

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1074 Session of
1993

INTRODUCED BY VEON, BELFANTI, M. COHEN, KUKOVICH, COLAIZZO, FEE,
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STURLA, PISTELLA AND BELARDI, MARCH 29, 1993

REFERRED TO COMMITTEE ON LABOR RELATIONS, MARCH 29, 1993

AN ACT

1 Amending the act of June 2, 1937 (P.L.1198, No.308), entitled
2 "An act relating to employes and organizations thereof;
3 defining labor disputes; prescribing the procedure by which
4 and the conditions under which injunctions may be granted in
5 such disputes, and the scope thereof; declaring certain
6 undertakings and promises between employers and employes
7 contrary to public policy and void; prescribing the nature of
8 proof necessary in actions arising out of labor disputes
9 against persons or associations; prescribing the terms and
10 conditions for bonds to be furnished prior to the issuance of
11 injunctions; prescribing the procedure in case of appeal from
12 granting injunctions; limiting the duration of temporary and
13 permanent injunctions in case of labor disputes; and
14 providing for the payment of costs; and repealing all acts or
15 parts of acts inconsistent herewith," further providing for
16 restraining orders and injunctions.

17 PREAMBLE

18 The General Assembly hereby declares that citizens of the
19 Commonwealth of Pennsylvania have a strong local interest in
20 protecting the public welfare during labor disputes involving
21 employers or employees located within this Commonwealth. The
22 General Assembly finds that violence during labor disputes
23 adversely affects the public welfare, and that one of the
24 greatest sources of labor violence is the decision by management

1 to hire temporary or permanent replacements during a strike by
2 employees. To the extent the judicial power of the Commonwealth
3 is invoked in connection with such labor disputes, it is
4 incumbent on the Commonwealth to insure that it acts to reduce
5 all sources of violence in labor disputes in a manner which is
6 fair and even-handed.

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

9 Section 1. Section 4 of the act of June 2, 1937 (P.L.1198,
10 No.308), known as the Labor Anti-Injunction Act, amended June 9,
11 1939 (P.L.302, No.163), is amended to read:

12 Section 4. No court of this Commonwealth shall have
13 jurisdiction to issue any restraining order or temporary or
14 permanent injunction in a case included within this act, except
15 in strict conformity with the provisions of this act, nor shall
16 any such restraining order or temporary or permanent injunction
17 be issued contrary to the public policy declared in this act.
18 Exclusive jurisdiction and power to hear and determine all
19 actions and suits coming under the provisions of this act, shall
20 be vested in the courts of common pleas of the several counties
21 of this Commonwealth: Provided, however, That, unless an
22 employer hires temporary or permanent replacement employees to
23 perform the work subject to the labor dispute, this act shall
24 not apply in any case--

25 (a) Involving a labor dispute, as defined herein, which is
26 in disregard, breach, or violation of, or which tends to procure
27 the disregard, breach, or violation of, a valid subsisting labor
28 agreement arrived at between an employer and the representatives
29 designated or selected by the employees for the purpose of
30 collective bargaining, as defined and provided for in the act,

1 approved the first day of June, one thousand nine hundred and
2 thirty-seven (Pamphlet Laws, one thousand one hundred sixty-
3 eight), entitled "An act to protect the rights of employes to
4 organize and bargain collectively; creating the Pennsylvania
5 Labor Relations Board; conferring powers and imposing duties
6 upon the Pennsylvania Labor Relations Board, officers of the
7 State government, and courts; providing for the right of
8 employes to organize and bargain collectively; declaring certain
9 labor practices by employers to be unfair; further providing
10 that representatives of a majority of the employes be the
11 exclusive representatives of all the employes; authorizing the
12 board to conduct hearings and elections, and certify as to
13 representatives of employes for purposes of collective
14 bargaining; empowering the board to prevent any person from
15 engaging in any unfair labor practice, and providing a procedure
16 for such cases, including the issuance of a complaint, the
17 conducting of a hearing, and the making of an order; empowering
18 the board to petition a court of common pleas for the
19 enforcement of its order, and providing a procedure for such
20 cases; providing for the review of an order of the board by a
21 court of common pleas on petition of any person aggrieved by
22 such order, and establishing a procedure for such cases;
23 providing for an appeal from the common pleas court to the
24 Supreme Court; providing the board with investigatory powers,
25 including the power to issue subpoenas and the compelling of
26 obedience to them through application to the proper court;
27 providing for service of papers and process of the board;
28 prescribing certain penalties," and amendments thereto, or as
29 defined and provided for in the National Labor Relations Act,
30 approved the fifth day of July, one thousand nine hundred and

1 thirty-five: Provided, however, That the complaining person has
2 not, during the term of the said agreement, committed an act as
3 defined in both of the aforesaid acts as an unfair labor
4 practice or violated any of the terms of said agreement.

5 (b) Where a majority of the employes have not joined a labor
6 organization, or where two or more labor organizations are
7 competing for membership of the employes, and any labor
8 organization or any of its officers, agents, representatives,
9 employes, or members engages in a course of conduct intended or
10 calculated to coerce an employer to compel or require his
11 employes to prefer or become members of or otherwise join any
12 labor organization.

13 (c) Where any person, association, employe, labor
14 organization, or any employe, agent, representative, or officer
15 of a labor organization engages in a course of conduct intended
16 or calculated to coerce an employer to commit a violation of the
17 Pennsylvania Labor Relations Act of 1937 or the National Labor
18 Relations Act of 1935.

19 (d) Where in the course of a labor dispute as herein
20 defined, an employe, or employes acting in concert, or a labor
21 organization, or the members, officers, agents, or
22 representatives of a labor organization or anyone acting for
23 such organization, seize, hold, damage, or destroy the plant,
24 equipment, machinery, or other property of the employer with the
25 intention of compelling the employer to accede to any demands,
26 conditions, or terms of employment, or for collective
27 bargaining.

28 Section 2. Section 9 of the act is amended to read:

29 Section 9. No court of this Commonwealth shall issue any
30 restraining order or a temporary or permanent injunction in any

1 case involving or growing out of a labor dispute, except after
2 hearing the testimony of witnesses in open court (with
3 opportunity for cross-examination) in support of the allegations
4 of a complaint made under oath, and testimony in opposition
5 thereto, if offered, and except after findings of fact by the
6 court to the effect--

7 (a) That unlawful acts have been threatened and will be
8 committed unless restrained, or have been committed and will be
9 continued unless restrained, but no temporary or permanent
10 injunction or temporary restraining order shall be issued on
11 account of any threat or unlawful act, excepting against the
12 person or persons, association or organization, making the
13 threat or committing the unlawful act, or actually authorizing
14 or ratifying the same after actual knowledge thereof.

15 (b) That substantial and irreparable injury to complainant's
16 property will follow unless the relief requested is granted.

17 (c) That, as to each item of relief granted, greater injury
18 will be inflicted upon complainant by the denial of relief than
19 will be inflicted upon defendants by granting of relief.

20 (d) That no item of relief granted is relief which is
21 prohibited under section six of this act.

22 (e) That complainant has no adequate remedy at law; and

23 (f) That the public officers charged with the duty to
24 protect complainant's property are unable to furnish adequate
25 protection.

26 (g) The employer has not hired temporary or permanent
27 replacement employes to perform the work subject to the labor
28 dispute.

29 Such hearing shall be held only after a verified bill of
30 complaint and a verified bill of particulars specifying in

1 detail the time, place, and the nature of the acts complained
2 of, and the names of the persons alleged to have committed the
3 same or participated therein, have been served, and after due
4 and personal notice thereof has been given, in such manner as
5 the court shall direct, to all known persons against whom relief
6 is sought, and also to the chief of those public officials of
7 the county and city, within which the unlawful acts have been
8 threatened or committed, charged with the duty to protect
9 complainant's property. The hearing shall consist of the taking
10 of testimony in open court with opportunity for cross-
11 examination and testimony in opposition thereto, if offered, and
12 no affidavits shall be received in support of any of the
13 allegations of the complaint.

14 Section 3. This act shall apply retroactively to labor
15 disputes which are in progress on the effective date of this
16 act.

17 Section 4. This act shall take effect immediately.