
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 20

Session of
2009

INTRODUCED BY MELLOW, MUSTO, STOUT, BOSCOLA AND RAFFERTY,
MARCH 16, 2009

REFERRED TO LABOR AND INDUSTRY, MARCH 16, 2009

AN ACT

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

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3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Collective
7 Bargaining Dispute Resolution Act.

8 Section 2. Definitions.

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

12 "Appropriate court." The court of common pleas in the
13 judicial district in which:

14 (1) the school entity subject to impasse is located; or

15 (2) where the school entity is located in two or more
16 judicial districts, the judicial district where the
17 administrative office of the school entity is located.

18 "Bureau." The Pennsylvania Bureau of Mediation.

19 "Employee organization." Any of the following:

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

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

30 "Impasse." The failure of a public employer and an employee

1 organization to reach a labor contract in the course of
2 negotiations.

3 "President judge." The president judge of the appropriate
4 court.

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

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

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

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

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

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

24 "Secretary." The Secretary of Education of the Commonwealth.
25 Section 3. Collective bargaining dispute resolution.

26 Notwithstanding any other provision of law to the contrary,
27 the settlement of an impasse in collective bargaining between an
28 employee organization and a public employer shall be by
29 collective bargaining dispute resolution pursuant to this act.

30 Section 4. Collective bargaining timeline.

1 The representative shall commence bargaining a successor
2 agreement no later than January 5 of the year in which the
3 collective bargaining agreement between the parties shall by its
4 terms expire. Both parties shall submit to mediation by the
5 bureau by February 28 if no agreement is reached between the
6 parties. Mediation shall continue for so long as the parties
7 have not reached an agreement. If no agreement is reached by
8 April 30, both parties shall submit an impasse in collective
9 bargaining to the process established by this act.

10 Section 5. Panel selection.

11 The settlement of an impasse in collective bargaining between
12 an employee organization and a public employer shall begin by
13 the selection of a three-member panel, each of whom is
14 knowledgeable and qualified in public school financial,
15 administrative or instructional matters. By May 7, the employee
16 organization shall designate one panel member; and the public
17 employer shall designate one panel member. The two panel members
18 designated by the parties shall by agreement designate an
19 impartial third member, who shall serve as chair. If an
20 impartial chair is not selected by the panel by May 21, the
21 president judge of the appropriate court shall, by May 31,
22 select an impartial chair from a list provided by the bureau of
23 qualified persons who reside in the region in which the
24 appropriate court sits. The bureau shall compile and maintain a
25 list for each of six geographical regions of persons who reside
26 in that region and are qualified and knowledgeable in public
27 school financial, administrative or instructional matters. The
28 six regions shall be:

29 Northeast Region.--Eleventh District, Twenty-first District,
30 Twenty-second District, Twenty-sixth District, Thirty-fourth

District, Forty-third District, Forty-fourth District, Forty-fifth District, Fifty-sixth District and Sixtieth District.

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

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

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

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

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

Section 6. Costs of resolution.

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

1 Section 7. Procedure.

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

8 (b) Operation.--

9 (1) By June 5, each representative shall submit to the
10 panel that party's best offer with certification that the
11 offer was delivered to the opposing party. Thereafter,
12 members of the panel shall meet with both parties at least
13 four times prior to June 30 in an effort to resolve the
14 impasse through mediation.

15 (2) If no agreement between the parties is reached by
16 June 30, each party shall submit, on that date, to the
17 impartial chair that party's final best offer. Once a final
18 best offer is submitted to the panel, a party may not make
19 changes to the offer, withdraw the offer or make another
20 offer. The impartial chair may not submit a final best offer
21 to the other two members of the panel until both final best
22 offers have been received.

23 (3) The panel shall hold public hearings. No later than
24 August 1, the panel shall make a recommendation, prepare a
25 supporting report and submit both to the president judge of
26 the appropriate court. The recommendation of the panel shall
27 be confined to a choice between the final best offer of the
28 public employer in its entirety or the final best offer of
29 the employee organization taken in its entirety. The
30 supporting report shall specify the reasons for selecting the

1 final best offer contained in the recommendation.

2 (4) The president judge shall review the recommendation
3 and supporting report and shall issue a written determination
4 by August 10. Such determination shall be confined to the
5 issue of whether to adopt the determination, as submitted by
6 the panel. The president judge shall not consider any
7 additional issues that have not been submitted to collective
8 bargaining dispute resolution. The president judge shall
9 consider the following factors, in addition to any other
10 relevant factors, in issuing the determination:

11 (i) The interest and welfare of the public and the
12 financial ability of the public employer to fund the
13 potential costs.

14 (ii) A comparison of the wages, hours and conditions
15 of employment of the employees involved in the proceeding
16 with the wages, hours and conditions of employment of
17 other employees performing similar services or requiring
18 similar skills under similar working conditions and with
19 other employees generally in public and private
20 employment in comparable communities within the region.

21 (iii) The terms of collective bargaining agreements
22 negotiated between the parties in the past providing for
23 compensation and benefits, including, but not limited to,
24 the provisions for salary, insurance and retirement
25 benefits, and medical and hospitalization benefits.

26 If the president judge does not adopt the recommendation as
27 submitted by the panel, the alternative final best offer that
28 was not recommended by the panel shall be deemed adopted.

29 (5) The parties may voluntarily settle the impasse in
30 collective bargaining at any time prior to the issuance of

1 the determination by the president judge.

2 Section 8. Finality.

3 (a) General rule.--The decision of the president judge shall
4 be final and binding on the public employer and the employee
5 organization.

6 (b) Judicial review.--No appeal of a determination under
7 subsection (a) shall be allowed to any court.

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

21 Section 9. Strikes and lockouts prohibited.

22 No school employee may strike or participate in a strike or
23 similar interruption of government service. No public employer
24 may conduct a lockout or similar interruption of government
25 service. Any strike, lockout or interruption of government
26 service prohibited by this section shall constitute an
27 actionable breach of duty to members of the public.

28 Section 10. Standing to enforce.

29 The following may petition the appropriate court for an
30 injunction and other appropriate equitable relief to enforce the

1 provisions of this act:

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

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

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

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

8 (5) The secretary.

9 Section 11. Existing agreements.

10 A provision of a collective bargaining agreement in existence
11 on the effective date of this section which is inconsistent with
12 this act shall continue valid until the expiration of the
13 collective bargaining agreement. The procedure for entering into
14 any new collective bargaining agreement, however, shall be
15 governed by this act.

16 Section 12. Time frame.

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

19 Section 13. Construction.

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

23 (b) Retirement.--

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

27 (i) Permit or require collective bargaining,
28 mediation or collective bargaining dispute resolution to
29 establish or modify pension or retirement benefits set
30 forth in 24 Pa.C.S. Pt. IV (relating to retirement for

1 school employees) or administered by the Public
2 Employees' Retirement Board.

3 (ii) Permit or require a public employer, through
4 collective bargaining, mediation, collective bargaining
5 dispute resolution or otherwise, to establish or modify a
6 pension or retirement plan or to pay pension or
7 retirement benefits or other compensation that modifies
8 or supplements the benefits set forth in 24 Pa.C.S. Pt.
9 IV or administered by the Public School Employees'
10 Retirement Board.

11 (2) Notwithstanding paragraph (1), the parties may
12 negotiate and agree to early retirement incentive or
13 severance pay provisions if the provisions:

14 (i) do not affect the retirement benefits identified
15 in paragraph (1); and

16 (ii) would not result in the Public School
17 Employees' Retirement System's failure to be a qualified
18 plan under the Internal Revenue Code of 1986 (Public Law
19 99-514, 26 U.S.C. § 1 et seq.).

20 Section 14. Repeals.

21 (a) Intent.--The General Assembly declares that the repeals
22 in this section are necessary to effectuate the purposes of this
23 act.

24 (b) Provision.--Article XI-A of the act of March 10, 1949
25 (P.L.30, No.14), known as the Public School Code of 1949, is
26 repealed.

27 (c) General.--All other acts and parts of acts are repealed
28 insofar as they are inconsistent with this act.

29 Section 15. Effective date.

30 This act shall take effect immediately.