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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1545** Session of  
2007

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INTRODUCED BY BELFANTI, CASORIO, M. O'BRIEN, PASHINSKI, COHEN,  
KIRKLAND, KORTZ, KOTIK, MAHONEY, PALLONE, VULAKOVICH AND  
YOUNGBLOOD, JUNE 14, 2007

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REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 14, 2007

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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," adding law enforcement  
14 officers of limited jurisdiction as an additional category of  
15 covered employe.

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

18 Section 1. Sections 301, 604, 805 and 1001 of the act of  
19 July 23, 1970 (P.L.563, No.195), known as the Public Employe  
20 Relations Act, are amended to read:

21 Section 301. As used in this act:

22 (1) "Public employer" means the Commonwealth of  
23 Pennsylvania, its political subdivisions including school  
24 districts and any officer, board, commission, agency, authority,

1 or other instrumentality thereof and any nonprofit organization  
2 or institution and any charitable, religious, scientific,  
3 literary, recreational, health, educational or welfare  
4 institution receiving grants or appropriations from local, State  
5 or Federal governments but shall not include employers covered  
6 or presently subject to coverage under the act of June 1, 1937  
7 (P.L.1168), as amended, known as the "Pennsylvania Labor  
8 Relations Act," the act of July 5, 1935, Public Law 198, 74th  
9 Congress, as amended, known as the "National Labor Relations  
10 Act."

11 (2) "Public employe" or "employe" means any individual  
12 employed by a public employer but shall not include elected  
13 officials, appointees of the Governor with the advice and  
14 consent of the Senate as required by law, management level  
15 employes, confidential employes, clergymen or other persons in a  
16 religious profession, employes or personnel at church offices or  
17 facilities when utilized primarily for religious purposes and  
18 those employes covered under the act of June 24, 1968 (Act  
19 No.111), entitled "An act specifically authorizing collective  
20 bargaining between policemen and firemen and their public  
21 employers; providing for arbitration in order to settle  
22 disputes, and requiring compliance with collective bargaining  
23 agreements and findings of arbitrators."

24 (3) "Employe organization" means an organization of any  
25 kind, or any agency or employe representation committee or plan  
26 in which membership includes public employes, and which exists  
27 for the purpose, in whole or in part, of dealing with employers  
28 concerning grievances, employe-employer disputes, wages, rates  
29 of pay, hours of employment, or conditions of work but shall not  
30 include any organization which practices discrimination in

1 membership because of race, color, creed, national origin or  
2 political affiliation.

3 (4) "Representative" means any individuals acting for public  
4 employers or employes and shall include employe organizations.

5 (5) "Board" means the Pennsylvania Labor Relations Board.

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

14 (7) "Professional employe" means any employe whose work: (i)  
15 is predominantly intellectual and varied in character; (ii)  
16 requires consistent exercise of discretion and judgment; (iii)  
17 requires knowledge of an advanced nature in the field of science  
18 or learning customarily acquired by specialized study in an  
19 institution of higher learning or its equivalent; and (iv) is of  
20 such character that the output or result accomplished cannot be  
21 standardized in relation to a given period of time.

22 (8) "Unfair practice" means any practice prohibited by  
23 Article XII of this act.

24 (9) "Strike" means concerted action in failing to report for  
25 duty, the wilful absence from one's position, the stoppage of  
26 work, slowdown, or the abstinence in whole or in part from the  
27 full, faithful and proper performance of the duties of  
28 employment for the purpose of inducing, influencing or coercing  
29 a change in the conditions or compensation or the rights,  
30 privileges, or obligations of employment.

1 (10) "Person" includes an individual, public employer,  
2 public employe, authority, commission, legal representative,  
3 labor organization, employe organization, profit or nonprofit  
4 corporation, trustee, board or association.

5 (11) "Membership dues deduction" means the practice of a  
6 public employer to deduct from the wages of a public employe,  
7 with his written consent, an amount for the payment of his  
8 membership dues in an employe organization, which deduction is  
9 transmitted by the public employer to the employe organization.

10 (12) "Budget submission date" means the date by which under  
11 the law or practice a public employer's proposed budget, or  
12 budget containing proposed expenditures applicable to such  
13 public employer is submitted to the Legislature or other similar  
14 body for final action. For the purposes of this act, the budget  
15 submission date for the Commonwealth shall be February 1 of each  
16 year and for a nonprofit organization or institution, the last  
17 day of its fiscal year.

18 (13) "Confidential employe" shall mean any employe who  
19 works: (i) in the personnel offices of a public employer and has  
20 access to information subject to use by the public employer in  
21 collective bargaining; or (ii) in a close continuing  
22 relationship with public officers or representatives associated  
23 with collective bargaining on behalf of the employer.

24 (14) "Wages" means hourly rates of pay, salaries or other  
25 forms of compensation for services rendered.

26 (15) "Commonwealth employe" means a public employe employed  
27 by the Commonwealth or any board, commission, agency, authority,  
28 or any other instrumentality thereof.

29 (16) "Management level employe" means any individual who is  
30 involved directly in the determination of policy or who

1 responsibly directs the implementation thereof and shall include  
2 all employes above the first level of supervision.

3 (17) "Meet and discuss" means the obligation of a public  
4 employer upon request to meet at reasonable times and discuss  
5 recommendations submitted by representatives of public employes:  
6 Provided, That any decisions or determinations on matters so  
7 discussed shall remain with the public employer and be deemed  
8 final on any issue or issues raised.

9 (18) "Maintenance of membership" means that all employes who  
10 have joined an employe organization or who join the employe  
11 organization in the future must remain members for the duration  
12 of a collective bargaining agreement so providing with the  
13 proviso that any such employe or employes may resign from such  
14 employe organization during a period of fifteen days prior to  
15 the expiration of any such agreement.

16 (19) "First level of supervision" and "first level  
17 supervisor" means the lowest level at which an employe functions  
18 as a supervisor.

19 (20) "Law enforcement officer of limited jurisdiction" means  
20 any of the following:

21 (i) A public employe who has the power and authority to  
22 arrest under:

23 (A) section 27 of the act of August 6, 1941 (P.L.861,  
24 No.323), referred to as the "Pennsylvania Board of Probation and  
25 Parole Law";

26 (B) section 211 of the act of April 12, 1951 (P.L.90,  
27 No.21), known as the "Liquor Code"; or

28 (C) section 10(ee) or (ff) of the act of May 28, 1937  
29 (P.L.955, No.265), known as the "Housing Authorities Law."

30 (ii) A public employe:

1       (A) whose principal duty is narcotics or criminal  
2 investigation within this Commonwealth; and  
3       (B) whose power and duty to arrest is authorized by the  
4 Attorney General under section 201(c) of the act of October 15,  
5 1980 (P.L.950, No.164), known as the "Commonwealth Attorneys  
6 Act."

7       Section 604. The board shall determine the appropriateness  
8 of a unit which shall be the public employer unit or a  
9 subdivision thereof. In determining the appropriateness of the  
10 unit, the board shall:

11       (1) Take into consideration but shall not be limited to the  
12 following: (i) public employes must have an identifiable  
13 community of interest, and (ii) the effects of over-  
14 fragmentation.

15       (2) Not decide that any unit is appropriate if such unit  
16 includes both professional and nonprofessional employes, unless  
17 a majority of such professional employes vote for inclusion in  
18 such unit.

19       (3) Not permit guards at prisons and mental hospitals, law  
20 enforcement officers of limited jurisdiction, employes directly  
21 involved with and necessary to the functioning of the courts of  
22 this Commonwealth, or any individual employed as a guard to  
23 enforce against employes and other persons, rules to protect  
24 property of the employer or to protect the safety of persons on  
25 the employer's premises to be included in any unit with other  
26 public employes, each may form separate homogenous employe  
27 organizations with the proviso that organizations of the latter  
28 designated employe group may not be affiliated with any other  
29 organization representing or including as members, persons  
30 outside of the organization's classification.

1 (4) Take into consideration that when the Commonwealth is  
2 the employer, it will be bargaining on a Statewide basis unless  
3 issues involve working conditions peculiar to a given  
4 governmental employment locale. This section, however, shall not  
5 be deemed to prohibit multi-unit bargaining.

6 (5) Not permit employes at the first level of supervision to  
7 be included with any other units of public employes but shall  
8 permit them to form their own separate homogenous units. In  
9 determining supervisory status the board may take into  
10 consideration the extent to which supervisory and nonsupervisory  
11 functions are performed.

12 Section 805. Notwithstanding any other provisions of this  
13 act where representatives of units of guards at prisons or  
14 mental hospitals, law enforcement officers of limited  
15 jurisdiction or units of employes directly involved with and  
16 necessary to the functioning of the courts of this Commonwealth  
17 have reached an impasse in collective bargaining and mediation  
18 as required in section 801 of this article has not resolved the  
19 dispute, the impasse shall be submitted to a panel of  
20 arbitrators whose decision shall be final and binding upon both  
21 parties with the proviso that the decisions of the arbitrators  
22 which would require legislative enactment to be effective shall  
23 be considered advisory only.

24 Section 1001. Strikes by guards at prisons or mental  
25 hospitals, law enforcement officers of limited jurisdiction or  
26 employes directly involved with and necessary to the functioning  
27 of the courts of this Commonwealth are prohibited at any time.  
28 If a strike occurs the public employer shall forthwith initiate  
29 in the court of common pleas of the jurisdiction where the  
30 strike occurs, an action for appropriate equitable relief

1 including but not limited to injunctions. If the strike involves  
2 Commonwealth employes, the chief legal officer of the public  
3 employer or the Attorney General where required by law shall  
4 institute an action for equitable relief, either in the court of  
5 common pleas of the jurisdiction where the strike has occurred  
6 or the Commonwealth Court.

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