
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2635 Session of
2006

INTRODUCED BY STEIL, ARGALL, CALTAGIRONE, CAWLEY, CRAHALLA,
DENLINGER, GOODMAN, JAMES, McILHATTAN, MUNDY, SANTONI,
SATHER, STABACK, TIGUE, WATSON, YOUNGBLOOD AND YUDICHAK,
JUNE 15, 2006

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 15, 2006

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," deleting provisions relating to
6 collective bargaining; and providing for collective
7 bargaining dispute resolution.

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

10 Section 1. Article XI-A of the act of March 10, 1949
11 (P.L.30, No.14), known as the Public School Code of 1949, added
12 July 9, 1992 (P.L.403, No.88), is amended to read:

13 [ARTICLE XI-A.

14 COLLECTIVE BARGAINING.

15 (a) General Provisions.

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

18 "Board" shall mean the Pennsylvania Labor Relations Board.

19 "Employee" shall mean a public school employe who bargains

1 collectively with a public school entity, but shall not include
2 employes covered or presently subject to coverage under the act
3 of June 1, 1937 (P.L.1168, No.294), known as the "Pennsylvania
4 Labor Relations Act," or the National Labor Relations Act (61
5 Stat. 152, 29 U.S.C. Ch. 7 Subch. 11). The term does not include
6 any management-level employe of any other school district.

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

17 "Employer" shall mean a public school entity, but shall not
18 include employers covered or presently subject to coverage under
19 the act of June 1, 1937 (P.L.1168, No.294), known as the
20 "Pennsylvania Labor Relations Act," or the National Labor
21 Relations Act (61 Stat. 152, 29 U.S.C. Ch. 7 Subch. 11).

22 "Impasse" shall mean the failure of an employer and an
23 employe organization to reach an agreement in the course of
24 negotiations.

25 "Lockout" shall mean the cessation of furnishing of work to
26 employes or withholding work from employes for the purpose of
27 inducing, influencing or coercing a change in the conditions or
28 compensation or the rights, privileges or obligations of
29 employment.

30 "Representative" shall mean an individual acting for

1 employers or employes and shall include employe organizations.

2 "School entity" shall mean a public school district,
3 intermediate unit or area vocational-technical school.

4 "Strike" shall mean concerted action in failing to report for
5 duty, the wilful absence from one's position, the stoppage of
6 work, slowdown or the abstinence, in whole or in part, from the
7 full, faithful and proper performance of the duties of
8 employment for the purpose of inducing, influencing or coercing
9 a change in the conditions or compensation or the rights,
10 privileges or obligations of employment. The employe
11 organization having called a strike once and unilaterally
12 returned to work may only call a lawful strike once more during
13 the school year. A written notice of the intent to strike shall
14 be delivered by the employe organization to the superintendent,
15 executive director or the director no later than forty-eight
16 (48) hours prior to the commencement of any strike, and no
17 strike may occur sooner than forty-eight (48) hours following
18 the last notification of intent to strike. Upon receipt of the
19 notification of intent to strike, the superintendent, executive
20 director or the director may cancel school for the effective
21 date of the strike. A decision to cancel school may, however, be
22 withdrawn by the superintendent, executive director or the
23 director. Any subsequent change of intents to strike shall not
24 affect the decision to cancel school on the day of the intended
25 strike. For the purposes of this article, the decision to cancel
26 school on the day of the intended strike shall not be considered
27 a lockout.

28 Section 1111-A. Mutual Obligation.--Collective bargaining is
29 the performance of the mutual obligation of the employer or his
30 representative and the representative of the employes to meet at

1 reasonable times and confer in good faith with respect to wages,
2 hours and other terms and conditions of employment or the
3 negotiation of an agreement or any question arising thereunder
4 and the execution of a written contract incorporating any
5 agreement reached, but such obligation does not compel either
6 party to agree to a proposal or require the making of a
7 concession.

8 Section 1112-A. Matters of Inherent Managerial Policy.--
9 Employers shall not be required to bargain over matters of
10 inherent managerial policy. Those matters shall include, but
11 shall not be limited to, such areas of discretion or policy as
12 the functions and programs of the employer, standards of
13 services, its overall budget, utilization of technology, the
14 organizational structure and selection and direction of
15 personnel. Employers, however, shall be required to meet and
16 discuss on policy matters affecting wages, hours and terms and
17 conditions of employment as well as the impact thereon upon
18 request by employe representatives.

19 Section 1121-A. Submission to Mediation.--(a) If, after a
20 reasonable period of negotiation, a dispute or impasse exists
21 between the representatives of the employer and the employe
22 organization, the parties may voluntarily submit to mediation,
23 but, if no agreement is reached between the parties within
24 forty-five (45) days after negotiations have commenced, but in
25 no event later than one hundred twenty-six (126) days prior to
26 June 30 or December 31, whichever is the end of the school
27 entity's fiscal year, and mediation has not been utilized by the
28 parties, both parties shall immediately in writing call on the
29 service of the Pennsylvania Bureau of Mediation.

30 (b) The Pennsylvania Bureau of Mediation shall employ a

1 complement of not less than twenty-five (25) mediators which
2 shall be available to mediate according to the provisions of
3 subsection (a).

4 Section 1122-A. Fact-finding Panels.--(a) (1) Once
5 mediation has commenced, it shall continue for so long as the
6 parties have not reached an agreement. If, however, an agreement
7 has not been reached within forty-five (45) days after mediation
8 has commenced or in no event later than eighty-one (81) days
9 prior to June 30 or December 31, whichever is the end of the
10 school entity's fiscal year, the Bureau of Mediation shall
11 notify the board of the parties' failure to reach an agreement
12 and of whether either party has requested the appointment of a
13 fact-finding panel.

14 (2) No later than eighty-one (81) days prior to June 30 or
15 December 31, whichever is the end of the school entity's fiscal
16 year, either party may request the board to appoint a fact-
17 finding panel. Upon receiving such request, the board shall
18 appoint a fact-finding panel which may consist of either one (1)
19 or three (3) members. The panel so designated or selected shall
20 hold hearings and take oral or written testimony and shall have
21 subpoena power. If, during this time, the parties have not
22 reached an independent agreement, the panel shall make findings
23 of fact and recommendations. The panel shall not find or
24 recommend that the parties accept or adopt an impasse procedure.

25 (3) The parties may mutually agree to fact-finding, and the
26 board shall appoint a fact-finding panel as provided for in
27 clause (2) at any time except that the parties may not mutually
28 agree to fact-finding during mandated final best-offer
29 arbitration.

30 (4) The board may implement fact-finding and appoint a panel

1 as provided for in clause (2) at a time other than that mandated
2 in this section, except that fact-finding may not be implemented
3 between the period of notice to strike and the conclusion of a
4 strike or during final best-offer arbitration. If the board
5 chooses not to implement fact-finding prior to a strike, the
6 board shall issue a report to the parties listing the reasons
7 for not implementing fact-finding if either party requests one.

8 (b) The findings of fact and recommendations shall be sent
9 by registered mail to the board and to both parties not more
10 than forty (40) days after the Bureau of Mediation has notified
11 the board as provided in subsection (a).

12 (c) Not more than ten (10) days after the findings and
13 recommendations shall have been sent, the parties shall notify
14 the board and each other whether or not they accept the
15 recommendations of the fact-finding panel, and, if they do not,
16 the panel shall publicize its findings of fact and
17 recommendations.

18 (d) Not less than five (5) days nor more than ten (10) days
19 after the publication of the findings of fact and
20 recommendations, the parties shall again inform the board and
21 each other whether or not they will accept the recommendations
22 of the fact-finding panel.

23 (e) The board shall establish, after consulting
24 representatives of employe organizations and of employers,
25 panels of qualified persons broadly representative of the public
26 to serve as members of fact-finding panels. The board shall,
27 within sixty (60) days of the effective date of this act,
28 increase the number of available panels of qualified persons to
29 serve as members of fact-finding panels to meet the expanded
30 role of fact-finding as provided for in this act.

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

6 Section 1123-A. Negotiated Final Best-Offer Arbitration.--

7 (a) The parties to a collective bargaining agreement involving
8 public school employes shall be required to bargain upon the
9 issue of acceptance and adoption of one of the following
10 approved impasse procedures, with the proviso that such an
11 obligation does not compel either party to agree to a proposal
12 or require making a concession:

13 (1) Arbitration under which the award is confined to a
14 choice among one of the following single packages:

15 (i) the last offer of the representative of the employer;
16 (ii) the last offer of the representative of the employes;
17 or

18 (iii) the fact-finder's recommendations, should there be a
19 fact-finder's report.

20 (2) Arbitration under which the award is confined to a
21 choice among one of the following on an issue-by-issue basis:

22 (i) the last offer of the representative of the employer;
23 (ii) the last offer of the representative of the employes;
24 or

25 (iii) the fact-finder's recommendations, should there be a
26 fact-finder's report.

27 (3) Arbitration under which the award is confined to a
28 choice among one of the following on the basis of economic and
29 noneconomic issues as separate units:

30 (i) the last offer of the representative of the employer;

1 (ii) the last offer of the representative of the employes;
2 or

3 (iii) the fact-finder's recommendations, should there be a
4 fact-finder's report.

5 (b) As used in this section, "economic issues" shall mean
6 wages, hours, salary, fringe benefits or any form of monetary
7 compensation for services rendered.

8 Section 1124-A. Method of Selection of Arbitrators.--The
9 board of arbitration shall be composed of three (3) members.
10 Arbitrators as referred to in this article shall be selected in
11 the following manner:

12 (1) Each party shall select one (1) member of the panel
13 within five (5) days of the parties' submission to final best-
14 offer arbitration. Each arbitrator shall be knowledgeable in the
15 school-related fields of budget, finance, educational programs
16 and taxation.

17 (2) The third arbitrator shall be selected from a list of
18 seven (7) arbitrators furnished by the American Arbitration
19 Association within five (5) days of the publication of the list.
20 Each of the seven (7) arbitrators shall be a resident of this
21 Commonwealth and knowledgeable in the areas necessary to
22 effectively make a determination. Each party shall alternately
23 strike one name until one shall remain. The employer shall
24 strike the first name. The person so remaining shall be the
25 third member and chairman.

26 (3) Payment of arbitrators shall be as follows:

27 (i) For voluntary arbitration, each party shall pay the cost
28 of the arbitrator selected by it under clause (1) of this
29 section. The cost of the third arbitrator shall be divided
30 equally between the parties.

1 (ii) For mandatory arbitration, the Commonwealth shall pay
2 one-half of the cost of the arbitrators; the remaining one-half
3 of the cost shall be divided equally between the parties.

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

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

25 (1) June 15; or

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

28 the parties shall submit to mandated final best-offer
29 arbitration consistent with the arbitration option negotiated. A
30 return to work for the purpose of submitting to final best-offer

1 arbitration shall not be considered a unilateral return to work.

2 (c) If the parties are unable to agree on the adoption of
3 one of the approved impasse procedures under section 1123-A, the
4 mediator appointed pursuant to section 1121-A shall select the
5 procedure.

6 (d) Within ten (10) days of submission to final best-offer
7 arbitration, the parties shall submit to the arbitrators their
8 final best contract offer with certification that the offer was
9 delivered to the opposing party, together with documentation
10 supporting the reasonableness of their offer. This documentation
11 shall include, but not be limited to, the following:

12 (1) The public interest.

13 (2) The interest and welfare of the employe organization.

14 (3) The financial capability of the school entity.

15 (4) The results of negotiations between the parties prior to
16 submission of last best contract offers.

17 (5) Changes in the cost of living.

18 (6) The existing terms and conditions of employment of the
19 employe organization members and those of similar groups.

20 (7) Such other documentation as the arbitration panel shall
21 deem relevant.

22 (e) Arbitration shall be limited to unresolved issues.

23 Unresolved issues shall mean those issues not agreed to in
24 writing prior to the start of arbitration.

25 (f) The parties may mutually agree to submit to final best-
26 offer arbitration at any time except during fact-finding or
27 during mandated final best-offer arbitration.

28 (g) Upon submission to the arbitrator of both parties' final
29 best offers under subsection (a) or (b), the employer shall
30 post, within the time limits described in subsection (d), the

1 final best contract offers in the school entity's main office
2 for the purpose of soliciting public comments thereon. Copies of
3 both parties' final best offers shall be available from the
4 school entity's main office. The cost of copies shall be
5 established by the school entity and shall be paid by the
6 requestor.

7 (h) The public comment period shall close within ten (10)
8 days of the first day of posting. All public comments shall be
9 directed to the arbitrators for consideration who shall provide
10 them on request to the employer and to the employees'
11 organization.

12 (i) Within ten (10) days of the selection of the third
13 arbitrator of the arbitration panel, the arbitrators shall begin
14 hearings at which they will hear arguments from representatives
15 of the employer and of the employees in support of their
16 respective last best contract offers under subsection (a) or
17 (b). At least five (5) days prior to the hearing, a written
18 notice of the date, time and place of such hearing shall be sent
19 to the representatives of both the employer and employees which
20 are parties to the dispute. This written notice shall also be
21 sent to the fiscal authority having budgetary responsibility or
22 charged with making appropriations for the employer, and a
23 representative designated by such body shall be heard at the
24 hearing upon request of such body or of the employer as part of
25 the presentation of the employer.

26 (j) Not later than twenty (20) days after the hearing
27 pursuant to subsection (i), the arbitrators shall:

28 (1) examine each item of dispute;

29 (2) make a determination in writing consistent with the
30 arbitration option agreed to by the parties; and

1 (3) forward a copy of the written determination to both
2 parties involved in the dispute and to the board.

3 (k) The determination of the majority of the arbitrators
4 reached as provided under either subsection (a) or (b) shall be
5 final and binding upon the employer, employes and employe
6 organization involved and constitutes a mandate to the school
7 entity to take whatever action necessary to carry out the
8 determination, provided that within ten (10) days of the receipt
9 of the determination the employe organization or the employer
10 does not consider and reject the determination at a properly
11 convened special or regular meeting. This determination
12 includes, but is not limited to, a determination which requires
13 a legislative enactment by the employer prior to or as a
14 condition for its implementation, including, without limitation,
15 the levy and imposition of taxes.

16 (l) No appeal challenging the determination reached as
17 provided under subsection (a) or (b) shall be allowed to any
18 court unless the award resulted from fraud, corruption or wilful
19 misconduct of the arbitrators. If a court determines that this
20 has occurred, it shall declare the award null and void. An
21 appeal of the award shall be made to the court of common pleas
22 of the judicial district encompassing the respective school
23 district.

24 (m) If the employer or the employe organization rejects the
25 determination of the majority of the arbitrators:

26 (1) The employe organization may initiate a legal strike or
27 resume a legal strike initiated prior to submission to final
28 best-offer arbitration.

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

1 (3) The employer may initiate a legal lockout or resume a
2 legal lockout initiated prior to submission to final best-offer
3 arbitration.

4 Section 1126-A. Time Frame.--The time periods set forth in
5 this article are mandatory and shall not be construed to be
6 directory.

7 Section 1127-A. Exception.--Any school district of the first
8 class with an appointed school board and the public employes of
9 that school district as defined in the act of July 23, 1970
10 (P.L.563, No.195), known as the "Public Employe Relations Act,"
11 shall comply with and be subject to the binding arbitration
12 provisions of the "Public Employe Relations Act" and shall not
13 be subject to the provisions of section 1123-A, 1124-A or 1125-
14 A.

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.

28 Section 1132-A. Lockouts Prohibited in Certain
29 Circumstances.--A lockout must cease where the parties request
30 fact-finding for the duration of the fact-finding. A lockout

1 must end where the parties agree to arbitration. Lockouts are
2 prohibited:

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

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

9 (3) When the arbitrators' determination becomes final and
10 binding.

11 Section 1151-A. Agreement and Enforcement.--Any
12 determination of the arbitrators to be implemented under this
13 article shall be memorialized as a written agreement by and
14 between the school entity and the employe organization to be
15 signed and sealed by their duly appointed officers and agents as
16 provided by law. The executed agreement shall be enforceable by
17 each party in the manner as provided by law, including without
18 limitation and in derogation to the mandatory arbitration of
19 disputes or grievances under the act of July 23, 1970 (P.L.563,
20 No.195), known as the "Public Employe Relations Act." In the
21 event that a school entity or an employe organization refuses to
22 execute a written agreement under this section, the employe
23 organization or the school entity may institute a cause of
24 action in the court of common pleas to compel compliance with
25 the provision of this section requiring a written agreement and,
26 in the appropriate case, specific performance of the
27 determination.

28 Section 1152-A. Existing Agreements; Provisions Inconsistent
29 with Article.--Any provisions of any collective bargaining
30 agreement in existence on the effective date of this article

1 which are inconsistent with any provision of this article, but
2 not otherwise illegal, shall continue valid until the expiration
3 of such contract. The procedure for entering into any new
4 collective bargaining agreement, however, shall be governed by
5 this article, where applicable, upon the effective date of this
6 article.

7 Section 1161-A. Injunctive Relief.--When an employe
8 organization is on strike for an extended period that would not
9 permit the school entity to provide the period of instruction
10 required by section 1501 by June 30, the Secretary of Education
11 may initiate, in the appropriate county court of common pleas,
12 appropriate injunctive proceedings providing for the required
13 period of instruction.

14 Section 1171-A. Selective Strikes.--The work stoppage
15 practice known as "selective strikes" shall be considered an
16 illegal strike. Any strike which does not comply with the
17 definition of "strike" contained in this article shall be
18 considered a selective strike.

19 Section 1172-A. Utilization of Strike Breakers.--(a) Except
20 as provided in subsection (b), during a legal strike, as defined
21 by this article, the school entity, as defined by this article,
22 shall not utilize persons other than those employes who have
23 been actively employed by the school entity at any time during
24 the previous twelve (12) months.

25 (b) A school entity may utilize persons other than those
26 employes who have been actively employed by the school entity at
27 any time during the previous twelve (12) months:

28 (1) when the employe organization or employer rejects the
29 determination of the majority of the arbitrators; and

30 (2) when a legal strike will prevent the completion of the

1 period of instruction required by section 1501 by the later of:
2 (i) June 15; or
3 (ii) the last day of the school district's scheduled school
4 year.]

5 Section 2. The act is amended by adding an article to read:

6 ARTICLE XI-B
7 COLLECTIVE BARGAINING DISPUTE RESOLUTION
8 (a) General Provisions

9 Section 1101-B. Definitions.

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

13 "Board." The Pennsylvania Labor Relations Board.

14 "Bureau." The Bureau of Mediation of the Commonwealth.

15 "Economic issues." Wages, hours, salary, fringe benefits or
16 any form of monetary compensation for services rendered.

17 "Employee." A public school employee who bargains
18 collectively with a public school entity. The term does not
19 include:

20 (1) An employee who is covered or presently subject to
21 coverage under the act of June 1, 1937 (P.L.1168, No.294),
22 known as the Pennsylvania Labor Relations Act, or the
23 National Labor Relations Act (49 Stat. 449, 26 U.S.C. § 151
24 et seq.).

25 (2) A management-level employee of any other school
26 district.

27 "Employee organization." A public school employee
28 organization of any kind, or an agency or employee
29 representation committee or plan in which membership is limited
30 to public school employees, and which exists for the purpose, in

1 whole or in part, of dealing with public school employers
2 concerning grievances, public school employee-public school
3 employer disputes, wages, rates of pay, hours of employment or
4 conditions of work. The term does not include an organization
5 which practices discrimination in membership because of race,
6 color, creed, national origin or political affiliation.

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

12 "Good faith." Acting with openness, fairness, mutuality of
13 conduct and cooperation with the intent of identifying a
14 mutually agreeable solution.

15 "Impasse." The failure of an employer and an employee
16 organization to reach an agreement in the course of
17 negotiations.

18 "Lockout." The cessation of furnishing of work to employees
19 or withholding work from employees for the purpose of inducing,
20 influencing or coercing a change in the conditions or
21 compensation or the rights, privileges or obligations of
22 employment.

23 "Mediator." A person appointed by the Bureau of Mediation to
24 mediate an impasse.

25 "Parties." An employer and the employee organization that
26 represents the employee of the employer.

27 "Representative." An individual acting for employers or
28 employees. The term includes an employee organization.

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

1 "Strike." Concerted action in failing to report for duty,
2 the willful absence from one's position, the stoppage of work,
3 slowdown or the abstinence, in whole or in part, from the full,
4 faithful and proper performance of the duties of employment for
5 the purpose of inducing, influencing or coercing a change in the
6 conditions or compensation or the rights, privileges or
7 obligations of employment.

8 "Work stoppage." A strike or lockout.

9 (b) Procedure

10 Section 1111-B. Mutual obligation.

11 Collective bargaining is the performance of the mutual
12 obligation of an employer, or its representative, and the
13 representative of its employees to meet at reasonable times and
14 confer in good faith with respect to wages, hours and other
15 terms and conditions of employment or the negotiation of an
16 agreement or any question arising under the agreement and the
17 execution of a written contract incorporating any agreement
18 reached. The obligation does not compel either party to agree to
19 a proposal or require the making of a concession.

20 Section 1112-B. Matters of inherent managerial policy.

21 (a) General rule.--An employer shall not be required to
22 bargain over matters of inherent managerial policy. Those
23 matters shall include, but shall not be limited to, such areas
24 of discretion or policy as:

25 (1) The functions and programs of the employer.

26 (2) Standards of services.

27 (3) Overall budget of the employer.

28 (4) Utilization of technology.

29 (5) The organizational structure and selection and
30 direction of personnel.

1 (b) Exception.--An employer shall meet and discuss on policy
2 matters affecting wages, hours and terms and conditions of
3 employment as well as the impact thereon upon request by an
4 employee representative.

5 Section 1113-B. Negotiation between the parties.

6 The parties shall negotiate a collective bargaining agreement
7 as follows:

8 (1) The parties shall commence negotiating a new
9 agreement no later than 15 months prior to the expiration of
10 the current contract.

11 (2) The employer shall confirm to the public through
12 regularly scheduled board meetings that the negotiations
13 commenced as required.

14 (3) The parties shall negotiate independently for seven
15 months and shall, at all times, negotiate in good faith.

16 (4) Within 30 days of negotiations commencing, each
17 party shall provide a written settlement proposal to the
18 other party. Each party shall respond to the other party's
19 proposal, in writing, within 30 days of receipt of the
20 proposal.

21 (5) The parties may mutually agree to mediation at any
22 time under the procedure set forth in this section, but if no
23 agreement is reached eight months prior to expiration of the
24 current contract, the parties shall enlist the assistance of
25 a mediator.

26 Section 1114-B. Mandatory mediation.

27 If the assistance of a mediator is required under section
28 1113-B(5), the following procedure shall apply:

29 (1) The parties shall immediately call on the service of
30 the bureau. The bureau shall appoint a mediator within two

1 business days.

2 (2) The parties shall continue to negotiate in good
3 faith throughout the mediation process.

4 (3) The parties may agree to meet independently at any
5 time during the mediation process.

6 (4) If no agreement is reached five months prior to
7 expiration of the current contract, the parties shall submit
8 to fact-finding under section 1115-B.

9 Section 1115-B. Fact-finding.

10 Fact-finding shall proceed as follows:

11 (1) Within three business days, the board shall appoint
12 one or three fact-finders.

13 (2) Within two additional business days, each party
14 shall submit its latest proposal to the fact-finders and
15 simultaneously to the other party. The proposal shall be made
16 public through posting at school entity offices and on the
17 Internet website of the school entity.

18 (3) The appointed fact-finders shall hold hearings,
19 secure oral or written testimony and shall have subpoena
20 power. The panel shall also solicit public input. If, during
21 this phase, the parties fail to reach an independent
22 agreement, the panel shall make findings of fact and
23 recommendations.

24 (4) The findings of fact and recommendations shall be
25 sent by registered mail to the board and to both parties not
26 more than 30 days after the board has notified the fact-
27 finders of their appointment.

28 (5) The parties shall decide within five business days
29 whether to accept the recommendation of the fact-finders or
30 to submit to binding arbitration under section 1116-B.

1 (6) The costs of fact-finding shall be shared equally by
2 the parties or in such proportion as the fact-finders
3 determine.

4 Section 1116-B. Binding arbitration.

5 If either party rejects the recommendation of the fact-
6 finders, the parties shall proceed immediately to binding
7 arbitration. The parties may either submit their dispute to a
8 mutually agreeable single arbitrator or an arbitration panel
9 composed of three persons. The arbitration panel shall be
10 selected in the following manner:

11 (1) Each party shall select one member of the panel
12 within two business days. Each arbitrator must be
13 knowledgeable in the school-related fields of budget,
14 finance, educational programs and taxation.

15 (2) The third arbitrator shall be selected from a list
16 of seven arbitrators furnished by the American Arbitration
17 Association within three days of the publication of the list.
18 Each of the seven arbitrators must be a resident of this
19 Commonwealth and knowledgeable in the areas necessary to
20 effectively make a determination. Beginning with the
21 employer, each party shall alternately strike one name until
22 one shall remain. The person so remaining shall be the third
23 panel member and chairperson.

24 (3) The parties shall submit their last best offer to
25 the panel within two business days of panel selection. The
26 last best offer shall also be submitted to the other party
27 and be posted publicly at school entity offices and on the
28 Internet website of the school entity.

29 (4) All information, data, analyses and recommendations
30 from the fact-finding process shall be provided to the panel.

1 The employer shall provide guidance to the arbitrator
2 regarding fiscal constraints in accordance with section 31 of
3 Article III of the Constitution of Pennsylvania. The public
4 shall be given an opportunity to submit comments to the
5 arbitration panel.

6 (5) The panel shall rule within 30 days of panel
7 selection. The ruling shall be final and binding on the
8 parties.

9 (6) The ruling shall be by selection of one proposal in
10 its entirety.

11 (7) The ruling shall be limited to issues that have not
12 been previously agreed.

13 (8) The panel shall consider the following criteria in
14 making its ruling:

15 (i) The interest and welfare of the public.

16 (ii) The financial ability of the employer to fund
17 the costs associated with any proposed agreement.

18 (iii) Comparison of wages, hours and condition of
19 employment of the employees involved in the arbitration
20 proceeding with the wages, hours and conditions of
21 employment of other employees performing similar services
22 or requiring similar skills under similar working
23 conditions and with other employees generally in public
24 and private employment in comparable communities.

25 (9) Each party shall pay the cost of the arbitrator
26 selected by it under paragraph (1). The cost of the third
27 arbitrator shall be divided equally among the parties or in
28 such proportion as the chairperson determines. The
29 Commonwealth shall not be responsible for the cost of binding
30 arbitration under this section.

1 Section 1117-B. Judicial review.

2 (a) General rule.--The decision of an arbitration panel
3 under section 1116-B shall be subject to judicial review upon
4 the filing of a petition for review by a party to the
5 arbitration in the court of common pleas for the county where
6 the school entity is located. Should a school entity be located
7 in more than one county, the county where the administrative
8 office of the entity is located shall control. The petition must
9 be filed within 14 days following receipt of the arbitration
10 ruling.

11 (b) Standard of review.--The court of common pleas may only
12 vacate or modify the decision if substantial rights of the party
13 have been prejudiced because the arbitration decision is:

- 14 (1) in violation of constitutional or statutory
15 provisions;
16 (2) in excess of the statutory authority of the panel;
17 (3) made upon unlawful procedure;
18 (4) affected by other error of law;
19 (5) clearly erroneous in view of the reliable, probative
20 and substantial evidence on the whole record; or
21 (6) arbitrary or capricious or characterized by abuse of
22 discretion or clearly unwarranted exercise of discretion.

23 (c) Award.--In any action brought pursuant to this section
24 to vacate or modify the decision of the arbitrators or single
25 arbitrator, reasonable attorney fees, costs and legal interest
26 on salary withheld as the result of an appeal of the decision
27 may be awarded.

28 Section 1118-B. General standard of conduct.

29 Throughout the process set forth under this article:

30 (1) The employer shall update the public as to the

1 status of negotiations at regularly scheduled school board
2 meetings.

3 (2) The parties shall, at all times, negotiate in good
4 faith.

5 (3) The parties may, at any time, independently enter
6 into an agreement prior to a ruling as a result of binding
7 arbitration.

8 Section 1119-B. Strikes and lockouts prohibited.

9 (a) Prohibited conduct.--

10 (1) No public employee or employee organization may
11 strike or participate in a strike or similar interruption of
12 government service.

13 (2) No employer may conduct a lockout or similar
14 interruption of government service.

15 (3) Any strike, lockout or interruption of government
16 service prohibited by this section shall constitute an
17 actionable breach of duty to members of the public.

18 (b) Effect of violation.--

19 (1) An employee who violates the provisions of this
20 article shall:

21 (i) Forfeit a portion of the employee's annual
22 salary equal to twice the employee's daily rate of pay
23 for each day, or part thereof, that it was determined the
24 employee violated this section. The forfeiture may not be
25 waived by the employer or otherwise recovered by the
26 employee.

27 (2) An employee organization that violates the
28 provisions of this article shall be prohibited from using a
29 union dues checkoff privilege for one year.

30 (c) Conduct during unlawful strike.--

1 (1) An employer may hire substitute teachers for the
2 duration of a strike by its employees.

3 (2) The parties shall allow for safe and unhindered
4 access to school facilities for all school employees not
5 participating in a strike, including teachers and
6 substitutes.

7 (d) Lockouts.--

8 (1) An employer engaging in a lockout shall pay a
9 penalty equal to any financial benefit received from a
10 lockout.

11 (2) The use of substitutes during a lockout is
12 prohibited.

13 (e) Enforcement.--The bureau shall enforce the provisions of
14 this article.

15 Section 3. This act shall take effect in 60 days.