
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1435 Session of
2001

INTRODUCED BY BUTKOVITZ, KELLER, CALTAGIRONE, COSTA, DALEY,
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SHANER, TANGRETTI, THOMAS, TRAVAGLIO, TRELLO, YOUNGBLOOD,
PALLONE AND PETRARCA, APRIL 25, 2001

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 25, 2001

AN ACT

1 Specifically authorizing collective bargaining between first-
2 level supervisors and their public employers; providing for
3 arbitration in order to settle disputes rather than striking;
4 and requiring compliance with collective bargaining
5 agreements and findings of arbitrators.

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

15 CHAPTER 1

16 GENERAL PROVISIONS

17 Section 101. Declaration of policy.

18 The General Assembly finds and declares as follows:

19 It is the public policy of this Commonwealth and the purpose
20 of this act to promote orderly, constructive and harmonious
21 relationships between first-level supervisors and their public
22 employers subject, however, to the paramount right of the
23 citizens of this Commonwealth to keep inviolate the guarantees
24 for their health, safety and welfare. Unresolved disputes
25 between public employers and their first-level supervisors are
26 injurious to the public and the current meet and discuss rights
27 of first-level supervisors provided by the act of July 23, 1970
28 (P.L.563, No.195), known as the Public Employe Relations Act, do
29 not provide a meaningful or enforceable method of resolving such
30 disputes. The General Assembly has determined that the overall

1 policy may best be accomplished by requiring public employers to
2 negotiate and bargain with employee organizations representing
3 first-level supervisors and to enter into written agreements
4 evidencing the result of such bargaining.

5 Section 102. Short title.

6 This act shall be known and may be cited as the Public
7 Employee First-Level Supervisor Collective Bargaining Act.

8 Section 103. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Employee organization." An organization of any kind or any
13 agency or employee representation committee or plan in which
14 membership includes public employees, and which exists for the
15 purpose, in whole or in part, of dealing with employers
16 concerning grievances, employee-employer disputes, wages, rates
17 of pay, hours of employment, or conditions of work, but shall
18 not include any organization which practices discrimination in
19 membership because of race, color, creed, national origin or
20 political affiliation.

21 "First-level supervisor." An employee functioning at the
22 lowest level as a supervisor.

23 "Public employer." The Commonwealth, its political
24 subdivisions including school districts and any officer, board,
25 commission, agency, authority or other instrumentality thereof
26 and any nonprofit organization or institution and any
27 charitable, religious, scientific, literary, recreational,
28 health, educational or welfare institution receiving grants or
29 appropriations from Federal, State or local governments but
30 shall not include employers covered or presently subject to

1 coverage under the National Labor Relations Act (49 Stat. 449,
2 29 U.S.C. § 151 et seq.) and the act of June 1, 1937 (P.L.1168,
3 No.294), known as the Pennsylvania Relations Act.

4 "Supervisor." Any individual having authority in the
5 interests of the employer to hire, transfer, suspend, layoff,
6 recall, promote, discharge, assign, reward or discipline other
7 employees or responsibility to direct them or adjust their
8 grievances; or to a substantial degree effectively recommend
9 such action if in connection with the foregoing, the exercise of
10 such authority is not merely routine or clerical in nature but
11 calls for the use of independent judgment.

12 CHAPTER 2

13 SELECTION OF BARGAINING REPRESENTATIVES

14 Section 201. Jurisdiction.

15 The Pennsylvania Labor Relations Board shall have
16 jurisdiction over all questions concerning representation with
17 respect to the selection of employee organizations as exclusive
18 bargaining representatives of first-level supervisors.

19 Section 202. Exclusion.

20 First-level supervisors shall not be included in any
21 bargaining unit which includes nonfirst-level supervisors.

22 Section 203. Representation.

23 First-level supervisors and employees they supervise shall
24 not be represented by the same employee organization.

25 CHAPTER 3

26 COLLECTIVE BARGAINING

27 Section 301. Settlement.

28 It shall be the duty of the public employer and employee
29 organizations representing first-level supervisors to settle all
30 disputes by engaging in collective bargaining in good faith and

1 by entering into settlements by way of written agreements and
2 maintaining of the same.

3 Section 302. Origin.

4 Collective bargaining shall begin at least six months before
5 the start of the fiscal year of the public employer and any
6 request for arbitration, as provided in this article shall be
7 made at least 110 days before the start of the fiscal year.

8 Section 303. Impasse.

9 Impasse in bargaining shall be resolved as follows:

10 (1) If in any case of a dispute between a public
11 employer and an employee organization representing first-
12 level supervisors reaches an impasse in the collective
13 bargaining process, with the result that employers and
14 employees are unable to effect a settlement, then either
15 party to the dispute, after written notice to the other party
16 containing specifications of the issue or issues in dispute,
17 may request the appointment of a board of arbitration. For
18 purposes of this section, an impasse shall be deemed to occur
19 in the collective bargaining process if the parties do not
20 reach a settlement of the issue or issues in dispute by way
21 of a written agreement within 30 days after collective
22 bargaining proceedings have been initiated.

23 (2) The board of arbitration shall be composed of three
24 persons, one appointed by the public employer, one appointed
25 by the employee organization and a third member to be agreed
26 upon by the public employer and employee organization. The
27 members of the board representing the public employer and
28 employee organization shall be named within five days from
29 the date of the request for the appointment of the board. If,
30 after a period of ten days from the date of appointment of

1 the two arbitrators appointed by the public employer and the
2 employee organization, the third arbitrator has not been
3 selected by them, then either arbitrator may request the
4 American Arbitration Association or its successor in function
5 to furnish a list of three members of the association who are
6 residents of this Commonwealth from which the third
7 arbitrator shall be selected. The arbitrator appointed by the
8 public employer shall eliminate one name from the list within
9 five days after the publication of the list, following which
10 the arbitrator appointed by the employee organization shall
11 eliminate one name from the list within five days thereafter.
12 The individual whose name appears on the list shall be the
13 third arbitrator and shall act as chairman of the board of
14 arbitration. The board of arbitration thus established shall
15 commence the arbitration proceedings within ten days after
16 the third arbitrator is selected and shall make its
17 determination within 30 days after the appointment of the
18 third arbitrator.

19 (3) The determination of the majority of the board of
20 arbitration thus established shall be final on the issue or
21 issues in dispute and shall be binding upon the public
22 employer and the employee organization. The determination
23 shall be in writing and a copy thereof shall be forwarded to
24 both parties to the dispute. No appeal therefrom shall be
25 allowed to any court. The determination shall constitute a
26 mandate to the public employer to take the action necessary
27 to carry out the determination of the board of arbitration.

28 (4) The compensation of the arbitrator appointed by the
29 employee organization shall be paid by them. The compensation
30 of the other two arbitrators, as well as stenographic and

1 other expenses incurred by the arbitration panel in
2 connection with the arbitration proceedings, shall be paid by
3 the public employer.

4 CHAPTER 4

5 STRIKES

6 Section 401. Prohibition.

7 Strikes by first-level supervisors are prohibited at any
8 time. If such a strike occurs, the public employer shall
9 forthwith initiate in the court of common pleas of the
10 jurisdiction where the strike occurs, an action for appropriate
11 equitable relief including, but not limited to, an injunction.
12 If the strike involves Commonwealth employees, the chief legal
13 officer of the public employer or the Attorney General where
14 required by law shall institute an action for equitable relief,
15 either in the court of common pleas of the jurisdiction where
16 the strike has occurred or the Commonwealth Court.

17 CHAPTER 5

18 MISCELLANEOUS PROVISIONS

19 Section 501. Para materia.

20 This act shall be read in para materia with the act of July
21 23, 1970 (P.L.563, No.195), known as the Public Employe
22 Relations Act.

23 CHAPTER 6

24 SAVINGS PROVISION

25 Section 601. Savings provision.

26 The rights granted to certain public employees by the
27 following acts or parts of acts shall not be repealed or
28 diminished by this act:

29 Act of November 27, 1967 (P.L. 628, No.288), entitled "An act
30 protecting the rights of employes of existing transportation

1 systems which are acquired by cities of the third class or any
2 authority thereof or certain joint authorities; requiring cities
3 of the third class or any authority thereof or any such joint
4 authority to enter into contracts with labor organizations
5 acting for such employes, and providing for arbitration in case
6 of disputes.

7 Act of June 24, 1968 (P.L.237, No.111), referred to as the
8 Policemen and Firemen Collective Bargaining Act.

9 Act of July 23, 1970 (P.L.563, No.195), known as the Public
10 Employe Relations Act, except with respect to section 704 as
11 provided in Chapter 8 of this act.

12 CHAPTER 7

13 SEVERABILITY

14 Section 701. Severability.

15 The provisions of this act are severable. If any provision of
16 this act or its application to any person or circumstance is
17 held invalid, the invalidity shall not affect other provisions
18 or applications of this act which can be given effect without
19 the invalid provision or application.

20 CHAPTER 8

21 REPEAL

22 Section 801. Repeal.

23 Section 704 of the act of July 23, 1970 (P.L.563, No.195),
24 known as the Public Employe Relations Act, is repealed.

25 CHAPTER 9

26 EFFECTIVE DATE

27 Section 901. Effective date.

28 This act shall take effect immediately.