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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1660 Session of  
2011

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INTRODUCED BY SANTARSIERO, O'NEILL, GALLOWAY, BRADFORD, MURT,  
DAVIS, K. BOYLE, CALTAGIRONE, CREIGHTON, DALEY AND K. SMITH,  
JUNE 10, 2011

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REFERRED TO COMMITTEE ON EDUCATION, JUNE 10, 2011

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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," in collective bargaining, further  
6 providing for submission to mediation and for fact-finding  
7 panels; providing for mediation; and further providing for  
8 final best-offer arbitration, for time frame, for strikes  
9 prohibited in certain circumstances and for lockouts  
10 prohibited in certain circumstances.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Sections 1121-A and 1122-A(a) and (b) of the act  
14 of March 10, 1949 (P.L.30, No.14), known as the Public School  
15 Code of 1949, added July 9, 1992 (P.L.403, No.88), are amended  
16 to read:

17 Section 1121-A. [Submission to Mediation.--(a) If, after a  
18 reasonable period of negotiation, a dispute or impasse exists  
19 between the representatives of the employer and the employe  
20 organization, the parties may voluntarily submit to mediation,  
21 but, if no agreement is reached between the parties within

1 forty-five (45) days after negotiations have commenced, but in  
2 no event later than one hundred twenty-six (126) days prior to  
3 June 30 or December 31, whichever is the end of the school  
4 entity's fiscal year, and mediation has not been utilized by the  
5 parties, both parties shall immediately in writing call on the  
6 service of the Pennsylvania Bureau of Mediation.

7 (b) The Pennsylvania Bureau of Mediation shall employ a  
8 complement of not less than twenty-five (25) mediators which  
9 shall be available to mediate according to the provisions of  
10 subsection (a).] Negotiations.--The representatives of the  
11 employer and the employe organization shall commence  
12 negotiations no later than two hundred eleven (211) days prior  
13 to June 30 or December 21, whichever is the end of the school  
14 entity's fiscal year. The representatives of the employer and  
15 employe organization shall meet no fewer than four times per  
16 month and, if no agreement has been reached seventy-five (75)  
17 days prior to June 30 or December 21, whichever is the end of  
18 the school entity's fiscal year, no fewer than two times between  
19 seventy-five (75) days and sixty-one (61) days prior to the end  
20 of the school entity's fiscal year.

21 Section 1122-A. Fact-finding Panels.--(a) [(1) Once  
22 mediation has commenced, it shall continue for so long as the  
23 parties have not reached an agreement. If, however, an agreement  
24 has not been reached within forty-five (45) days after mediation  
25 has commenced or in no event later than eighty-one (81) days  
26 prior to June 30 or December 31, whichever is the end of the  
27 school entity's fiscal year, the Bureau of Mediation shall  
28 notify the board of the parties' failure to reach an agreement  
29 and of whether either party has requested the appointment of a  
30 fact-finding panel.]

1       (2) [No later than eighty-one (81)] If an agreement is not  
2 reached between the parties within ninety (90) days after  
3 negotiations have commenced or in no event later than one  
4 hundred twenty-one (121) days prior to June 30 or December 31,  
5 whichever is the end of the school entity's fiscal year, [either  
6 party may request the board to appoint a fact-finding panel.  
7 Upon receiving such request,] the board shall appoint a fact-  
8 finding panel which may consist of either one (1) or three (3)  
9 members. The panel so designated or selected shall hold hearings  
10 and take oral or written testimony and shall have subpoena  
11 power. If, during this time, the parties have not reached an  
12 independent agreement, the panel shall make findings of fact and  
13 recommendations. The panel shall not find or recommend that the  
14 parties accept or adopt an impasse procedure.

15       (3) The parties may mutually agree to fact-finding, and the  
16 board shall appoint a fact-finding panel as provided for in  
17 clause (2) at any time except that the parties may not mutually  
18 agree to fact-finding during mandated final best-offer  
19 arbitration.

20       (4) The board may implement fact-finding and appoint a panel  
21 as provided for in clause (2) at a time other than that mandated  
22 in this section, except that fact-finding may not be implemented  
23 between the period of notice to strike and the conclusion of a  
24 strike or during final best-offer arbitration. If the board  
25 chooses not to implement fact-finding prior to a strike, the  
26 board shall issue a report to the parties listing the reasons  
27 for not implementing fact-finding if either party requests one.

28       (b) The findings of fact and recommendations shall be sent  
29 by registered mail to the board and to both parties not more  
30 than forty (40) days after the [Bureau of Mediation has notified

1 the board as provided in subsection (a)] fact-finding panel is  
2 appointed.

3 \* \* \*

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

5 Section 1122.1-A. Mediation.--(a) If an agreement is not  
6 reached between the parties within one hundred thirty (130) days  
7 after negotiations have commenced or in no event later than  
8 eighty-one (81) days prior to June 30 or December 31, whichever  
9 is the end of the school entity's fiscal year, both parties  
10 shall immediately in writing call on the services of the Bureau  
11 of Mediation.

12 (b) The Bureau of Mediation shall employ a complement of not  
13 less than twenty-five (25) mediators who shall be available to  
14 mediate according to the provisions of subsection (a).

15 Section 3. Sections 1125-A(a), (b), (c), (d), (g), (i), (j)  
16 and (m), 1126-A, 1131-A and 1132-A of the act, added July 9,  
17 1992 (P.L.403, No.88), are amended to read:

18 Section 1125-A. Final Best-Offer Arbitration.--(a) At any  
19 time prior to mandated final best-offer arbitration, either the  
20 employer or the employe organization may request final best-  
21 offer arbitration unless fact-finding has been initiated as  
22 provided in section 1122-A. If fact-finding has been initiated,  
23 the parties shall complete fact-finding before requesting final  
24 best-offer arbitration. If either party requests final best-  
25 offer arbitration, the requesting party shall notify the Bureau  
26 of Mediation, the board and the opposing party in writing. The  
27 opposing party shall, within ten (10) days of the notification  
28 by the requesting party, notify the requesting party in writing  
29 of its agreement or refusal to submit to final best-offer  
30 arbitration. [No strikes or lockouts shall occur during this ten

1 (10) day period or until the requesting party is notified by the  
2 opposing party that they refuse to submit to final best-offer  
3 arbitration.] Arbitration provided for in this subsection shall  
4 only occur if both parties agree to submit to final best-offer  
5 arbitration.

6 (b) If [a strike by employees or a lockout by an employer  
7 will prevent the school entity from providing the period of  
8 instruction required by section 1501 by the later of:

9 (1) June 15; or

10 (2) the last day of the school entity's scheduled school  
11 year;] an agreement is not reached between the parties within  
12 one hundred fifty (150) days after negotiations have commenced  
13 or in no event later than sixty-one (61) days prior to June 30  
14 or December 31, whichever is the end of the school entity's  
15 fiscal year, the parties shall submit to mandated final best-  
16 offer arbitration consistent with the arbitration option  
17 negotiated. A return to work for the purpose of submitting to  
18 final best-offer arbitration shall not be considered a  
19 unilateral return to work.

20 [(c) If the parties are unable to agree on the adoption of  
21 one of the approved impasse procedures under section 1123-A, the  
22 mediator appointed pursuant to section 1121-A shall select the  
23 procedure.]

24 (d) Within [ten (10)] three (3) days of submission to final  
25 best-offer arbitration, the parties shall submit to the  
26 arbitrators their final best contract offer with certification  
27 that the offer was delivered to the opposing party, together  
28 with documentation supporting the reasonableness of their offer.  
29 This documentation shall include, but not be limited to, the  
30 following:

- 1 (1) The public interest.
- 2 (2) The interest and welfare of the employe organization.
- 3 (3) The financial capability of the school entity.
- 4 (4) The results of negotiations between the parties prior to  
5 submission of last best contract offers.
- 6 (5) Changes in the cost of living.
- 7 (6) The existing terms and conditions of employment of the  
8 employe organization members and those of similar groups.
- 9 (7) Such other documentation as the arbitration panel shall  
10 deem relevant.

11 \* \* \*

12 (g) Upon submission to the [arbitrator] arbitrators of both  
13 parties' final best offers under subsection (a) or (b), the  
14 employer shall post, within the time limits described in  
15 subsection (d), the final best contract offers in the school  
16 entity's main office for the purpose of soliciting public  
17 comments thereon. Copies of both parties' final best offers  
18 shall be available from the school entity's main office. The  
19 cost of copies shall be established by the school entity and  
20 shall be paid by the requestor.

21 \* \* \*

22 (i) Within ten (10) days of [the selection of the third  
23 arbitrator of the arbitration panel] submission to final best-  
24 offer arbitration, the arbitrators shall begin hearings at which  
25 they will hear arguments from representatives of the employer  
26 and of the employes in support of their respective last best  
27 contract offers under subsection (a) or (b). [At least five (5)  
28 days prior to the hearing, a written notice of the date, time  
29 and place of such hearing shall be sent to the representatives  
30 of both the employer and employes which are parties to the

1 dispute. This written notice shall also be sent to the fiscal  
2 authority having budgetary responsibility or charged with making  
3 appropriations for the employer, and a representative designated  
4 by such body shall be heard at the hearing upon request of such  
5 body or of the employer as part of the presentation of the  
6 employer.]

7 (j) Not later than [twenty (20) days after the hearing  
8 pursuant to subsection (i)] forty-one (41) days prior to June 30  
9 or December 31, whichever is the end of the school entity's  
10 fiscal year, the arbitrators shall:

- 11 (1) examine each item of dispute;
- 12 (2) make a determination in writing consistent with the  
13 arbitration option agreed to by the parties; and
- 14 (3) forward a copy of the written determination to both  
15 parties involved in the dispute and to the board.

16 \* \* \*

17 (m) [If the employer or the employe organization rejects the  
18 determination of the majority of the arbitrators:

19 (1) The employe organization may initiate a legal strike or  
20 resume a legal strike initiated prior to submission to final  
21 best-offer arbitration.

22 (2) The employer may hire substitutes as provided under  
23 subsection (b) of section 1172-A.

24 (3) The employer may initiate a legal lockout or resume a  
25 legal lockout initiated prior to submission to final best-offer  
26 arbitration.]

27 (1) If the employer rejects the determination of the  
28 majority of the arbitrators, State funds payable to the employer  
29 shall be withheld by the State Treasurer for the duration of the  
30 contract dispute. During the duration of the contract dispute,

1 the employer may not suspend any professional employe, as  
2 defined in section 1101, for economic reasons.

3 (2) If the employe organization rejects the determination of  
4 the majority of the arbitrators, the employe organization shall  
5 be prohibited from initiating a legal strike or resuming a legal  
6 strike initiated prior to submission of best-offer arbitration.

7 (3) In the event that either or both parties reject the  
8 determination of the majority of the arbitrators, both parties  
9 shall commence round-the-clock negotiations until an agreement  
10 is reached or a two-week period is completed, whichever occurs  
11 first.

12 Section 1126-A. Time Frame.--(a) The time periods set forth  
13 in this article are mandatory and shall not be construed to be  
14 directory.

15 (b) In the event that either party fails to comply with the  
16 time periods set forth in this article, the other party may  
17 institute a cause of action in the court of common pleas of the  
18 judicial district encompassing the respective school district.

19 Section 1131-A. Strikes Prohibited in Certain  
20 Circumstances.--[A strike must cease where the parties request  
21 fact-finding for the duration of the fact-finding. A strike must  
22 end where the parties agree to arbitration.] Strikes are  
23 prohibited:

24 (1) During [the period of up to ten (10) days provided for  
25 under section 1125-A(a).] negotiation under section 1121-A.

26 (1.1) During fact-finding.

27 (1.2) During mediation.

28 (2) During final best-offer arbitration, including the  
29 period of up to ten (10) days after receipt of the determination  
30 of the arbitrators during which the employe organization and



1 governing body of the school entity may consider the  
2 determination.

3 (3) When the arbitrators' determination becomes final and  
4 binding.

5 Section 1132-A. Lockouts Prohibited in Certain  
6 Circumstances.--[A lockout must cease where the parties request  
7 fact-finding for the duration of the fact-finding. A lockout  
8 must end where the parties agree to arbitration.] Lockouts are  
9 prohibited:

10 (1) During [the period of up to ten (10) days provided for  
11 under section 1125-A(a).] negotiation under section 1121-A.

12 (1.1) During fact-finding.

13 (1.2) During mediation.

14 (2) During final best-offer arbitration, including the  
15 period of up to ten (10) days after receipt of the determination  
16 of the arbitrators during which the employe organization and  
17 employer may consider the determination.

18 (3) When the arbitrators' determination becomes final and  
19 binding.

20 Section 4. This act shall take effect in 60 days.