

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 126 Session of 2015

INTRODUCED BY TALLMAN, BARRAR, SACCONI, RAPP, DIAMOND, BLOOM,
 MCGINNIS, WATSON, GROVE, MENTZER, HICKERNELL, LAWRENCE AND
 TRUITT, JANUARY 21, 2015

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 21, 2015

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," deleting and replacing provisions
 6 relating to collective bargaining between public school
 7 employees and their public employers; setting forth public
 8 policy relating to public school employee strikes; providing
 9 for assessments and for duties of the Bureau of Mediation and
 10 the Pennsylvania Labor Relations Board; and imposing
 11 penalties.

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

14 Section 1. Article XI-A heading, subdivision (a) heading,
 15 section 1101-A, subdivision (b) heading, sections 1111-A and
 16 1112-A, subdivision (c) heading, sections 1121-A, 1122-A,
 17 1123-A, 1124-A, 1125-A, 1126-A and 1127-A and subdivision (d)
 18 heading of the act of March 10, 1949 (P.L.30, No.14), known as
 19 the Public School Code of 1949, added July 9, 1992 (P.L.403,
 20 No.88), are repealed:

21 [ARTICLE XI-A.

22 COLLECTIVE BARGAINING

1 (a) General Provisions.

2 Section 1101-A. Definitions.--When used in this article, the
3 following words and phrases shall have the following meanings:

4 "Board" shall mean the Pennsylvania Labor Relations Board.

5 "Employee" shall mean a public school employe who bargains
6 collectively with a public school entity, but shall not include
7 employes covered or presently subject to coverage under the act
8 of June 1, 1937 (P.L.1168, No.294), known as the "Pennsylvania
9 Labor Relations Act," or the National Labor Relations Act (61
10 Stat. 152, 29 U.S.C. Ch. 7 Subch. 11). The term does not include
11 any management-level employe of any other school district.

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

22 "Employer" shall mean a public school entity, but shall not
23 include employers covered or presently subject to coverage under
24 the act of June 1, 1937 (P.L.1168, No.294), known as the
25 "Pennsylvania Labor Relations Act," or the National Labor
26 Relations Act (61 Stat. 152, 29 U.S.C. Ch. 7 Subch. 11).

27 "Impasse" shall mean the failure of an employer and an
28 employe organization to reach an agreement in the course of
29 negotiations.

30 "Lockout" shall mean the cessation of furnishing of work to

1 employes or withholding work from employes for the purpose of
2 inducing, influencing or coercing a change in the conditions or
3 compensation or the rights, privileges or obligations of
4 employment.

5 "Representative" shall mean an individual acting for
6 employers or employes and shall include employe organizations.

7 "School entity" shall mean a public school district,
8 intermediate unit or area vocational-technical school.

9 "Strike" shall mean concerted action in failing to report for
10 duty, the wilful absence from one's position, the stoppage of
11 work, slowdown or the abstinence, in whole or in part, from the
12 full, faithful and proper performance of the duties of
13 employment for the purpose of inducing, influencing or coercing
14 a change in the conditions or compensation or the rights,
15 privileges or obligations of employment. The employe
16 organization having called a strike once and unilaterally
17 returned to work may only call a lawful strike once more during
18 the school year. A written notice of the intent to strike shall
19 be delivered by the employe organization to the superintendent,
20 executive director or the director no later than forty-eight
21 (48) hours prior to the commencement of any strike, and no
22 strike may occur sooner than forty-eight (48) hours following
23 the last notification of intent to strike. Upon receipt of the
24 notification of intent to strike, the superintendent, executive
25 director or the director may cancel school for the effective
26 date of the strike. A decision to cancel school may, however, be
27 withdrawn by the superintendent, executive director or the
28 director. Any subsequent change of intents to strike shall not
29 affect the decision to cancel school on the day of the intended
30 strike. For the purposes of this article, the decision to cancel

1 school on the day of the intended strike shall not be considered
2 a lockout.

3 (b) Scope of Bargaining.

4 Section 1111-A. Mutual Obligation.--Collective bargaining is
5 the performance of the mutual obligation of the employer or his
6 representative and the representative of the employes to meet at
7 reasonable times and confer in good faith with respect to wages,
8 hours and other terms and conditions of employment or the
9 negotiation of an agreement or any question arising thereunder
10 and the execution of a written contract incorporating any
11 agreement reached, but such obligation does not compel either
12 party to agree to a proposal or require the making of a
13 concession.

14 Section 1112-A. Matters of Inherent Managerial Policy.--
15 Employers shall not be required to bargain over matters of
16 inherent managerial policy. Those matters shall include, but
17 shall not be limited to, such areas of discretion or policy as
18 the functions and programs of the employer, standards of
19 services, its overall budget, utilization of technology, the
20 organizational structure and selection and direction of
21 personnel. Employers, however, shall be required to meet and
22 discuss on policy matters affecting wages, hours and terms and
23 conditions of employment as well as the impact thereon upon
24 request by employe representatives.

25 (c) Collective Bargaining Impasse.

26 Section 1121-A. Submission to Mediation.--(a) If, after a
27 reasonable period of negotiation, a dispute or impasse exists
28 between the representatives of the employer and the employe
29 organization, the parties may voluntarily submit to mediation,
30 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).

11 Section 1122-A. Fact-finding Panels.--(a) (1) Once
12 mediation has commenced, it shall continue for so long as the
13 parties have not reached an agreement. If, however, an agreement
14 has not been reached within forty-five (45) days after mediation
15 has commenced or in no event later than eighty-one (81) days
16 prior to June 30 or December 31, whichever is the end of the
17 school entity's fiscal year, the Bureau of Mediation shall
18 notify the board of the parties' failure to reach an agreement
19 and of whether either party has requested the appointment of a
20 fact-finding panel.

21 (2) No later than eighty-one (81) days prior to June 30 or
22 December 31, whichever is the end of the school entity's fiscal
23 year, either party may request the board to appoint a fact-
24 finding panel. Upon receiving such request, the board shall
25 appoint a fact-finding panel which may consist of either one (1)
26 or three (3) members. The panel so designated or selected shall
27 hold hearings and take oral or written testimony and shall have
28 subpoena power. If, during this time, the parties have not
29 reached an independent agreement, the panel shall make findings
30 of fact and recommendations. The panel shall not find or

1 recommend that the parties accept or adopt an impasse procedure.

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

7 (4) The board may implement fact-finding and appoint a panel
8 as provided for in clause (2) at a time other than that mandated
9 in this section, except that fact-finding may not be implemented
10 between the period of notice to strike and the conclusion of a
11 strike or during final best-offer arbitration. If the board
12 chooses not to implement fact-finding prior to a strike, the
13 board shall issue a report to the parties listing the reasons
14 for not implementing fact-finding if either party requests one.

15 (b) The findings of fact and recommendations shall be sent
16 by registered mail to the board and to both parties not more
17 than forty (40) days after the Bureau of Mediation has notified
18 the board as provided in subsection (a).

19 (c) Not more than ten (10) days after the findings and
20 recommendations shall have been sent, the parties shall notify
21 the board and each other whether or not they accept the
22 recommendations of the fact-finding panel, and, if they do not,
23 the panel shall publicize its findings of fact and
24 recommendations.

25 (d) Not less than five (5) days nor more than ten (10) days
26 after the publication of the findings of fact and
27 recommendations, the parties shall again inform the board and
28 each other whether or not they will accept the recommendations
29 of the fact-finding panel.

30 (e) The board shall establish, after consulting

1 representatives of employe organizations and of employers,
2 panels of qualified persons broadly representative of the public
3 to serve as members of fact-finding panels. The board shall,
4 within sixty (60) days of the effective date of this act,
5 increase the number of available panels of qualified persons to
6 serve as members of fact-finding panels to meet the expanded
7 role of fact-finding as provided for in this act.

8 (f) The Commonwealth shall pay one-half of the cost of the
9 fact-finding panel; the remaining one-half of the cost shall be
10 divided equally between the parties. The board shall establish
11 rules and regulations under which panels shall operate,
12 including, but not limited to, compensation for panel members.

13 Section 1123-A. Negotiated Final Best-Offer Arbitration.--

14 (a) The parties to a collective bargaining agreement involving
15 public school employes shall be required to bargain upon the
16 issue of acceptance and adoption of one of the following
17 approved impasse procedures, with the proviso that such an
18 obligation does not compel either party to agree to a proposal
19 or require making a concession:

20 (1) Arbitration under which the award is confined to a
21 choice among one of the following single packages:

22 (i) the last offer of the representative of the employer;
23 (ii) the last offer of the representative of the employes;
24 or

25 (iii) the fact-finder's recommendations, should there be a
26 fact-finder's report.

27 (2) Arbitration under which the award is confined to a
28 choice among one of the following on an issue-by-issue basis:

29 (i) the last offer of the representative of the employer;
30 (ii) the last offer of the representative of the employes;

1 or

2 (iii) the fact-finder's recommendations, should there be a
3 fact-finder's report.

4 (3) Arbitration under which the award is confined to a
5 choice among one of the following on the basis of economic and
6 noneconomic issues as separate units:

7 (i) the last offer of the representative of the employer;

8 (ii) the last offer of the representative of the employes;

9 or

10 (iii) the fact-finder's recommendations, should there be a
11 fact-finder's report.

12 (b) As used in this section, "economic issues" shall mean
13 wages, hours, salary, fringe benefits or any form of monetary
14 compensation for services rendered.

15 Section 1124-A. Method of Selection of Arbitrators.--The
16 board of arbitration shall be composed of three (3) members.
17 Arbitrators as referred to in this article shall be selected in
18 the following manner:

19 (1) Each party shall select one (1) member of the panel
20 within five (5) days of the parties' submission to final best-
21 offer arbitration. Each arbitrator shall be knowledgeable in the
22 school-related fields of budget, finance, educational programs
23 and taxation.

24 (2) The third arbitrator shall be selected from a list of
25 seven (7) arbitrators furnished by the American Arbitration
26 Association within five (5) days of the publication of the list.
27 Each of the seven (7) arbitrators shall be a resident of this
28 Commonwealth and knowledgeable in the areas necessary to
29 effectively make a determination. Each party shall alternately
30 strike one name until one shall remain. The employer shall

1 strike the first name. The person so remaining shall be the
2 third member and chairman.

3 (3) Payment of arbitrators shall be as follows:

4 (i) For voluntary arbitration, each party shall pay the cost
5 of the arbitrator selected by it under clause (1) of this
6 section. The cost of the third arbitrator shall be divided
7 equally between the parties.

8 (ii) For mandatory arbitration, the Commonwealth shall pay
9 one-half of the cost of the arbitrators; the remaining one-half
10 of the cost shall be divided equally between the parties.

11 Section 1125-A. Final Best-Offer Arbitration.--(a) At any
12 time prior to mandated final best-offer arbitration, either the
13 employer or the employe organization may request final best-
14 offer arbitration unless fact-finding has been initiated as
15 provided in section 1122-A. If fact-finding has been initiated,
16 the parties shall complete fact-finding before requesting final
17 best-offer arbitration. If either party requests final best-
18 offer arbitration, the requesting party shall notify the Bureau
19 of Mediation, the board and the opposing party in writing. The
20 opposing party shall, within ten (10) days of the notification
21 by the requesting party, notify the requesting party in writing
22 of its agreement or refusal to submit to final best-offer
23 arbitration. No strikes or lockouts shall occur during this ten
24 (10) day period or until the requesting party is notified by the
25 opposing party that they refuse to submit to final best-offer
26 arbitration. Arbitration provided for in this subsection shall
27 only occur if both parties agree to submit to final best-offer
28 arbitration.

29 (b) If a strike by employes or a lockout by an employer will
30 prevent the school entity from providing the period of

1 instruction required by section 1501 by the later of:

2 (1) June 15; or

3 (2) the last day of the school entity's scheduled school
4 year;

5 the parties shall submit to mandated final best-offer
6 arbitration consistent with the arbitration option negotiated. A
7 return to work for the purpose of submitting to final best-offer
8 arbitration shall not be considered a unilateral return to work.

9 (c) If the parties are unable to agree on the adoption of
10 one of the approved impasse procedures under section 1123-A, the
11 mediator appointed pursuant to section 1121-A shall select the
12 procedure.

13 (d) Within ten (10) days of submission to final best-offer
14 arbitration, the parties shall submit to the arbitrators their
15 final best contract offer with certification that the offer was
16 delivered to the opposing party, together with documentation
17 supporting the reasonableness of their offer. This documentation
18 shall include, but not be limited to, the following:

19 (1) The public interest.

20 (2) The interest and welfare of the employe organization.

21 (3) The financial capability of the school entity.

22 (4) The results of negotiations between the parties prior to
23 submission of last best contract offers.

24 (5) Changes in the cost of living.

25 (6) The existing terms and conditions of employment of the
26 employe organization members and those of similar groups.

27 (7) Such other documentation as the arbitration panel shall
28 deem relevant.

29 (e) Arbitration shall be limited to unresolved issues.

30 Unresolved issues shall mean those issues not agreed to in

1 writing prior to the start of arbitration.

2 (f) The parties may mutually agree to submit to final best-
3 offer arbitration at any time except during fact-finding or
4 during mandated final best-offer arbitration.

5 (g) Upon submission to the arbitrator of both parties' final
6 best offers under subsection (a) or (b), the employer shall
7 post, within the time limits described in subsection (d), the
8 final best contract offers in the school entity's main office
9 for the purpose of soliciting public comments thereon. Copies of
10 both parties' final best offers shall be available from the
11 school entity's main office. The cost of copies shall be
12 established by the school entity and shall be paid by the
13 requestor.

14 (h) The public comment period shall close within ten (10)
15 days of the first day of posting. All public comments shall be
16 directed to the arbitrators for consideration who shall provide
17 them on request to the employer and to the employees'
18 organization.

19 (i) Within ten (10) days of the selection of the third
20 arbitrator of the arbitration panel, the arbitrators shall begin
21 hearings at which they will hear arguments from representatives
22 of the employer and of the employees in support of their
23 respective last best contract offers under subsection (a) or
24 (b). At least five (5) days prior to the hearing, a written
25 notice of the date, time and place of such hearing shall be sent
26 to the representatives of both the employer and employees which
27 are parties to the dispute. This written notice shall also be
28 sent to the fiscal authority having budgetary responsibility or
29 charged with making appropriations for the employer, and a
30 representative designated by such body shall be heard at the

1 hearing upon request of such body or of the employer as part of
2 the presentation of the employer.

3 (j) Not later than twenty (20) days after the hearing
4 pursuant to subsection (i), the arbitrators shall:

5 (1) examine each item of dispute;

6 (2) make a determination in writing consistent with the
7 arbitration option agreed to by the parties; and

8 (3) forward a copy of the written determination to both
9 parties involved in the dispute and to the board.

10 (k) The determination of the majority of the arbitrators
11 reached as provided under either subsection (a) or (b) shall be
12 final and binding upon the employer, employes and employe
13 organization involved and constitutes a mandate to the school
14 entity to take whatever action necessary to carry out the
15 determination, provided that within ten (10) days of the receipt
16 of the determination the employe organization or the employer
17 does not consider and reject the determination at a properly
18 convened special or regular meeting. This determination
19 includes, but is not limited to, a determination which requires
20 a legislative enactment by the employer prior to or as a
21 condition for its implementation, including, without limitation,
22 the levy and imposition of taxes.

23 (l) No appeal challenging the determination reached as
24 provided under subsection (a) or (b) shall be allowed to any
25 court unless the award resulted from fraud, corruption or wilful
26 misconduct of the arbitrators. If a court determines that this
27 has occurred, it shall declare the award null and void. An
28 appeal of the award shall be made to the court of common pleas
29 of the judicial district encompassing the respective school
30 district.

1 (m) If the employer or the employe organization rejects the
2 determination of the majority of the arbitrators:

3 (1) The employe organization may initiate a legal strike or
4 resume a legal strike initiated prior to submission to final
5 best-offer arbitration.

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

8 (3) The employer may initiate a legal lockout or resume a
9 legal lockout initiated prior to submission to final best-offer
10 arbitration.

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

14 Section 1127-A. Exception.--Any school district of the first
15 class with an appointed school board and the public employes of
16 that school district as defined in the act of July 23, 1970
17 (P.L.563, No.195), known as the "Public Employe Relations Act,"
18 shall comply with and be subject to the binding arbitration
19 provisions of the "Public Employe Relations Act" and shall not
20 be subject to the provisions of section 1123-A, 1124-A or 1125-
21 A.

22 (d) Strikes and Lockouts.]

23 Section 2. Section 1131-A of the act, amended July 5, 2012
24 (P.L.965, No.105), is repealed:

25 [Section 1131-A. Strikes Prohibited in Certain
26 Circumstances.--(a) One year after a contract impasse, the
27 Secretary of Education may request a public hearing in the
28 school district of impasse. The public hearing process shall
29 follow the following requirements:

30 (1) The hearing shall include testimony from the school

1 board of the district, school district administration, the
2 employe organization and any additional party requested by the
3 Secretary of Education.

4 (2) The public shall have thirty (30) days to submit written
5 testimony. Testimony may be received from experts commenting on
6 the social, emotional and educational well-being of the students
7 in the school district.

8 (3) Within ninety (90) days following the public hearing,
9 the Secretary of Education shall issue a report on
10 recommendations regarding the impasse.

11 (b) A strike must cease where the parties request fact-
12 finding for the duration of the fact-finding. A strike must end
13 where the parties agree to arbitration. Strikes are prohibited:

14 (1) During the period of up to ten (10) days provided for
15 under section 1125-A(a).

16 (2) During final best-offer arbitration, including the
17 period of up to ten (10) days after receipt of the determination
18 of the arbitrators during which the governing body of the school
19 entity may consider the determination.

20 (3) When the arbitrators' determination becomes final and
21 binding.]

22 Section 3. Sections 1132-A, subdivision (e) heading,
23 sections 1151-A and 1152-A, subdivision (f) heading, section
24 1161-A, subdivision (g) heading and sections 1171-A and 1172-A
25 of the act, added July 9, 1992 (P.L.403, No.88), are repealed:

26 [Section 1132-A. Lockouts Prohibited in Certain
27 Circumstances.--A lockout must cease where the parties request
28 fact-finding for the duration of the fact-finding. A lockout
29 must end where the parties agree to arbitration. Lockouts are
30 prohibited:

1 (1) During the period of up to ten (10) days provided for
2 under section 1125-A(a).

3 (2) During final best-offer arbitration, including the
4 period of up to ten (10) days after receipt of the determination
5 of the arbitrators during which the employer may consider the
6 determination.

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

9 (e) Collective Bargaining Agreement.

10 Section 1151-A. Agreement and Enforcement.--Any
11 determination of the arbitrators to be implemented under this
12 article shall be memorialized as a written agreement by and
13 between the school entity and the employe organization to be
14 signed and sealed by their duly appointed officers and agents as
15 provided by law. The executed agreement shall be enforceable by
16 each party in the manner as provided by law, including without
17 limitation and in derogation to the mandatory arbitration of
18 disputes or grievances under the act of July 23, 1970 (P.L.563,
19 No.195), known as the "Public Employe Relations Act." In the
20 event that a school entity or an employe organization refuses to
21 execute a written agreement under this section, the employe
22 organization or the school entity may institute a cause of
23 action in the court of common pleas to compel compliance with
24 the provision of this section requiring a written agreement and,
25 in the appropriate case, specific performance of the
26 determination.

27 Section 1152-A. Existing Agreements; Provisions Inconsistent
28 with Article.--Any provisions of any collective bargaining
29 agreement in existence on the effective date of this article
30 which are inconsistent with any provision of this article, but

1 not otherwise illegal, shall continue valid until the expiration
2 of such contract. The procedure for entering into any new
3 collective bargaining agreement, however, shall be governed by
4 this article, where applicable, upon the effective date of this
5 article.

6 (f) Secretary of Education.

7 Section 1161-A. Injunctive Relief.--When an employe
8 organization is on strike for an extended period that would not
9 permit the school entity to provide the period of instruction
10 required by section 1501 by June 30, the Secretary of Education
11 may initiate, in the appropriate county court of common pleas,
12 appropriate injunctive proceedings providing for the required
13 period of instruction.

14 (g) Prohibitions.

15 Section 1171-A. Selective Strikes.--The work stoppage
16 practice known as "selective strikes" shall be considered an
17 illegal strike. Any strike which does not comply with the
18 definition of "strike" contained in this article shall be
19 considered a selective strike.

20 Section 1172-A. Utilization of Strike Breakers.--(a) Except
21 as provided in subsection (b), during a legal strike, as defined
22 by this article, the school entity, as defined by this article,
23 shall not utilize persons other than those employes who have
24 been actively employed by the school entity at any time during
25 the previous twelve (12) months.

26 (b) A school entity may utilize persons other than those
27 employes who have been actively employed by the school entity at
28 any time during the previous twelve (12) months:

29 (1) when the employe organization or employer rejects the
30 determination of the majority of the arbitrators; and

1 (2) when a legal strike will prevent the completion of the
2 period of instruction required by section 1501 by the later of:
3 (i) June 15; or
4 (ii) the last day of the school district's scheduled school
5 year.]

6 Section 4. The act is amended by adding an article to read:

7 ARTICLE XI-C

8 STRIKE-FREE EDUCATION

9 Section 1101-C. Short title.

10 This article shall be known and may be cited as the Strike-
11 Free Education Act.

12 Section 1102-C. Public policy relating to strikes.

13 The Constitution of Pennsylvania mandates the General
14 Assembly to provide for the maintenance and support of a
15 thorough and efficient system of public education to serve the
16 needs of this Commonwealth. Existing law requires 180 days of
17 instruction each year as established by the school calendar, and
18 permits strikes to occur multiple times in the school year and
19 multiple-year strikes. Days lost or rescheduled are made up as
20 much as possible by canceling scheduled vacation days and
21 holidays and extending the school year, resulting in severe
22 disruption of the educational process and family life.
23 Guarantees for the protection of public health, safety and
24 welfare are not kept inviolate when days are lost or
25 rescheduled. Therefore, it is the intent of the General Assembly
26 that public school employee strikes shall be prohibited.

27 Section 1103-C. Definitions.

28 The following words and phrases when used in this article
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Board." The Pennsylvania Labor Relations Board.

2 "Bureau." The Bureau of Mediation within the Department of
3 Labor and Industry of the Commonwealth.

4 "Economic issues." Wages, hours, salary, fringe benefits or
5 any form of monetary compensation for services rendered.

6 "Employee." A public school employee who bargains
7 collectively with a public school entity. The term does not
8 include:

9 (1) An employee who is covered or presently subject to
10 coverage under the act of June 1, 1937 (P.L.1168, No.294),
11 known as the Pennsylvania Labor Relations Act, or the
12 National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151
13 et seq.).

14 (2) A management-level employee of any other school
15 district.

16 "Employee organization." A public school employee
17 organization of any kind, or an agency or employee
18 representative committee or plan in which membership is limited
19 to, or includes, public school employees, and which exists for
20 the purpose, in whole or in part, of dealing with public school
21 employers concerning grievances, public school employee-public
22 school employer disputes, wages, rates of pay, hours of
23 employment or conditions of work. The term does not include an
24 organization that practices discrimination in membership because
25 of race, color, creed, national origin or political affiliation.

26 "Employer." A public school entity. The term does not
27 include an employer that is covered or presently subject to
28 coverage under the act of June 1, 1937 (P.L.1168, No.294), known
29 as the Pennsylvania Labor Relations Act, or the National Labor
30 Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.).

1 "Good faith." Acting with openness, fairness, mutuality of
2 conduct and cooperation with the intent of identifying a
3 mutually agreeable solution.

4 "Lockout." The cessation of furnishing of work to employees
5 or withholding work from employees for the purpose of inducing,
6 influencing or coercing a change in the conditions or
7 compensation or the rights, privileges or obligations of
8 employment.

9 "Mediator." A person employed or appointed by the Bureau of
10 Mediation to mediate an impasse.

11 "Parties." An employer and the employee organization that
12 represents the employee of the employer.

13 "Public transparency meeting." Special session at which the
14 parties shall make their respective negotiating teams available
15 to the public to take comments and answer questions. The session
16 shall be separate from regular school board meetings.

17 "Representative." An individual acting for employers or
18 employees. The term includes an employee organization.

19 "School entity." A public school district, intermediate unit
20 or area vocational-technical school.

21 "Strike." Concerted effort in failing to report for duty,
22 the willful absence from one's position, the stoppage of work,
23 slowdown or the abstinence, in whole or in part, from the full,
24 faithful and proper performance of the duties of employment for
25 the purpose of inducing, influencing or coercing a change in the
26 conditions or compensation or the rights, privileges or
27 obligations of employment.

28 "Work stoppage." A strike or lockout.

29 Section 1104-C. Mutual obligation.

30 Collective bargaining is the performance of the mutual

1 obligation of an employer, or its representative, and the
2 representative of its employees to meet at reasonable times and
3 confer in good faith with respect to wages, hours and other
4 terms and conditions of employment or the negotiation of an
5 agreement or any question arising under the agreement and the
6 execution of a written contract incorporating any agreement
7 reached. The obligation does not compel either party to agree to
8 a proposal or require the making of a concession.

9 Section 1105-C. Matters of inherent managerial policy.

10 (a) General rule.--An employer shall not be required to
11 bargain over matters of inherent managerial policy. Those
12 matters shall include, but shall not be limited to, such areas
13 of discretion or policy as:

14 (1) The functions and programs of the employer.

15 (2) Standards of services.

16 (3) Overall budget of the employer.

17 (4) Utilization of technology.

18 (5) The organizational structure and selection and
19 direction of personnel.

20 (b) Exception.--An employer shall meet and discuss policy
21 matters affecting economic issues as well as their impact on
22 employees upon request by an employee representative.

23 Section 1106-C. Obligation of employer to public.

24 The employer shall make publicly available a report, for copy
25 and inspection, detailing the tentative agreement reached
26 between the parties, at the employer's administrative offices
27 and on the Internet website of the employer at least five
28 business days prior to voting on a collective bargaining
29 agreement.

30 Section 1107-C. Negotiation between parties.

1 The parties shall negotiate a collective bargaining agreement
2 as follows:

3 (1) The parties shall commence bargaining a successor
4 agreement no later than September 30 of the year preceding
5 when the collective bargaining agreement shall by its terms
6 expire.

7 (2) The employer shall confirm to the public through
8 regularly scheduled board meetings that the negotiations
9 commenced as required.

10 (3) The parties shall negotiate independently and shall,
11 at all times, negotiate in good faith.

12 (4) Within 30 days of negotiations commencing, each
13 party shall provide a written settlement proposal to the
14 other party. Each party shall respond to the other party's
15 proposal, in writing, within 30 days of receipt of the
16 proposal.

17 (5) Both parties shall submit to mediation by the bureau
18 by January 15 if no agreement is reached.

19 Section 1108-C. Mediation.

20 If the assistance of a mediator is required under section
21 1107-C, the following procedure shall apply:

22 (1) The parties shall immediately call on the service of
23 the bureau. The bureau shall appoint a mediator within two
24 business days.

25 (2) The parties shall continue to negotiate in good
26 faith throughout the mediation process. The proceedings with
27 the mediator shall not be open to the public.

28 (3) The parties may agree to meet independently at any
29 time during the mediation process.

30 (4) Mediation shall continue for so long as the parties

1 have not reached an agreement.

2 (5) If no agreement is reached by February 15, the
3 parties shall submit to fact-finding under section 1109-C.

4 Section 1109-C. Fact-finding.

5 Fact-finding shall proceed as follows:

6 (1) Within three business days, the board shall appoint
7 one or three fact-finders.

8 (2) Within five additional business days, each party
9 shall submit its latest proposal to the fact-finders and
10 simultaneously to the other party. Both parties' proposals
11 shall be made public through posting at the employer's
12 administrative offices and on the Internet website of the
13 employer.

14 (3) The appointed fact-finders shall hold hearings,
15 secure oral or written testimony and shall have subpoena
16 power. The panel shall solicit public input, but the hearings
17 shall not be open to the public. If, during this phase, the
18 parties fail to reach an independent agreement, the panel
19 shall make findings of fact and recommendations.

20 (4) The findings of fact and recommendations shall be
21 sent by registered mail to the board and to both parties not
22 more than 40 days after the board has notified the fact-
23 finders of their appointment, and shall be made publicly
24 available at the employer's administrative offices, and the
25 Internet website of the employer, until such time as a new
26 agreement is reached.

27 (5) The parties shall decide by April 15 whether to
28 accept the recommendation of the fact-finders or to submit to
29 nonbinding arbitration under section 1110-C.

30 (6) The costs of fact-finding shall be shared equally by

1 the parties or in such proportion as the fact-finders
2 determine.

3 Section 1110-C. Nonbinding arbitration.

4 If either party rejects the recommendation of the fact-
5 finders, the parties shall proceed immediately to nonbinding
6 arbitration. The parties may either submit their dispute to a
7 mutually agreeable single arbitrator or an arbitration panel
8 composed of three persons. A three-person arbitration panel
9 shall be selected in the following manner:

10 (1) Each party shall select one member of the panel
11 within two business days. Each arbitrator must be
12 knowledgeable in the school-related fields of budget,
13 finance, educational programs and taxation.

14 (2) The third arbitrator shall be selected from a list
15 of seven arbitrators furnished by the American Arbitration
16 Association within three business days of the publication of
17 the list. Each of the seven arbitrators must be a resident of
18 this Commonwealth and knowledgeable in the areas necessary to
19 effectively make a determination. Beginning with the
20 employer, each party shall alternately strike one name until
21 one shall remain. The person remaining shall be the third
22 panel member and chairperson.

23 (3) The parties shall submit their last best offer to
24 the panel within two business days of panel selection. The
25 last best offer shall also be submitted to the other party
26 and be posted publicly at the employer's administrative
27 offices and on the Internet website of the employer, where it
28 shall remain until such time as a new agreement is reached.

29 (4) All information, data, analyses and recommendations
30 from the fact-finding process shall be provided to the panel.

1 The employer shall provide guidance to the arbitrator
2 regarding fiscal constraints in accordance with any allowable
3 tax increases. The public shall be given an opportunity to
4 submit comments to the arbitration panel.

5 (5) The panel shall issue a recommendation by May 15.
6 The recommendation shall be nonbinding on the parties.

7 (6) The recommendation shall be by selection of one
8 proposal in its entirety.

9 (7) The panel shall consider the following criteria in
10 making its recommendation:

11 (i) The interest and welfare of the public.

12 (ii) The financial ability of the employer to fund
13 the costs associated with any proposed agreement.

14 (iii) Comparison of wages, hours and conditions of
15 employment of the employees involved in the arbitration
16 proceeding with the wages, hours and conditions of
17 employment of other employees performing similar services
18 or requiring similar skills under similar working
19 conditions and with other employees generally in public
20 and private employment in comparable communities.

21 (8) Within two business days of receiving the
22 arbitration recommendation, the employer shall make the
23 recommendation publicly available at the employer's
24 administrative offices and on the Internet website of the
25 employer, where it shall remain until such time as a new
26 agreement is reached.

27 (9) (i) Each party shall pay the cost of the arbitrator
28 selected by it under paragraph (1). The cost of the
29 third-party arbitrator shall be divided equally among the
30 parties or in such proportion as the chairperson

1 determines.

2 (ii) The Commonwealth shall not be responsible for
3 the cost of arbitration under this section.

4 Section 1111-C. Mandatory vote.

5 (a) Employer public meeting and vote.--The employer shall
6 hold a public meeting and not later than June 15 following the
7 public posting of the nonbinding recommendation made under
8 section 1110-C(5), to solicit public input on the recommendation
9 and to vote for the approval or disapproval of the
10 recommendation of the panel.

11 (b) Employee vote.--The employee organization shall provide
12 the employees with an opportunity to vote for approval or
13 disapproval of the recommendation of the panel prior to June 15.

14 Section 1112-C. Public transparency meeting.

15 If no agreement has been reached by June 16, the following
16 shall occur:

17 (1) The parties shall arrange a public transparency
18 meeting to take place before June 30 at a time convenient to
19 the public if the meeting occurs on a business day.

20 (2) A suitably sized facility shall be chosen as the
21 site of the public transparency meeting with accommodations
22 made for media if necessary.

23 (3) Both parties shall be required to present their
24 latest proposal and the reasons for the lack of an agreement,
25 each being afforded equal time, and both parties shall be
26 required to answer questions from the public.

27 Section 1113-C. Post school year negotiations.

28 If the parties have not reached a new agreement by June 30,
29 the following shall apply:

30 (1) Until such time as a new agreement is reached, the

1 parties shall conduct at least four separate negotiating
2 sessions per month.

3 (2) Every four weeks the employer shall make publicly
4 available, for copy and inspection, a substantive update on
5 the continuing negotiations, which specifically includes the
6 current outstanding points of contention, at the employer's
7 administrative offices and on the Internet website of the
8 employer.

9 (3) The parties shall conduct good faith negotiations at
10 all times.

11 (4) If no agreement is reached by the expiration of the
12 contract, it shall continue month-to-month under the same
13 terms and conditions.

14 (5) Any new agreement may not contain any retroactivity
15 provisions.

16 Section 1114-C. Strikes and lockouts prohibited.

17 (a) Prohibited conduct.--

18 (1) No public employee or employee organization may
19 incite a strike or participate in a strike or similar
20 interruption of school operations.

21 (2) No employer may conduct a lockout or similar
22 interruption of school operations.

23 (3) Any strike, lockout or interruption of school
24 operations prohibited by this section shall constitute an
25 actionable breach of duty to members of the public.

26 (b) Conduct during an unlawful work stoppage.--

27 (1) An employer may hire substitute teachers for the
28 duration of an unlawful strike by its employees.

29 (2) The parties shall allow for safe and unhindered
30 access to school facilities for all school employees not

1 participating in an unlawful strike, including teachers and
2 substitutes.

3 (3) The use of substitutes during an unlawful lockout is
4 prohibited.

5 Section 1115-C. Determining violations and imposing penalties.

6 (a) Allegations by employer.--If an employer alleges, on the
7 basis of any investigation and affidavits as he may deem
8 appropriate, that there has been a strike by one or more
9 employees in violation of section 1114-C(a)(1), the employer
10 shall notify the board of the names of the employees allegedly
11 engaged in a strike and the full or partial days of the alleged
12 strike, within 60 days of the completion of the alleged strike.

13 (b) Allegations by employee or employee organization.--If an
14 employee or employee organization alleges that there has been a
15 lockout by an employer in violation of section 1114-C(a)(2), the
16 employee or employee organization shall notify the board of the
17 names of those individuals allegedly responsible for a lockout
18 and the full or partial days of the alleged lockout within 60
19 days of the completion of the alleged lockout.

20 (c) Hearing.--Within 60 days after receipt of a notice made
21 pursuant to subsection (a) or (b), the three board members shall
22 conduct a hearing to determine if there has been a violation.
23 Those individuals alleged to have committed a violation shall be
24 required to attend the hearing and shall be permitted to testify
25 and have legal representation. Members of the public shall be
26 permitted to testify at this hearing or submit evidence, at the
27 discretion of the board.

28 (d) Violation by employee inciting a strike.--If, after a
29 hearing under subsection (c), a majority of the board finds that
30 an employee incited an unlawful strike in violation of section

1 1114-C(a)(1), that employee shall be subject to a \$5,000 fine
2 per incident, payable to the employer. This finding shall
3 constitute a mandate to the employer to withhold the fine from
4 the paychecks of the employee in amounts prorated over the
5 remainder of the school year in such a way as to have collected
6 the full amount of the fine by the end of the school year.

7 (e) Violation by employee participating in a strike.--If,
8 after a hearing under subsection (c), a majority of the board
9 finds that an employee participated in an unlawful strike in
10 violation of section 1114-C(a)(1), then each employee found to
11 be in violation shall be fined a portion of the employee's
12 salary equal to twice the employee's daily rate of pay for each
13 day of strike, or part thereof. This finding shall constitute a
14 mandate to the employer to withhold the fine from the paychecks
15 of the employee in amounts prorated over the remainder of the
16 school year in such a way as to have collected the full amount
17 of the fine by the end of the school year. This penalty may not
18 be waived by the employer or otherwise recovered by the
19 employee. In addition, the employee may be subject to removal or
20 other disciplinary action provided by law for misconduct.

21 (f) Violation by employee organization.--If, after a hearing
22 under subsection (c), a majority of the board finds that an
23 employee organization violated section 1114-C(a)(1), the
24 employee organization shall be prohibited from using a union
25 dues checkoff privilege for one year. This penalty may not be
26 waived by the employer or otherwise recovered by the employee
27 organization.

28 (g) Violations by employer.--If, after a hearing under
29 subsection (c), a majority of the board finds that an employer
30 instituted a lockout in violation of section 1114-C(a)(2), the

1 employer shall pay a fine to the employee organization in an
2 amount equal to the financial benefit derived from the lockout.

3 Section 1116-C. Time frame.

4 The time periods set forth in this article are mandatory and
5 shall not be construed to be directory.

6 Section 1117-C. Existing agreements.

7 This article shall not apply to any existing contract
8 negotiations that fall within the timelines established under
9 this article.

10 Section 1118-C. Enforcement.

11 The board, magisterial district courts and courts of common
12 pleas shall enforce the provisions of this article.

13 Section 5. This act shall take effect in 60 days.