

AN ACT

Amending the act of July 23, 1970 (P.L.563, No.195), entitled "An act establishing rights in public employes to organize and bargain collectively through selected representatives; defining public employes to include employes of nonprofit organizations and institutions; providing compulsory mediation and fact-finding, for collective bargaining impasses; providing arbitration for certain public employes for collective bargaining impasses; defining the scope of collective bargaining; establishing unfair employe and employer practices; prohibiting strikes for certain public employes; permitting strikes under limited conditions; providing penalties for violations; and establishing procedures for implementation," in definitions, further providing for definitions, in employee rights, providing for payments to employee organizations and resignation from employee organization; in representation, further providing for exclusive representation and providing for recertification; in scope of bargaining, further providing for membership dues deductions and maintenance of membership and providing for collection of payments from nonmembers; and making related repeals.

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

Section 1. Section 301 of the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, is amended by adding clauses to read:

Section 301. As used in this act:

* * *

(20) "Nonmember" means a public employe in a collective bargaining unit who is not a member of the employe organization that serves as the exclusive representative for the collective bargaining unit.

(21) "Independent bargaining" or "to bargain independently" means to bargain between a public employer and a public employe with respect to rates of pay, wages, hours of employment, adjustment of grievances or other terms and conditions of

employment without the intervention of an employe organization, bargaining agent or exclusive bargaining representative.

Independent bargaining shall not:

(i) grant any greater or lesser rights or privileges to public employes who have chosen to represent themselves in a unit with an exclusive representative than those public employes in a unit without an exclusive bargaining representative; or

(ii) grant any greater or lesser duties or obligations for a public employer to public employes who have chosen to represent themselves in a unit with an exclusive bargaining representative than those duties or obligations the public employer owes to public employes in a unit without an exclusive bargaining representative.

(22) "Affirmative consent" means a knowing, voluntary and explicit agreement by a public employe to financially support an employe organization, and waiver of the employe's right or privilege not to do so. Affirmative consent shall be provided in written form and signed by the public employe.

(23) "Political contribution" means any money or funds appropriated for any of the following:

(i) A contribution, as defined in section 1621 of the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code."

(ii) An independent expenditure, as defined in section 1621 of the "Pennsylvania Election Code."

(iii) An expenditure, as defined in section 1621 of the "Pennsylvania Election Code."

(iv) Lobbying, as defined in 65 Pa.C.S. § 13A03 (relating to

definitions).

(v) A voter registration drive.

(vi) A get-out-the-vote drive.

(vii) Any other electoral, political or legislative purpose.

Section 2. The act is amended by adding sections to read:

Section 402. (a) A public employer shall notify, in writing, all public employes in a collective bargaining unit that there is no statutory obligation by nonmembers to make any payments to the employe organization that serves as the nonmember's exclusive representative. The notice shall specify the following:

(1) A payment may not be made to the employe organization unless the employe affirmatively consents to make the payment.

(2) A payment to the employe organization shall not be necessary to maintain employment.

(b) The notice required under subsection (a) shall be given annually and may be given by mailing a letter by first class mail to the address of the employe organization or other means deemed appropriate by the board.

(c) Prior to the hiring of a new public employe, the public employer, when applicable, shall notify the applicant of the following:

(1) Membership in the employe organization that serves as the exclusive representative of the collective bargaining unit is not a condition of employment with the public employer.

(2) The applicant may opt to be a nonmember by not giving affirmative consent. As a nonmember, the applicant has no statutory obligation to make a payment to the employe

organization.

Section 403. (a) No collective bargaining agreement entered into on or after January 1, 2019, may establish conditions for when a public employe may join or resign from an employe organization acting as the exclusive representative of a unit.

(b) A public employe may resign from an employe organization at any time.

(c) Resignation shall become effective thirty days after the date of mailing a letter by first class mail to the address of the employe organization or other means deemed appropriate by the board.

(d) A stamped receipt from a United States Post Office or other evidence deemed appropriate by the board shall constitute proof of mailing.

Section 404. (a) No membership dues or any portion thereof may be deducted from the wages of a public employe, except on receipt by the public employer of the affirmative consent of the employe within the previous twelve months. Affirmative consent cannot be presumed. To be effective, the affirmative consent must be freely given and expressed in writing.

(b) Affirmative consent provided to public employers shall include the following language:

I recognize that I have a First Amendment right to associate. My rights provide that I am not compelled to pay an employe organization as a condition of employment, and I do not have to sign this waiver. However, I am hereby choosing to associate with the herein named employe organization and affirmatively consent to allow my employer to deduct payments to such employe

organization until such time as I choose to revoke this authorization.

(c) The provision under subsection (b) shall be written in bold and in all caps and shall be in a font that is equal to or larger than any other font found in the text of the form. This waiver shall be a standalone document and shall not be a part of a document that serves additional purposes or has additional provisions.

(d) An employe labor organization may present a public employe with an affirmative consent form on the commencement of employment, but not more often than twice annually thereafter. If any information related to the waiver or the potential execution of the affirmative consent is provided to any employe in any form, representatives of the employer and any relevant union shall be given the equivalent ability to provide information in the same format to that employe.

(e) No deadline or any other like requirement may be placed on the employe for the potential execution of the affirmative consent.

(f) The following is prohibited in any communication or action that is in any manner related to the potential execution of the affirmative consent:

(1) Requiring any employe to attend a meeting with the purpose of influencing the decision of an employe to execute or not execute the affirmative consent.

(2) Requesting any employe to announce the employe's decision to execute or not to execute the affirmative consent at any particular place or time.

(3) Any communication by any means directed at an employe's home.

(4) Any communication directed in any manner, direct or indirect, to any person other than the employe himself or herself or other employes of the same employer.

(5) The promise or provision of any inducement or thing of value, other than a description of membership benefits in the union in question.

(6) The threat of any negative action of any kind, including, but not limited to, placement on a public list or exclusion from any benefit, event or activity that is a part of the employe's employment.

Section 3. Section 606 of the act is amended to read:

Section 606. (a) Representatives selected by public employes in a unit appropriate for collective bargaining purposes shall be the exclusive representative of all the employes in such unit that have not chosen to independently bargain to bargain on wages, hours, terms and conditions of employment[: Provided, That any]. Any individual employe or a group of employes shall have the right at any time to [present grievances to their employer and to have them adjusted] independently bargain without the intervention of the bargaining representative. [as long as the adjustment is not inconsistent with the terms of a collective bargaining contract then in effect: And, provided further, That the bargaining representative has been given an opportunity to be present at such adjustment.]

(b) Public employes shall have the right to independently

bargain in the employes' relations with the public employer.

(c) No provision of any agreement between an employe organization and a public employer or any other public policy shall impose representation by an employe organization on public employes who are not members of that organization and have chosen to bargain independently. Nothing in any collective bargaining agreement shall limit a public employe's ability to negotiate with the employe's public employer or adjust the employe's grievances directly with the employe's public employer, nor shall a resolution of any such negotiation or grievance be controlled or limited by the terms of a collective bargaining agreement.

(d) There shall be not more than one exclusive bargaining representative designated by the board pursuant to the provisions of this act as the representative of the public employes in an appropriate collective bargaining unit.

(e) No provision of any agreement between an employe organization and a public employer or any other public policy shall impose any wages or conditions of employment for members of an employe organization that are linked or contingent on wages or conditions of employment to public employes who are not members of an employe organization.

Section 4. The act is amended by adding a section to read:

Section 608. (a) The board shall conduct periodic recertification elections using a secret ballot vote among the public employes in a collective bargaining unit to determine if the majority of the employes desire to continue representation.

(b) The board shall conduct recertification elections on

expiration of a collective bargaining agreement, but not less than every three years.

(c) To meet the recertification requirement, continuation of the employe organization's status as the representative shall be favored in a secret ballot election conducted by the board by more than fifty per cent of the public employes in the collective bargaining unit.

(d) If public employes vote to end representation under subsection (c), the current representative's duties, including collection of dues, fees and grievance arbitration, shall terminate, provided that the collective bargaining agreement shall remain in effect with respect to wages, hours and conditions of employment.

(e) If public employes do not recertify the public employes' current representative under subsection (c), public employes in the unit may certify a new representative in accordance with this section, provided public employes cannot certify a representative affiliated with or substantially similar to the decertified representative for two years following the date of decertification.

(f) The board shall assess and collect a fee from each representative participating in an election conducted under this section for the purpose of paying for the election as follows:

(1) For a bargaining unit of one to one hundred members, a fee of two hundred dollars (\$200).

(2) For a bargaining unit of one hundred one to two hundred fifty members, a fee of three hundred fifty dollars (\$350).

(3) For a bargaining unit of two hundred fifty-one to five

hundred members, a fee of five hundred dollars (\$500).

(4) For a bargaining unit of five hundred one to one thousand members, a fee of seven hundred fifty dollars (\$750).

(5) For a bargaining unit of one thousand one to three thousand members, a fee of one thousand five hundred dollars (\$1,500).

(6) For a bargaining unit of more than three thousand members, a fee of two thousand dollars (\$2,000).

Section 5. Section 705 of the act is amended to read:

Section 705. [Membership dues deductions and maintenance of membership are proper subjects of bargaining with the proviso that as to the latter, the payment of dues and assessments while members, may be the only requisite employment condition.] On or after the effective date of this section, maintenance of membership shall not be a proper subject of bargaining, and no collective bargaining agreement entered into on or after the effective date of this section may contain the provision.

Section 705.1. (a) Any collective bargaining agreement entered into, renewed or extended on or after the effective date of this section may not contain provisions requiring the deduction of political contributions or membership dues deductions from a public employe's wages, including, without limitation, wages of public school employes covered by the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949."

(b) A public employer may not deduct political contributions or membership dues from the wages of a public employe, including public school employes covered by the "Public School Code of

1949," except as required by a valid collective bargaining agreement entered into between a public employer and a representative of its employes prior to the effective date of this subsection.

(c) This section shall not apply to any of the following:

(1) Employes of a public employer who are subject to the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

(2) Employes of a public employer who are not permitted to strike pursuant to section 1001.

Section 6. The act is amended by adding a section to read:

Section 706. A public employer may not collect through a wage deduction any form of payment from a nonmember to an employe organization.

Section 7. Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate the addition of sections 301(20), 402 and 706 of the act.

(2) The following acts and parts of acts are repealed:

(i) Section 2215 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(ii) The act of June 2, 1993 (P.L.45, No.15), known as the Public Employee Fair Share Fee Law, is repealed.

Section 8. This act shall take effect in 30 days.