

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 783 Session of 1991

INTRODUCED BY MICOZZIE, ADOLPH, CIVERA, RYAN, LEH, FAIRCHILD, HECKLER, FARGO, CLYMER, PITTS, SALOOM, LANGTRY, GODSHALL, BARLEY, GLADECK, HAGARTY, E. Z. TAYLOR, FLICK, DEMPSEY AND GEIST, MARCH 13, 1991

REFERRED TO COMMITTEE ON EDUCATION, MARCH 13, 1991

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," regulating strikes by employees of
6 school entities; and providing for assessments.

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

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 112. Minimum Participation in Strike Vote.--(a) It
13 shall be illegal for any bargaining unit of any employes of a
14 school entity to strike unless more than fifty per centum of all
15 eligible employes shall have voted in favor of the strike. All
16 votes shall be conducted by secret ballot.

17 (b) The Pennsylvania Labor Relations Board shall promulgate
18 regulations, within six (6) months of the effective date of this
19 section, to establish and oversee procedures for a strike vote.

The costs for the election shall be paid equally by the Commonwealth, the school district and the employe organization.

(c) In lieu of the procedures established in subsection (b), the employe organization and the board of directors of the school entity may employ a person to oversee the strike vote to determine whether it was conducted in a fair and impartial manner. A determination by this person regarding the fairness and impartiality of the strike vote shall be binding on both parties. The costs of employing this person shall be shared equally between the employe organization and the school entity.

(d) The strike vote shall specify the date the strike shall begin. A strike by the employe organization shall be against the entire school entity. Selective strikes against certain facilities, grade levels or for portions of a school day are hereby prohibited. If the employe organization does not strike on the specified date, the previous authorizing vote shall be null and void. The employe organization shall be required to schedule another vote to engage in each subsequent strike or other work stoppage. Subsequent votes to authorize a strike shall follow the requirements set forth in this section.

(e) Strikes by employes of a school entity as authorized by the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," shall only be permitted after the bargaining unit has given written notice by certified mail of the strike to the president of the board of directors of the school entity, to two (2) newspapers of general circulation within the school entity, two (2) radio stations broadcasting within that school entity and two (2) television stations broadcasting within that school entity. All such notices shall be received at least forty-eighty (48) hours prior to the

announced date of the strike. In lieu of the required notice to newspapers of general circulation, in a school entity where no such newspaper is published, a notice shall be posted in at least five (5) public places. If a school entity does not conduct classes on the date that it was notified that a strike is scheduled to occur, that entity shall not have committed an unfair practice as defined in Article XII of the "Public Employee Relations Act," or a lockout for the purpose of the unemployment compensation law or any other law.

(f) Whenever an instructional day, in accordance with the officially adopted original calendar of instructional days approved by the board of directors, is lost or rescheduled as the result of a strike, each employee who participates in the strike shall be assessed a sum equal to one-hundred eightieth (1/180) of that year's annual salary or wages for each day of the strike. The school district shall be assessed by the Commonwealth a sum equal to the total daily wages or salaries of the striking employees from its Equalized Subsidy for Basic Education (ESBE) payments calculated under Article XXV of this act. In the case of an intermediate unit or area vocational-technical school, the respective agency shall be assessed a sum equal to the total daily wages or salaries of the striking employees. The constituent districts of the respective agency shall have a sum proportionate to the district's percentage of enrollment deducted from the Equalized Subsidy for Basic Education (ESBE) as provided for in Article XXV of this act. The assessment paid by the employer shall not exceed the total amount of annual subsidies due. The school district shall deduct, in equal installments over the remaining pay periods, the amount of the assessment it determines to be due under this

1 section from the compensation payable to the assessed employee.
2 Assessments required under this section shall not be waived,
3 suspended or reduced after the signing of a collective
4 bargaining agreement or as a condition for the agreement. The
5 scheduling of days to make up instructional days lost because of
6 a strike shall not constitute a basis for a rescission of or a
7 set-off for an assessment owed by or deducted from the school
8 district or for the payment of any compensation to a striking
9 employee under this section. Assessments due under this section
10 shall be paid in the school year in which the strike occurs.

11 (g) If a school district, intermediate unit or area
12 vocational-technical school uses the services of a person who is
13 not a member of the bargaining unit to discharge the dues of a
14 striking employee, the district, intermediate unit or vocational-
15 technical school shall pay the strike assessments required in
16 subsection (f).

17 (h) No strike shall be valid except as it is in compliance
18 with the requirements of this section.

19 (i) When used in this section, the following words and
20 phrases shall have the following meanings:

21 (1) "Eligible employee" shall mean the members of the employee
22 organization which is the exclusive representative and employees
23 paying a fair share fee to the exclusive representative as
24 required under section 2215 of the act of April 9, 1929
25 (P.L.177, No.175), known as "The Administrative Code of 1929."

26 (2) "School entity" shall mean a school district,
27 intermediate unit or area vocational-technical school.

28 (3) "Strike" shall mean a concerted action in failing to
29 report for duty, the willful absence from one's position, the
30 stoppage of work, slowdown, or the abstinence in whole or in

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

5 Section 2. Section 1501 of the act, amended June 30, 1980
6 (P.L.279, No.80), is amended to read:

7 Section 1501. Minimum Number of Days; School Month.--All
8 public kindergartens, elementary and secondary schools shall be
9 kept open each school year for at least one hundred eighty (180)
10 days of instruction for pupils which shall be completed by June
11 15. No days on which the schools are closed shall be counted as
12 days taught, and no time shall be counted as a pupil session for
13 any activity to which admission is charged. No school district
14 shall be required to change its graduation schedule or require
15 graduating students to return to school after graduation to make
16 up class days lost due to severe weather conditions or, in the
17 school year 1979-1980 for situations beyond the control of the
18 school district as a result of major construction and renovation
19 to the school building. No district which makes a bona fide
20 effort as determined by the Secretary of Education to provide
21 one hundred eighty (180) days of instruction for graduating
22 students shall receive less subsidy payments or reimbursements
23 than it would otherwise be entitled to receive on account of the
24 school year because of the provisions of this section. Unless
25 otherwise provided by this act, the board of school directors in
26 any district or joint board may keep such other schools or
27 departments as it may establish open during such time as it may
28 direct.

29 Twenty (20) days of actual teaching shall constitute a school
30 month.

1 Section 3. The act of July 23, 1970 (P.L.563, No.195), known
2 as the Public Employe Relations Act, is repealed insofar as it
3 is inconsistent with this act.

4 Section 4. This act shall take effect as follows:

5 (1) The addition of section 112(b) of the act shall take
6 effect immediately.

7 (2) The remainder of this act shall take effect in six
8 months.