notification
15 by the requesting party, notify the requesting party in writing
16 of its agreement or refusal to submit to final best-offer
17 arbitration. [No strikes or lockouts shall occur during this ten
18 (10) day period or until the requesting party is notified by the
19 opposing party that they refuse to submit to final best-offer
20 arbitration.] Arbitration provided for in this subsection shall
21 only occur if both parties agree to submit to final best-offer
22 arbitration.

23 (b) [If a strike by employees or a lockout by an employer
24 will prevent the school entity from providing the period of
25 instruction required by section 1501 by the later of:

26 (1) June 15; or

27 (2) the last day of the school entity's scheduled school
28 year;

29 the] The parties shall submit to mandated final best-offer
30 arbitration consistent with the arbitration option negotiated.

1 [A return to work for the purpose of submitting to final best-
2 offer arbitration shall not be considered a unilateral return to
3 work.]

4 * * *

5 [(m) If the employer or the employe organization rejects the
6 determination of the majority of the arbitrators:

7 (1) The employe organization may initiate a legal strike or
8 resume a legal strike initiated prior to submission to final
9 best-offer arbitration.

10 (2) The employer may hire substitutes as provided under
11 subsection (b) of section 1172-A.

12 (3) The employer may initiate a legal lockout or resume a
13 legal lockout initiated prior to submission to final best-offer
14 arbitration.]

15 Section 1131-A. [Strikes Prohibited in Certain
16 Circumstances.--A strike must cease where the parties request
17 fact-finding for the duration of the fact-finding. A strike must
18 end where the parties agree to arbitration. Strikes are
19 prohibited:

20 (1) During the period of up to ten (10) days provided for
21 under section 1125-A(a).

22 (2) During final best-offer arbitration, including the
23 period of up to ten (10) days after receipt of the determination
24 of the arbitrators during which the governing body of the school
25 entity may consider the determination.

26 (3) When the arbitrators' determination becomes final and
27 binding.] Strikes Prohibited.--(a) Strikes by an employe
28 organization or by employes of school entities are prohibited at
29 any time.

30 (b) If a strike occurs the employer shall forthwith initiate

1 in the court of common pleas of the jurisdiction where the
2 strike occurs, an action for appropriate equitable relief,
3 including, but not limited to, injunctions.

4 (c) If an employe of a school entity or employe organization
5 refuses to comply with a lawful order of a court of competent
6 jurisdiction issued for a violation of any of the provisions of
7 this article the employer shall initiate an action for contempt
8 and if the employe of the school entity is adjudged guilty of
9 such contempt, such employe shall be subject to suspension,
10 demotion or discharge at the discretion of the employer,
11 provided the employer has not exercised that discretion in
12 violation of section 1201(a)(1), (2), (3) and (4) of subsection
13 (a) of section 1201 of Article XII of the act of July 23, 1970
14 (P.L.563, No.195), known as the "Public Employe Relations Act."

15 (d) An unfair practice by the employer shall not be a
16 defense to a prohibited strike. Unfair practices by the employer
17 during the collective bargaining processes shall receive
18 priority by the board as set forth in Article XIV of the "Public
19 Employe Relations Act."

20 (e) No employe of a school entity shall be entitled to pay
21 or compensation from the employer for the period engaged in any
22 strike, or for any additional days which are added to the school
23 schedule because of the illegal strike in order to meet the
24 requirements of this act.

25 Section 1132-A. [Lockouts Prohibited in Certain
26 Circumstances.--A lockout must cease where the parties request
27 fact-finding for the duration of the fact-finding. A lockout
28 must end where the parties agree to arbitration. Lockouts are
29 prohibited:

30 (1) During the period of up to ten (10) days provided for

1 under section 1125-A(a).

2 (2) During final best-offer arbitration, including the
3 period of up to ten (10) days after receipt of the determination
4 of the arbitrators during which the employer may consider the
5 determination.

6 (3) When the arbitrators' determination becomes final and
7 binding.] Lockouts Prohibited.--(a) Lockouts by employers are
8 prohibited at any time.

9 (b) If a lockout occurs, the employe organization may
10 forthwith initiate in the court of common pleas where the
11 lockout occurs an action for appropriate equitable relief,
12 including, but not limited to, an injunction.

13 Section 3. Sections 1161-A and 1172-A of the act are
14 repealed.

15 Section 4. The act of July 23, 1970 (P.L.563, No.195), known
16 as the Public Employe Relations Act, is repealed to the extent
17 that it is inconsistent with this act.

18 Section 5. This act shall take effect in 60 days.