
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1254 Session of
1983

INTRODUCED BY GLADECK AND FREIND, JUNE 22, 1983

REFERRED TO COMMITTEE ON EDUCATION, JUNE 22, 1983

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 the
14 resolution of disputes; and conforming the provisions to
15 existing law.

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

18 Section 1. Sections 702, 801 and 802 of the act of July 23,
19 1970 (P.L.563, No.195), known as the Public Employe Relations
20 Act, are amended to read:

21 Section 702. Public employers shall not be required to
22 bargain over matters of inherent managerial policy, which shall
23 include but shall not be limited to such areas of discretion or
24 policy as the functions and programs of the public employer,

1 standards of services, its overall budget, utilization of
2 technology, the organizational structure and selection and
3 direction of personnel. In the case of school districts, matters
4 of inherent managerial policy shall also include, but not be
5 limited to, class size, school calendar, reductions in force and
6 teacher evaluations. Public employers, however, shall be
7 required to meet and discuss on policy matters affecting wages,
8 hours and terms and conditions of employment as well as the
9 impact thereon upon request by public employe representatives.

10 Section 801. If after a reasonable period of negotiation, a
11 dispute or impasse exists between the representatives of the
12 public employer and the public employes, the parties may
13 voluntarily submit to mediation but if no agreement is reached
14 between the parties within twenty-one days after negotiations
15 have commenced, but in no event later than [one hundred fifty]
16 ninety days prior to the "budget submission date," and mediation
17 has not been utilized by the parties, both parties shall
18 immediately, in writing, call in the service of the Pennsylvania
19 Bureau of Mediation.

20 Section 802. Once mediation has commenced, it shall continue
21 for so long as the parties have not reached an agreement. If,
22 however, an agreement has not been reached within [twenty]
23 thirty days after mediation has commenced or in no event later
24 than [one hundred thirty] sixty days prior to the "budget
25 submission date," the Bureau of Mediation shall notify the board
26 of this fact. Upon receiving such notice the board [may in its
27 discretion] shall appoint a fact-finding panel which panel may
28 consist of either one or three members. If a panel is so
29 designated or selected it shall hold hearings and take oral or
30 written testimony and shall have subpoena power. If during this

1 time the parties have not reached an agreement, the panel shall
2 make findings of fact and recommendations:

3 (1) The findings of fact and recommendations shall be sent
4 by registered mail to the board and to both parties not more
5 than [forty days after the Bureau of Mediation has notified the
6 board as provided in the preceding paragraph] thirty days prior
7 to the "budget submission date."

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

14 (3) Not less than five days nor more than ten days after the
15 publication of the findings of fact and recommendations, the
16 parties shall again inform the board and each other whether or
17 not they will accept the recommendations of the fact-finding
18 panel.

19 (4) In the case of school districts, if no agreement is
20 reached by the expiration of the fiscal year, the school
21 district shall forfeit that portion of its basic subsidy
22 utilized to provide fringe benefits until an agreement is
23 reached and shall be prohibited from providing any benefit,
24 other than salary, to the public employees of the school district
25 until an agreement is reached. Nothing in this clause shall
26 prohibit public employees from directly paying for these
27 benefits.

28 (5) The Commonwealth shall pay one-half the cost of the
29 fact-finding panel; the remaining one-half of the cost shall be
30 divided equally between the parties. The board shall establish

1 rules and regulations under which panels shall operate,
2 including, but not limited to, compensation for panel members.

3 Section 2. The act is amended by adding a section to read:

4 Section 807. The cost of the arbitrators selected by each
5 party under section 806 of this article shall be paid by the
6 respective party selecting the arbitrator. The cost of the
7 impartial arbitrator selected by the arbitrators already
8 selected or selected in accordance with the procedure set forth
9 in clause (2) of section 806 of this article shall be paid by
10 the board. The board shall establish rules and regulations to
11 implement this section.

12 Section 3. Sections 1001, 1003, 1005, 1006, 1007, 1008, 1009
13 and 1306 of the act are amended to read:

14 Section 1001. Strikes by guards at prisons or mental
15 hospitals, or employes directly involved with and necessary to
16 the functioning of the courts of this Commonwealth are
17 prohibited at any time. [If a strike occurs the public employer
18 shall forthwith initiate in the court of common pleas of the
19 jurisdiction where the strike occurs, an action for appropriate
20 equitable relief including but not limited to injunctions. If
21 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 either in the court of common pleas of the jurisdiction where
25 the strike has occurred or the Commonwealth Court.] Strikes by
26 public employes of school districts shall only be permitted if a
27 minimum of two-thirds of the public employes in the bargaining
28 unit authorize a strike in response to a mail ballot supervised
29 by the board. If a strike is authorized and is commenced,
30 subsequent votes on continuing the strike or accepting a

1 proposal shall be conducted by the employe organization in the
2 presence of a representative of the Bureau of Mediation. If a
3 strike occurs, the public employer, by a designated legal
4 officer where required by law, shall forthwith initiate in a
5 court of competent jurisdiction an action for appropriate
6 equitable relief including, but not limited to, injunctions.

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 threat
12 to the health, safety or welfare of the public. [In such cases
13 the public employer shall initiate, in the court of common pleas
14 of the jurisdiction where such strike occurs, an action for
15 equitable relief including but not limited to appropriate
16 injunctions and shall be entitled to such relief if the court
17 finds that the strike creates a clear and present danger or
18 threat to the health, safety or welfare of the public. If the
19 strike involves Commonwealth employes, the chief legal officer
20 of the public employer or the Attorney General where required by
21 law shall institute an action for equitable relief in the court
22 of common pleas of the jurisdiction where the strike has
23 occurred or the Commonwealth Court.] In the case of school
24 districts, a clear and present danger or threat to the health,
25 safety or welfare of the public may exist in advance of the time
26 in which there remains only the minimum number of days available
27 to receive full State subsidy. In such cases, the public
28 employer, by a designated legal officer when required by law,
29 shall initiate in a court of competent jurisdiction an action
30 for equitable relief including, but not limited to, appropriate

1 injunctions and shall be entitled to such relief if the court
2 finds that the strike creates a clear and present danger or
3 threat to the health, safety or welfare of the public. Prior to
4 the filing of any complaint in equity under the provisions of
5 this section the moving party shall serve upon the defendant a
6 copy of said complaint as provided for in the Pennsylvania Rules
7 of Civil Procedure applicable to such actions. Hearings shall be
8 required before relief is granted under this section and notices
9 of the same shall be served in the manner required for the
10 original process with a duty imposed upon the court to hold such
11 hearings forthwith. If a court of competent jurisdiction issues
12 a lawful order compelling public employes of any school district
13 to terminate the strike and return to work, the school district
14 and the employe organization shall be prohibited from resuming
15 collective bargaining until substantially all the public
16 employes have returned to work.

17 Section 1005. If a public employe refuses to comply with a
18 lawful order of a court of competent jurisdiction issued for a
19 violation of any of the provisions of this article the public
20 employer shall initiate an action for contempt and if the public
21 employe is adjudged guilty of such contempt, he shall be subject
22 to suspension, demotion or discharge at the discretion of the
23 public employer, provided the public employer has not exercised
24 that discretion in violation of clauses (1), (2), (3) and (4) of
25 subsection (a) of section 1201[,] of Article XII, and, in the
26 case of a public employe of a school district, the employe shall
27 forfeit 2/185 of his or her annual salary for each school day
28 the public employe has not reported to work commencing with the
29 day following the issuance of the injunction. In the case of
30 school districts, public employes who represent the employe

1 organization in the negotiations, as well as any elected
2 officers of the employe organization who refuse to comply with
3 the lawful order of a court of competent jurisdiction, shall
4 forfeit 3/185 of their annual salary for every day they fail to
5 report for work commencing with the school day following the
6 issuance of the court order.

7 Section 1006. No public employe shall be entitled to pay or
8 compensation from the public employer for the period engaged in
9 any strike. In the case of school districts, any public employe
10 who engages in any strike shall forfeit 1/185 of his or her
11 annual salary for that school year for each school day of strike
12 and the school district shall forfeit 1/185 of its basic subsidy
13 for each school day of any strike.

14 Section 1007. In the event any public employe refuses to
15 obey an order issued by a court of competent jurisdiction for a
16 violation of the provisions of this article, the punishment for
17 such contempt may be by fine or by imprisonment in the prison of
18 the county where the court is sitting or both in the discretion
19 of the court. The punishment authorized by this section shall be
20 in addition to the punishment authorized by 42 Pa.C.S. Ch. 41
21 Subch. C (relating to contempt of court).

22 Section 1008. Where an employe organization wilfully
23 disobeys a lawful order of a court of competent jurisdiction
24 issued for a violation of the provisions of this article, the
25 punishment for each day that such contempt persists may be by a
26 fine fixed in the discretion of the court. In the case of an
27 employe organization which is the certified representative of
28 employees of a school district, wilful disobedience of a lawful
29 order of a court of competent jurisdiction shall automatically
30 deprive the employe organization and any affiliated organization

1 at the local, State or national level of the right to collect
2 dues or represent any public employes in the school district for
3 five years from the date of adjudication of contempt. The
4 punishment authorized by this section shall be in addition to
5 the punishment authorized by 42 Pa.C.S. Ch. 41 Subch. C
6 (relating to contempt of court).

7 Section 1009. In fixing the amount of the fine or
8 imprisonment for contempt, the court shall consider all the
9 facts and circumstances directly related to the contempt
10 including but not limited to: (i) any unfair practices committed
11 by the public employer during the collective bargaining
12 processes; (ii) the extent of the wilful defiance or resistance
13 to the court's order; (iii) the impact of the strike on the
14 health, safety or welfare of the public, and (iv) the ability of
15 the employe organization or the employe to pay the fine imposed.
16 All fines, as well as the forfeiture of days pay in the case of
17 school district employes called for in this article, shall be
18 paid no later than the end of the fiscal year in which the
19 penalties are imposed.

20 Section 1306. All cases in which complaints are actually
21 issued by the board, shall be prosecuted before the board or its
22 examiner, or both, by the representatives of the employe
23 organization or party filing the charge, and, in addition
24 thereto or in lieu thereof if the [Department of Justice sees
25 fit, by a deputy attorney general] appropriate Commonwealth
26 legal officer sees fit, by a Commonwealth attorney especially
27 assigned to this type of case. No examiner shall have any other
28 position with the government of this [State] Commonwealth or of
29 the United States or with the Pennsylvania Labor Relations Board
30 while in the employ of the board.

1 Section 4. Section 1501 of the act, repealed in part June 3,
2 1971 (P.L.118, No.6), is amended to read:

3 Section 1501. The board shall [except where an employe of
4 the Commonwealth is involved] have power to petition [the court
5 of common pleas of any county wherein the unfair practice in
6 question occurred, or wherein any person charged with the
7 commission of any unfair practice resides or transacts
8 business,] a court of competent jurisdiction for the enforcement
9 of such order and for appropriate temporary relief or
10 restraining order, and shall certify and file in the court a
11 transcript of the entire record in the proceeding, including the
12 pleadings and testimony upon which such order was entered and
13 the findings and order of the board. [In the instance of the
14 exception involving the said Commonwealth employes, the board
15 shall file its petition in the Commonwealth Court.] Upon such
16 filing, the court shall cause notice thereof to be served upon
17 such person, and thereupon shall have [jurisdiction of the
18 proceeding and of the question determined therein, and shall
19 have] power to grant such temporary relief, restraining or
20 mandamus order as it deems just and proper or requisite to
21 effectuate the policies of this act and to make and enter upon
22 the pleadings, testimony, and proceedings set forth in such
23 transcript a decree enforcing, modifying and enforcing as so
24 modified, or setting aside, in whole or in part, the order of
25 the board. [The] Except as otherwise prescribed by general
26 rules, the parties before the court shall be the board, the
27 person charged with the commission of any unfair labor practice,
28 and may include the charging party. No objection that has not
29 been urged before the board, its members or agents shall be
30 considered by the court unless [the failure or neglect to urge

1 such objection shall be excused because of extraordinary
2 circumstances. The findings of the board as to the facts, if
3 supported by substantial and legally credible evidence, shall be
4 conclusive] the objection could be considered upon direct appeal
5 from the order of the board. If either party shall apply to the
6 court for leave to adduce additional evidence, and shall show to
7 the satisfaction of the court, that such additional evidence is
8 material, and that there were reasonable grounds for the failure
9 to adduce such evidence at the hearing before the board, its
10 members or agent, the court may order such additional evidence
11 to be taken before the board, its members or agent, and to be
12 made a part of the transcript. The board may modify its findings
13 as to the facts or make new findings by reason of additional
14 evidence so taken and filed, and it shall file such modified or
15 new findings which, if supported by substantial and legally
16 credible evidence, shall be conclusive, and shall file its
17 recommendations, if any, for the modification or setting aside
18 of its original order. [The jurisdiction of the court of common
19 pleas, or the Commonwealth Court, as the case may be, shall be
20 exclusive within the limits of its jurisdiction.]

21 Section 5. The act is amended by adding a section to read:

22 Section 1502. On appeal from the board the court may grant
23 the board the same relief as in an enforcement proceeding under
24 section 1501 of this article.

25 Section 6. Sections 1503 and 1504 of the act are amended to
26 read:

27 Section 1503. [The commencement of proceedings under
28 sections 1501 or 1502 of this article shall not, unless
29 specifically ordered by the court, operate as a stay of the
30 board's order.] Except as otherwise prescribed by general rules,

1 the commencement of proceedings under section 1501 of this
2 article or the taking of an appeal shall not, unless
3 specifically ordered by the court, operate as a stay of the
4 order of the board.

5 Section 1504. [When granting appropriate temporary relief, a
6 restraining or mandamus order or making and entering a decree
7 enforcing, modifying, or enforcing as so modified, or setting
8 aside, in whole or in part, an order of the board, as provided
9 in this section, the jurisdiction of courts sitting in equity
10 shall not be limited by acts pertaining to equity jurisdiction
11 of courts.] The act of June 2, 1937 (P.L.1198, No.308), known as
12 the "Labor Anti-Injunction Act," shall not be applicable to
13 orders of the board, or to court orders enforcing orders of the
14 board, or any provision of this act, or to violations of any
15 order of the board, or of court orders enforcing orders of the
16 board, or any provisions of this act.

17 Section 7. The act is amended by adding a section to read:

18 Section 2004. This act is subject to the restrictions of 71
19 Pa.C.S. § 5955 (relating to construction of part).

20 Section 8. The General Assembly of the Commonwealth of
21 Pennsylvania declares that the provisions of this act are
22 necessary to protect and enhance the educational opportunities
23 of our children and to encourage public employers and public
24 employes to resolve their disputes in a manner which is not
25 injurious to students and the public at large.

26 Section 9. (a) The act of May 20, 1976 (P.L.142, No.67),
27 entitled "An act regulating the payments of the costs of certain
28 panels of arbitrators and making a repeal," is repealed.

29 (b) As much as relates to the act of July 23, 1970 (P.L.563,
30 No.195), known as the Public Employe Relations Act, of section

1 2(a) of the act of April 28, 1978 (P.L.202, No.53), known as the
2 Judiciary Act Repealer Act, is repealed.
3 Section 10. This act shall take effect in 60 days.