

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2606 Session of 2018

INTRODUCED BY MADDEN, MEHAFFIE, J. McNEILL, WARREN, HARKINS, SCHLOSSBERG, D. MILLER, GAINNEY, KRUEGER-BRANEKY, TAI, PASHINSKI, BIZZARRO, FLYNN, SNYDER, CRUZ, THOMAS, READSHAW, DAVIS, P. COSTA, A. DAVIS, RAVENSTAHL, MARKOSEK, KORTZ, BOYLE, D. COSTA, MULLERY, GALLOWAY, HILL-EVANS, DALEY, FRANKEL, GOODMAN, DEAN, LONGIETTI, COMMITTA, DiGIROLAMO, STURLA, CARROLL, FREEMAN, McCARTER, NEILSON, YOUNGBLOOD, RABB, MATZIE, DONATUCCI, HANNA, ROEBUCK, DRISCOLL, KIRKLAND, McCLINTON, BRIGGS, MURT, DeLUCA, DeLISSIO, FITZGERALD, DERMODY, SCHWEYER, KAVULICH, CEPHAS, CALTAGIRONE, BARRAR, SIMS AND BRADFORD, SEPTEMBER 5, 2018

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, SEPTEMBER 5, 2018

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," in representation, providing
 14 for bargaining representative; and providing for new employe
 15 orientation and information.

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

18 Section 1. The act of July 23, 1970 (P.L.563, No.195), known
 19 as the Public Employe Relations Act, is amended by adding a
 20 section to read:

1 Section 608. (a) Notwithstanding any other provision of
2 this article, when an employe, group of employes or any employe
3 organization acting on their behalf files a petition alleging
4 that a majority of employes in a unit appropriate for collective
5 bargaining purposes wish to be represented by an individual or
6 employe organization for such purposes, the public employer
7 shall investigate the petition. If the employer finds that a
8 majority of the employes in a unit appropriate for bargaining
9 purposes have signed valid authorizations designating the
10 individual or employe organization specified in the petition as
11 their bargaining representative and that no other individual or
12 employe organization is currently certified or recognized as the
13 exclusive representative of any of the employes in the unit, the
14 employer shall certify the individual or employe organization as
15 the bargaining representative for that unit.

16 (b) The board shall develop guidelines and procedures for
17 the designation of a bargaining representative by employes under
18 subsection (a). The guidelines and procedures shall include:

19 (1) Model collective bargaining authorization language that
20 may be used for purposes of making the designations.

21 (2) Procedures to be used by public employers to establish
22 the validity of signed authorizations designating bargaining
23 representatives.

24 Section 2. The act is amended by adding an article to read:

25 ARTICLE VI-A

26 NEW EMPLOYEE ORIENTATION AND INFORMATION

27 Section 601-A. 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 "Bureau." The Bureau of Mediation within the Department of
2 Labor and Industry of the Commonwealth.

3 "Interest arbitration." A process in which an employer and
4 an exclusive representative submit a dispute concerning the
5 terms of access to new employee orientations for resolution to a
6 third-party arbitrator who is then authorized to approve either
7 parties' proposal in its entirety, approve a proposal using both
8 party's final proposals or to modify the proposals by the
9 parties.

10 "New employee orientation." The process for a newly hired
11 public employee, whether in person, online or through other
12 means or mediums, in which the employee is advised of their
13 employment status, rights, benefits, duties and responsibilities
14 or any other employment-related matters.

15 "Newly hired public employee." An employee, whether
16 permanent, temporary, full time, part time or seasonal, hired by
17 a public employer who has not received new employee orientation.
18 Section 602-A. Access to new employee orientations.

19 Each public employer shall provide the employee organization
20 access to its new employee orientations. The employee
21 organization shall receive no less than 10 days' notice in
22 advance of an orientation, except that a shorter notice may be
23 provided in a specific instance where there is an urgent need
24 critical to the employer's operations that was not reasonably
25 foreseeable. The structure, time and manner of employee
26 organization access shall be determined through mutual agreement
27 between the employer and the employee organization.

28 Section 603-A. Negotiations.

29 (a) Topics of negotiation.--Upon request of the employer or
30 employee organization, the parties shall negotiate regarding the

1 structure, time and manner of the access of the employee
2 organization to a new employee orientation. Failure to reach an
3 agreement on the structure, time and manner of the access shall
4 be subject to compulsory interest arbitration under this
5 section.

6 (b) Disputes.--

7 (1) (i) Except as provided in subparagraph (ii), when
8 negotiating access to a new employee orientation, if a
9 dispute is not resolved within 45 days after the first
10 meeting of the parties, or within 60 days after the
11 initial request to negotiate, whichever is first, either
12 party may make a demand for compulsory interest
13 arbitration, and if a demand is made, the procedure
14 prescribed by this subsection shall apply. The arbitrator
15 selection process under paragraph (2) shall commence no
16 later than 14 days prior to the end of the negotiation
17 period provided in this subsection. A party may not
18 submit a proposal to compulsory interest arbitration that
19 was not the parties' final proposal during the parties'
20 negotiations. In the case of a school district employer
21 whose administrative offices are closed during the
22 summer, the timeline on this subsection shall commence on
23 the first day that the district administrative office
24 reopens.

25 (ii) Notwithstanding subparagraph (i), the parties
26 may mutually agree to submit their dispute to compulsory
27 interest arbitration at any time.

28 (2) Except as provided in paragraph (4), the appointment
29 of an arbitrator for compulsory interest arbitration shall be
30 made by the bureau using the process to obtain a panel of

1 arbitrators. Within seven days of receipt of a request for a
2 panel, the bureau shall send the parties a list of seven
3 arbitrators selected from the bureau's roster. Within seven
4 days following the receipt of the list, the parties shall
5 make their selection. Unless the parties agree on an
6 alternate selection procedure, the parties shall
7 alternatively strike one name from the list provided until
8 only one name remains. A coin toss shall determine which
9 party shall strike the first name. In lieu of this process,
10 the parties may mutually select an individual to serve as the
11 arbitrator. A party that fails to participate in the
12 selection of an arbitrator within the prescribed period
13 waives its rights to strike names from the list. Compulsory
14 interest arbitration shall commence either on the
15 arbitrator's earliest available date or any other date to
16 which the parties agree and shall be completed within no less
17 than 30 days. The decision of the arbitrator shall be issued
18 within 10 days and shall be final and binding on the parties.
19 The decision shall provide the exclusive representative with
20 reasonable access to the new employee orientations. The
21 arbitrator shall consider, weigh and be guided by the
22 following criteria:

23 (i) The ability of the exclusive representative to
24 communicate with the public employees it represents.

25 (ii) The legal obligations of the exclusive
26 representative to the public employees.

27 (iii) Federal, State and local laws that are
28 applicable to the employer.

29 (iv) Stipulations of the parties.

30 (v) The interests and welfare of the public and the

1 financial condition of the public employer.

2 (vi) The structure, time and manner of access of an
3 exclusive representative to a new employee orientation by
4 comparable public employers, including the access
5 provisions in other memoranda of understanding or
6 collective bargaining agreements containing such
7 provisions.

8 (vii) Any other facts that are normally or
9 traditionally taken into consideration in establishing
10 the structure, time and manner of access of an exclusive
11 representative to a new employee orientation.

12 (3) The parties shall equally share all costs of
13 arbitration.

14 (4) If a municipality or county objects to the procedure
15 for appointment of an arbitrator under paragraph (2), that
16 municipality or county, within five days of a demand for
17 arbitration by the employee organization, may request that
18 the board appoint an administrative law judge or other
19 employee to serve as the arbitrator in lieu of an arbitrator
20 appointed by the bureau. The municipality or county shall pay
21 for the cost of the arbitrator. The board shall appoint the
22 arbitrator within five days of receiving the request. The
23 same procedures, criteria and timeline for arbitrations under
24 paragraph (2) shall apply.

25 (c) Existing agreements.--During the period between the
26 effective date of this section and the expiration of an existing
27 memorandum of understanding or collective bargaining agreement
28 between the parties, a request to meet and confer under
29 subsection (a) shall reopen the existing memorandum of
30 understanding or collective bargaining agreement solely for the

1 limited purpose of negotiating an agreement regarding access of
2 the employee organization to the new employee orientations.
3 Either party may elect to negotiate a side letter or similar
4 agreement in lieu of reopening the existing memorandum of
5 understanding or collective bargaining agreement. This
6 subsection does not abrogate existing agreements between public
7 employers and recognized employee organizations.

8 (d) Other requirements.--This section does not prohibit an
9 agreement between a public employer and an employee organization
10 that provides for new employee orientations that vary from the
11 requirements of this article. If such an agreement is
12 negotiated, the requirements of this article shall not apply to
13 the extent that they are inconsistent with the agreement. In the
14 absence of a mutual agreement regarding new employee
15 orientations, this article shall apply.

16 (e) Modification.--This section shall not modify the scope
17 of collective bargaining or representation under any applicable
18 employer-employee relations statute.

19 Section 604-A. Employee information.

20 (a) General rule.--The public employer shall provide the
21 employee organization with the name, job title, department, work
22 location, work, home and personal cellular telephone numbers and
23 personal email address on file with the employer, and home
24 address of any newly hired employee within 30 days of the date
25 of hire or by the first pay period of the month following hire.
26 The public employer shall also provide the employee organization
27 with a list of information for all employees in the collective
28 bargaining unit at least every 120 days unless more frequent or
29 more detailed lists are required by an agreement with the
30 employee organization. The information identified in this

1 section shall be provided to the employee organization
2 regardless of whether the newly hired public employee was
3 previously employed by the public employer and shall be
4 confidential. The public employer and employee organization
5 shall adhere to any confidentiality guidelines established by
6 the board.

7 (b) Timing.--This section does not preclude a public
8 employer and employee organization from agreeing to a different
9 time interval within which the public employer provides the
10 employee organization with the name, job title, department, work
11 location, work, home and personal cellular telephone numbers,
12 personal email addresses and home address of any newly hired
13 employee or member of the bargaining unit.

14 Section 3. This act shall take effect in 60 days.