

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1178 Session of 2019

INTRODUCED BY MADDEN, MEHAFFIE, DELLOSO, BARRAR, BIZZARRO, BOYLE, BRIGGS, BURGOS, CALTAGIRONE, CARROLL, CEPHAS, CIRESI, COMMITTA, DALEY, A. DAVIS, T. DAVIS, DAWKINS, DEASY, DERMODY, DIGIROLAMO, DONATUCCI, FIEDLER, FITZGERALD, FLYNN, FRANKEL, FREEMAN, GAINNEY, GOODMAN, HANBIDGE, HARKINS, HARRIS, HILL-EVANS, HOHENSTEIN, INNAMORATO, ISAACSON, KENYATTA, KIM, KINSEY, KORTZ, KOSIEROWSKI, KULIK, LONGIETTI, MALAGARI, MARKOSEK, McCARTER, McCLINTON, McNEILL, MERSKI, D. MILLER, MULLERY, MULLINS, NEILSON, O'MARA, OTTEN, PASHINSKI, RABB, RAVENSTAHL, READSHAW, ROZZI, SAINATO, SANCHEZ, SAPPEY, SCHLOSSBERG, SCHWEYER, SIMS, SNYDER, ULLMAN, VITALI, WARREN, WILLIAMS, YOUNGBLOOD, ZABEL, SAMUELSON AND KRUEGER, APRIL 10, 2019

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 10, 2019

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

1 section to read:

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

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

20 (1) Model collective bargaining authorization language that
21 may be used for the purpose of making a designation.

22 (2) Procedures to be used by a public employer to establish
23 the validity of signed authorizations designating a bargaining
24 representative.

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

26 ARTICLE VI-A

27 NEW EMPLOYEE ORIENTATION AND INFORMATION

28 Section 601-A. Definitions.

29 The following words and phrases when used in this article
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

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

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

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

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

29 Section 603-A. Negotiations.

30 (a) Topics of negotiation.--Upon request of the employer or

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

7 (b) Disputes.--

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

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

29 (2) Except as provided in paragraph (4), the appointment
30 of an arbitrator for compulsory interest arbitration shall be

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

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

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

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

30 (iv) Stipulations of the parties.

1 (v) The interests and welfare of the public and the
2 financial condition of the public employer.

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

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

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

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

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

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

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

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

20 Section 604-A. Employee information.

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

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

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

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