

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1369 Session of
2007

INTRODUCED BY ROCK, METCALFE, BOYD, GABIG, BAKER, BARRAR,
BASTIAN, BEAR, COX, CREIGHTON, CUTLER, DENLINGER, HENNESSEY,
HICKERNELL, KAUFFMAN, KIRKLAND, MACKERETH, PETRI, RAPP, ROAE,
ROHRER, SCHRODER, STEIL, SWANGER, TRUE AND WATSON,
JULY 25, 2007

REFERRED TO COMMITTEE ON LABOR RELATIONS, JULY 25, 2007

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 and replacing provisions
6 relating to collective bargaining between public school
7 employees and their public employers; setting forth public
8 policy relating to public school employee strikes; providing
9 for assessments and for duties of the Pennsylvania Bureau of
10 Mediation and the Pennsylvania Labor Relations Board; and
11 imposing penalties.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

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16 July 9, 1992 (P.L.403, No.88), is repealed:

17 [ARTICLE XI-A.

18 COLLECTIVE BARGAINING

19 (a) General Provisions.

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

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

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

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

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

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

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

1 employment.

2 "Representative" shall mean an individual acting for
3 employers or employes and shall include employe organizations.

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

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

30 (b) Scope of Bargaining.

1 Section 1111-A. Mutual Obligation.--Collective bargaining is
2 the performance of the mutual obligation of the employer or his
3 representative and the representative of the employes to meet at
4 reasonable times and confer in good faith with respect to wages,
5 hours and other terms and conditions of employment or the
6 negotiation of an agreement or any question arising thereunder
7 and the execution of a written contract incorporating any
8 agreement reached, but such obligation does not compel either
9 party to agree to a proposal or require the making of a
10 concession.

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

22 (c) Collective Bargaining Impasse.

23 Section 1121-A. Submission to Mediation.--(a) If, after a
24 reasonable period of negotiation, a dispute or impasse exists
25 between the representatives of the employer and the employe
26 organization, the parties may voluntarily submit to mediation,
27 but, if no agreement is reached between the parties within
28 forty-five (45) days after negotiations have commenced, but in
29 no event later than one hundred twenty-six (126) days prior to
30 June 30 or December 31, whichever is the end of the school

1 entity's fiscal year, and mediation has not been utilized by the
2 parties, both parties shall immediately in writing call on the
3 service of the Pennsylvania Bureau of Mediation.

4 (b) The Pennsylvania Bureau of Mediation shall employ a
5 complement of not less than twenty-five (25) mediators which
6 shall be available to mediate according to the provisions of
7 subsection (a).

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

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

29 (3) The parties may mutually agree to fact-finding, and the
30 board shall appoint a fact-finding panel as provided for in

1 clause (2) at any time except that the parties may not mutually
2 agree to fact-finding during mandated final best-offer
3 arbitration.

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

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

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

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

27 (e) The board shall establish, after consulting
28 representatives of employe organizations and of employers,
29 panels of qualified persons broadly representative of the public
30 to serve as members of fact-finding panels. The board shall,

1 within sixty (60) days of the effective date of this act,
2 increase the number of available panels of qualified persons to
3 serve as members of fact-finding panels to meet the expanded
4 role of fact-finding as provided for in this act.

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

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

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

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

19 (i) the last offer of the representative of the employer;
20 (ii) the last offer of the representative of the employes;
21 or

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

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

26 (i) the last offer of the representative of the employer;
27 (ii) the last offer of the representative of the employes;
28 or

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

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

- 4 (i) the last offer of the representative of the employer;
- 5 (ii) the last offer of the representative of the employes;
- 6 or
- 7 (iii) the fact-finder's recommendations, should there be a
8 fact-finder's report.

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

12 Section 1124-A. Method of Selection of Arbitrators.--The
13 board of arbitration shall be composed of three (3) members.
14 Arbitrators as referred to in this article shall be selected in
15 the following manner:

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

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

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

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

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

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

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

29 (1) June 15; or

30 (2) the last day of the school entity's scheduled school

1 year;

2 the parties shall submit to mandated final best-offer
3 arbitration consistent with the arbitration option negotiated. A
4 return to work for the purpose of submitting to final best-offer
5 arbitration shall not be considered a unilateral return to work.

6 (c) If the parties are unable to agree on the adoption of
7 one of the approved impasse procedures under section 1123-A, the
8 mediator appointed pursuant to section 1121-A shall select the
9 procedure.

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

16 (1) The public interest.

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

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

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

21 (5) Changes in the cost of living.

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

24 (7) Such other documentation as the arbitration panel shall
25 deem relevant.

26 (e) Arbitration shall be limited to unresolved issues.
27 Unresolved issues shall mean those issues not agreed to in
28 writing prior to the start of arbitration.

29 (f) The parties may mutually agree to submit to final best-
30 offer arbitration at any time except during fact-finding or

1 during mandated final best-offer arbitration.

2 (g) Upon submission to the arbitrator of both parties' final
3 best offers under subsection (a) or (b), the employer shall
4 post, within the time limits described in subsection (d), the
5 final best contract offers in the school entity's main office
6 for the purpose of soliciting public comments thereon. Copies of
7 both parties' final best offers shall be available from the
8 school entity's main office. The cost of copies shall be
9 established by the school entity and shall be paid by the
10 requestor.

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

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

30 (j) Not later than twenty (20) days after the hearing

1 pursuant to subsection (i), the arbitrators shall:

2 (1) examine each item of dispute;

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

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

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

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

28 (m) If the employer or the employe organization rejects the
29 determination of the majority of the arbitrators:

30 (1) The employe organization may initiate a legal strike or

1 resume a legal strike initiated prior to submission to final
2 best-offer arbitration.

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

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

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

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

19 (d) Strikes and Lockouts.

20 Section 1131-A. Strikes Prohibited in Certain
21 Circumstances.--A strike must cease where the parties request
22 fact-finding for the duration of the fact-finding. A strike must
23 end where the parties agree to arbitration. Strikes are
24 prohibited:

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

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

1 (3) When the arbitrators' determination becomes final and
2 binding.

3 Section 1132-A. Lockouts Prohibited in Certain
4 Circumstances.--A lockout must cease where the parties request
5 fact-finding for the duration of the fact-finding. A lockout
6 must end where the parties agree to arbitration. Lockouts are
7 prohibited:

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

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

14 (3) When the arbitrators' determination becomes final and
15 binding.

16 (e) Collective Bargaining Agreement.

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

1 the provision of this section requiring a written agreement and,
2 in the appropriate case, specific performance of the
3 determination.

4 Section 1152-A. Existing Agreements; Provisions Inconsistent
5 with Article.--Any provisions of any collective bargaining
6 agreement in existence on the effective date of this article
7 which are inconsistent with any provision of this article, but
8 not otherwise illegal, shall continue valid until the expiration
9 of such contract. The procedure for entering into any new
10 collective bargaining agreement, however, shall be governed by
11 this article, where applicable, upon the effective date of this
12 article.

13 (f) Secretary of Education.

14 Section 1161-A. Injunctive Relief.--When an employe
15 organization is on strike for an extended period that would not
16 permit the school entity to provide the period of instruction
17 required by section 1501 by June 30, the Secretary of Education
18 may initiate, in the appropriate county court of common pleas,
19 appropriate injunctive proceedings providing for the required
20 period of instruction.

21 (g) Prohibitions.

22 Section 1171-A. Selective Strikes.--The work stoppage
23 practice known as "selective strikes" shall be considered an
24 illegal strike. Any strike which does not comply with the
25 definition of "strike" contained in this article shall be
26 considered a selective strike.

27 Section 1172-A. Utilization of Strike Breakers.--(a) Except
28 as provided in subsection (b), during a legal strike, as defined
29 by this article, the school entity, as defined by this article,
30 shall not utilize persons other than those employes who have

1 been actively employed by the school entity at any time during
2 the previous twelve (12) months.

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

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

8 (2) when a legal strike will prevent the completion of the
9 period of instruction required by section 1501 by the later of:

10 (i) June 15; or

11 (ii) the last day of the school district's scheduled school
12 year.]

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

14 ARTICLE XI-B

15 STRIKE-FREE EDUCATION ACT

16 Section 1101-B. Short title.

17 This article shall be known and may be cited as the Strike-
18 Free Education Act.

19 Section 1102-B. Public policy relating to strikes.

20 The Constitution of Pennsylvania mandates the General
21 Assembly to provide for the maintenance and support of a
22 thorough and efficient system of public education to serve the
23 needs of this Commonwealth. Existing law requires 180 days of
24 instruction each year as established by the school calendar, and
25 permits strikes to occur multiple times in the school year and
26 multiple-year strikes. Days lost or rescheduled are made up as
27 much as possible by canceling scheduled vacation days and
28 holidays and extending the school year, resulting in severe
29 disruption of the educational process and family life.

30 Guarantees for the protection of public health, safety and

1 welfare are not kept inviolate when days are lost or
2 rescheduled. Therefore, it is the intent of the General Assembly
3 that public school employee strikes shall be prohibited.

4 Section 1103-B. Definitions.

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

8 "Board." The Pennsylvania Labor Relations Board.

9 "Bureau." The Bureau of Mediation within the Department of
10 Labor and Industry of the Commonwealth.

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

13 "Employee." A public school employee who bargains
14 collectively with a public school entity. The term does not
15 include:

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

21 (2) A management-level employee of any other school
22 district.

23 "Employee organization." A public school employee
24 organization of any kind, or an agency or employee
25 representative committee or plan in which membership is limited
26 to, or includes, public school employees, and which exists for
27 the purpose, in whole or in part, of dealing with public school
28 employers concerning grievances, public school employee-public
29 school employer disputes, wages, rates of pay, hours of
30 employment or conditions of work. The term does not include an

1 organization which practices discrimination in membership
2 because of race, color, creed, national origin or political
3 affiliation.

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

9 "Good faith." Acting with openness, fairness, mutuality of
10 conduct and cooperation with the intent of identifying a
11 mutually agreeable solution.

12 "Lockout." The cessation of furnishing of work to employees
13 or withholding work from employees for the purpose of inducing,
14 influencing or coercing a change in the conditions or
15 compensation or the rights, privileges or obligations of
16 employment.

17 "Mediator." A person employed or appointed by the Bureau of
18 Mediation to mediate an impasse.

19 "Parties." An employer and the employee organization that
20 represents the employee of the employer.

21 "Public transparency meeting." Special session at which the
22 parties shall make their respective negotiating teams available
23 to the public to take comments and answer questions. The session
24 shall be separate from regular school board meetings.

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

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

29 "Strike." Concerted effort in failing to report for duty,
30 the willful absence from one's position, the stoppage of work,

1 slowdown or the abstinence, in whole or in part, from the full,
2 faithful and proper performance of the duties of employment for
3 the purpose of inducing, influencing or coercing a change in the
4 conditions or compensation or the rights, privileges or
5 obligations of employment.

6 "Work stoppage." A strike or lockout.

7 Section 1104-B. Mutual obligation.

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

17 Section 1105-B. Matters of inherent managerial policy.

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

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

23 (2) Standards of services.

24 (3) Overall budget of the employer.

25 (4) Utilization of technology.

26 (5) The organizational structure and selection and
27 direction of personnel.

28 (b) Exception.--An employer shall meet and discuss on policy
29 matter affecting economic issues as well as the impact thereon
30 upon request by an employee representative.

1 Section 1106-B. Obligation of employer to public.

2 The employer shall make publicly available a report, for copy
3 and inspection, detailing the tentative agreement reached
4 between the parties, at the school administration offices and on
5 the Internet website of the employer, at least five business
6 days prior to voting on a collective bargaining agreement.

7 Section 1107-B. Negotiation between parties.

8 The parties shall negotiate a collective bargaining agreement
9 as follows:

10 (1) The parties shall commence bargaining a successor
11 agreement no later than September 30 of the year preceding
12 when the collective bargaining agreement shall by its terms
13 expire.

14 (2) The employer shall confirm to the public through
15 regularly scheduled board meetings that the negotiations
16 commenced as required.

17 (3) The parties shall negotiate independently and shall,
18 at all times, negotiate in good faith.

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

24 (5) Both parties shall submit to mediation by the bureau
25 by January 15 if no agreement is reached.

26 Section 1108-B. Mediation.

27 If the assistance of a mediator is required under section
28 1107-B, 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. The proceedings with
4 the mediator shall not be open to the public.

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

7 (4) Mediation shall continue for so long as the parties
8 have not reached an agreement.

9 (5) If no agreement is reached by February 15, the
10 parties shall submit to fact-finding under section 1109-B.

11 Section 1109-B. Fact-finding.

12 Fact-finding shall proceed as follows:

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

15 (2) Within five additional business days, each party
16 shall submit its latest proposal to the fact-finders and
17 simultaneously to the other party. Both parties' proposals
18 shall be made public through posting at school entity offices
19 and on the Internet website of the school entity.

20 (3) The appointed fact-finders shall hold hearings,
21 secure oral or written testimony and shall have subpoena
22 power. The panel shall solicit public input, but the hearings
23 shall not be open to the public. If, during this phase, the
24 parties fail to reach an independent agreement, the panel
25 shall make findings of fact and recommendations.

26 (4) The findings of fact and recommendations shall be
27 sent by registered mail to the board and to both parties not
28 more than 40 days after the board has notified the fact-
29 finders of their appointment, and shall be made publicly
30 available at the offices of the school entity, and the

1 Internet website of the school entity, until such time as a
2 new agreement is reached.

3 (5) The parties shall decide by April 15 whether to
4 accept the recommendation of the fact-finders or to submit to
5 nonbinding arbitration under section 1110-B.

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

9 Section 1110-B. Nonbinding arbitration.

10 If either party rejects the recommendation of the fact-
11 finders, the parties shall proceed immediately to nonbinding
12 arbitration. The parties may either submit their dispute to a
13 mutually agreeable single arbitrator or an arbitration panel
14 composed of three persons. A three-person arbitration panel
15 shall be selected in the following manner:

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

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

29 (3) The parties shall submit their last best offer to
30 the panel within two business days of panel selection. The

1 last best offer shall also be submitted to the other party
2 and be posted publicly at the school entity offices and on
3 the Internet website of the school entity, where it shall
4 remain until such time as a new agreement is reached.

5 (4) All information, data, analyses and recommendations
6 from the fact-finding process shall be provided to the panel.
7 The employer shall provide guidance to the arbitrator
8 regarding fiscal constraints in accordance with any allowable
9 tax increases. The public shall be given an opportunity to
10 submit comments to the arbitration panel.

11 (5) The panel shall issue a recommendation by May 15.
12 The recommendation shall be nonbinding on the parties.

13 (6) The recommendation shall be by selection of one
14 proposal in its entirety.

15 (7) The panel shall consider the following criteria in
16 making its recommendation:

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

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

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

27 (8) Within two business days of receiving the
28 arbitration recommendation, the employer shall make the
29 recommendation publicly available at the school entity
30 offices and on the Internet website of the school entity,

1 where it shall remain until such time as a new agreement is
2 reached.

3 (9) (i) Each party shall pay the cost of the arbitrator
4 selected by it under paragraph (1). The cost of the third
5 party arbitrator shall be divided equally among the
6 parties or in such proportion as the chairperson
7 determines.

8 (ii) The Commonwealth shall not be responsible for
9 the cost of arbitration under this section.

10 Section 1111-B. Mandatory vote.

11 (a) Employer public meeting and vote.--The employer shall
12 hold a public meeting and not later than June 15 following the
13 public posting of the nonbinding recommendation made under
14 section 1110-B(5), to solicit public input on the recommendation
15 and to vote for the approval or disapproval of the
16 recommendation of the panel.

17 (b) Employee vote.--The employee organization shall provide
18 the employees with an opportunity to vote for approval or
19 disapproval of the recommendation of the panel prior to June 15.

20 Section 1112-B. Public transparency meeting.

21 If no agreement has been reached by June 16, the following
22 shall occur:

23 (1) The parties shall arrange a public transparency
24 meeting to take place before June 30 at a time convenient to
25 the public if the meeting occurs on a business day.

26 (2) A suitably sized facility shall be chosen as the
27 site of the public transparency meeting with accommodations
28 made for media if necessary.

29 (3) Both parties shall be required to present their
30 latest proposal and the reasons for the lack of an agreement,

1 each being afforded equal time, and both parties shall be
2 required to answer questions from the public.

3 Section 1113-B. Post school year negotiations.

4 If the parties have not reached a new agreement by June 30,
5 the following shall apply:

6 (1) Until such time as a new agreement is reached, the
7 parties shall conduct at least four separate negotiating
8 sessions per month.

9 (2) Public transparency meetings shall be held every six
10 weeks, whereby the employer shall provide a minimum of five
11 days' notice to the public, and the stipulations of section
12 1112-B shall apply.

13 (3) The parties shall conduct good faith negotiations at
14 all times.

15 (4) If no agreement is reached by the expiration of the
16 contract, it shall continue month-to-month under the same
17 terms and conditions.

18 (5) Any new agreement may not contain any retroactivity
19 provisions.

20 Section 1114-B. Strikes and lockouts prohibited.

21 (a) Prohibited conduct.--

22 (1) No public employee or employee organization may
23 incite a strike or participate in a strike or similar
24 interruption of government service.

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

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

30 (b) Conduct during an unlawful work stoppage.--

1 (1) An employer may hire substitute teachers for the
2 duration of an unlawful 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 an unlawful strike, including teachers and
6 substitutes.

7 (3) The use of substitutes during an unlawful lockout is
8 prohibited.

9 Section 1115-B. Determining violations and imposing penalties.

10 (a) Allegations by employer.--If an employer alleges, on the
11 basis of any investigation and affidavits as he may deem
12 appropriate, that there has been a strike by one or more
13 employees in violation of section 1114-B(a)(1), the employer
14 shall notify the board of the names of the employees allegedly
15 engaged in a strike and the full or partial days of the alleged
16 strike, within 60 days of the completion of the alleged strike.

17 (b) Allegations by employee or employee organization.--If an
18 employee or employee organization alleges that there has been a
19 lockout by an employer in violation of section 1114-B(a)(2), the
20 employee or employee organization shall notify the board of the
21 names of those individuals allegedly responsible for a lockout
22 and the full or partial days of the alleged lockout, within 60
23 days of the completion of the alleged lockout.

24 (c) Hearing.--Within 60 days after receipt of a notice made
25 pursuant to subsection (a) or (b), the three board members shall
26 conduct a hearing to determine if there has been a violation.
27 Those individuals alleged to have committed a violation shall be
28 required to attend the hearing and shall be permitted to testify
29 and have legal representation. Members of the public shall be
30 permitted to testify at this hearing or submit evidence, at the

1 discretion of the board.

2 (d) Violation by employee inciting a strike.--If, after a
3 hearing under subsection (c), a majority of the board finds that
4 an employee incited an unlawful strike in violation of section
5 1114-B(a)(1), that employee shall be subject to a \$5,000 fine
6 per incident, payable to the employer. This finding shall
7 constitute a mandate to the employer to withhold the fine from
8 the paycheck of the employee in amounts of equal portion for the
9 remainder of the school year.

10 (e) Violation by employee participating in a strike.--If,
11 after a hearing under subsection (c), a majority of the board
12 finds that an employee participated in an unlawful strike in
13 violation of section 1114-B(a)(1), then each employee found to
14 be in violation shall be fined a portion of the employee's
15 salary equal to twice the employee's daily rate of pay for each
16 day of strike, or part thereof. This finding shall constitute a
17 mandate to the employer to withhold the fine from the paycheck
18 of the employee in any such amount as to have collected the full
19 amount of the fine by the end of the school year. This penalty
20 may not be waived by the employer or otherwise recovered by the
21 employee. In addition, the employee may be subject to removal or
22 other disciplinary action provided by law for misconduct.

23 (f) Violation by employee organization.--If, after a hearing
24 under subsection (c), a majority of the board finds that an
25 employee organization violated section 1114-B(a)(1), the
26 employee organization shall be prohibited from using a union
27 dues check-off privilege for one year. This penalty may not be
28 waived by the employer or otherwise recovered by the employee
29 organization.

30 (g) Violations by employer.--If, after a hearing under

1 subsection (c), a majority of the board finds that an employer
2 instituted a lockout in violation of section 1114-B(a)(2), the
3 employer shall pay a fine to the employee organization in an
4 amount equal to the financial benefit derived from the lockout.

5 Section 1116-B. Time frame.

6 The time periods set forth in this article are mandatory and
7 shall not be construed to be directory.

8 Section 1117-B. Existing agreements.

9 This article shall not apply to an existing contract
10 negotiations that fall within the timelines established under
11 this article.

12 Section 1118-B. Enforcement.

13 The board, magisterial district courts and courts of common
14 pleas shall enforce the provisions of this article.

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