

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 128

Session of
1979

INTRODUCED BY J. L. WRIGHT, JR., FEBRUARY 6, 1979

REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 7, 1979

AN ACT

1 Amending the act of July 23, 1970 (P.L.563, No.195), entitled
2 "An act establishing rights in public employes to organize
3 and bargain collectively through selected representatives;
4 defining public employes to include employes of nonprofit
5 organizations and institutions; providing compulsory
6 mediation and fact-finding, for collective bargaining
7 impasses; providing arbitration for certain public employes
8 for collective bargaining impasses; defining the scope of
9 collective bargaining; establishing unfair employe and
10 employer practices; prohibiting strikes for certain public
11 employes; permitting strikes under limited conditions;
12 providing penalties for violations; and establishing
13 procedures for implementation," further providing for
14 mediation, arbitration, and injunctive relief, providing for
15 certain reports to the court of common pleas and imposing
16 certain powers and duties on the court.

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

19 Section 1. Sections 802, 804 and 1003, act of July 23, 1970
20 (P.L.563, No.195), known as the "Public Employe Relations Act,"
21 are amended and a section is added to read:

22 Section 802. Once mediation has commenced, [it shall
23 continue] the Bureau of Mediation shall hold daily mediation
24 meetings with all the parties to the dispute or impasse for so
25 long as the parties have not reached an agreement. If, however,

1 an agreement has not been reached within twenty days after
2 mediation has commenced or in no event later than one hundred
3 thirty days prior to the "budget submission date," the Bureau of
4 Mediation shall notify the board of this fact. Upon receiving
5 such notice the board [may in its discretion] shall appoint a
6 fact-finding panel which panel may consist of either one or
7 three members. [If a] A panel [is] so designated or selected
8 [it] shall hold hearings and take oral or written testimony and
9 shall have subpoena power. This panel shall consider, inter
10 alia: (i) the interest and welfare of the public affected by
11 the dispute or impasse and its financial resources; (ii) the
12 wages and other conditions of employment existing in the
13 political subdivision or subdivisions affected; and (iii) any
14 increase or decrease in the cost-of-living in the political
15 subdivision or subdivisions affected. If during this time the
16 parties have not reached an agreement, the panel shall [make]
17 report its findings of fact and recommendations.

18 (1) The findings of fact and recommendations shall be sent
19 by registered mail to the board and to both parties not more
20 than forty days after the Bureau of Mediation has notified the
21 board as provided in the preceding paragraph.

22 (2) Not more than ten days after the findings and
23 recommendations shall have been sent, the parties shall notify
24 the board and each other whether or not they accept the
25 recommendations of the fact-finding panel [and if they do not,
26 the panel shall publicize its findings of fact and
27 recommendations]. Ten days after such findings and
28 recommendations have been sent, the panel shall have such
29 findings and recommendations published at least once in a
30 newspaper of general circulation in the political subdivision or

1 subdivisions affected by the dispute or impasse.

2 (3) Not less than five days nor more than ten days after the
3 publication of the findings of fact and recommendations, the
4 parties shall again inform the board and each other whether or
5 not they will accept the recommendations of the fact-finding
6 panel if they have not previously accepted such recommendations.

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

12 Section 802.1. In any school district during the pendency of
13 the collective bargaining procedures provided for in sections
14 801 and 802, the parties shall file with the appropriate court
15 of common pleas a weekly report on the progress of the
16 bargaining. Such reports shall be reviewed by the court and
17 certified for compliance with the procedures set forth in this
18 act. Until such certification has been made by the court it
19 shall be unlawful for any public school employes to strike or
20 for a public school employer to close a school. The court is
21 hereby empowered to issue such orders as it deems necessary to
22 insure compliance by either party with the provisions of this
23 act.

24 Section 804. Nothing in this article shall prevent the
25 parties from submitting impasses to voluntary binding
26 arbitration, including but not limited to "final offer"
27 arbitration and "item by item" arbitration, with the proviso the
28 decisions of the arbitrator which would require legislative
29 enactment to be effective shall be considered advisory only. In
30 making an award, an arbitrator shall consider:

1 (1) the interest and welfare of the public affected by the
2 dispute or impasse and its financial resources;

3 (2) the wages and other conditions of employment existing in
4 the political subdivision or subdivisions affected; and

5 (3) any increase or decrease in the cost-of-living in the
6 political subdivision or subdivisions affected.

7 Section 1003. If a strike by public employes occurs after
8 the collective bargaining processes set forth in sections 801
9 and 802 of Article VIII of this act have been completely
10 utilized and exhausted, it shall not be prohibited unless or
11 until such a strike creates a [clear and present] danger or
12 threat to the health, safety or welfare of the public, or, in
13 the case of a strike by public school employes, when irreparable
14 harm may occur to the education of a substantial number of
15 students. In such cases the public employer shall initiate, in
16 the court of common pleas of the jurisdiction where such strike
17 occurs, an action for equitable relief including but not limited
18 to appropriate injunctions and shall be entitled to such relief
19 if the court finds that the strike creates a clear and present
20 danger or threat to the health, safety or welfare of the public.

21 If the strike involves Commonwealth employes, the chief legal
22 officer of the public employer or the Attorney General where
23 required by law shall institute an action for equitable relief
24 in the court of common pleas of the jurisdiction where the
25 strike has occurred or the Commonwealth Court. Prior to the
26 filing of any complaint in equity under the provisions of this
27 section the moving party shall serve upon the defendant a copy
28 of said complaint as provided for in the Pennsylvania Rules of
29 Civil Procedure applicable to such actions. Hearings shall be
30 required before relief is granted under this section and notices

1 of the same shall be served in the manner required for the
2 original process with a duty imposed upon the court to hold such
3 hearings forthwith.

4 Section 2. This act shall take effect in 60 days.