
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2748 Session of
2020

INTRODUCED BY ROWE, BERNSTINE, DIAMOND, ECKER, EVERETT, GLEIM,
GROVE, HERSHEY, JONES, KAIL, KLUNK, LEWIS, METCALFE, OWLETT,
ROEBUCK, ROTHMAN, RYAN, SCHEMEL AND ZIMMERMAN, AUGUST 6, 2020

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, AUGUST 6, 2020

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 definitions, further
14 providing for definitions; in employee rights, providing for
15 payments to employee organizations and resignation from
16 employee organization; in representation, further providing
17 for exclusive representation and providing for
18 recertification; in scope of bargaining, further providing
19 for membership dues deductions and maintenance of membership
20 and providing for collection of payments from nonmembers; and
21 making related repeals.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Section 301 of the act of July 23, 1970 (P.L.563,
25 No.195), known as the Public Employe Relations Act, is amended
26 by adding clauses to read:

27 Section 301. As used in this act:

1 * * *

2 (20) "Nonmember" means a public employe in a collective
3 bargaining unit who is not a member of the employe organization
4 that serves as the exclusive representative for the collective
5 bargaining unit.

6 (21) "Independent bargaining" or "to bargain independently"
7 means bargaining between a public employer and a public employe
8 with respect to rates of pay, wages, hours of employment,
9 adjustment of grievances or other terms and conditions of
10 employment without the intervention of an employe organization,
11 bargaining agent or exclusive bargaining representative. The
12 term shall not include:

13 (i) granting any greater or lesser rights or privileges to
14 public employes who have chosen to represent themselves in a
15 unit with an exclusive representative than those public employes
16 in a unit without an exclusive bargaining representative; or

17 (ii) granting any greater or lesser duties or obligations
18 for a public employer to public employes who have chosen to
19 represent themselves in a unit with an exclusive bargaining
20 representative than those duties or obligations the public
21 employer owes to public employes in a unit without an exclusive
22 bargaining representative.

23 (22) "Affirmative consent" means a knowing, voluntary and
24 explicit agreement by a public employe to financially support an
25 employe organization and to waive the employe's right or
26 privilege not to do so, in written form and signed by the public
27 employe.

28 (23) "Political contribution" means money appropriated for
29 any of the following:

30 (i) A contribution, as defined in section 1621 of the act of

1 June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania
2 Election Code."

3 (ii) An independent expenditure, as defined in section 1621
4 of the "Pennsylvania Election Code."

5 (iii) An expenditure, as defined in section 1621 of the
6 "Pennsylvania Election Code."

7 (iv) Lobbying, as defined in 65 Pa.C.S. § 13A03 (relating to
8 definitions).

9 (v) A voter registration drive.

10 (vi) A get-out-the-vote drive.

11 (vii) Any other electoral, political or legislative purpose.

12 Section 2. The act is amended by adding sections to read:

13 Section 402. (a) A public employer shall notify, in
14 writing, all public employes in a collective bargaining unit
15 that there is no statutory obligation by nonmembers to make any
16 payments to the employe organization that serves as the
17 nonmember's exclusive representative. The notice shall specify
18 the following:

19 (1) A payment may not be made to the employe organization
20 unless the employe affirmatively consents to make the payment.

21 (2) A payment to the employe organization shall not be
22 necessary to maintain employment.

23 (b) The notice required under subsection (a) shall be given
24 annually and may be given by mailing a letter by first class
25 mail to the address of the employe organization or other means
26 deemed appropriate by the board.

27 (c) Prior to the hiring of an applicant as a new public
28 employe, the public employer, when applicable, shall notify the
29 applicant of the following:

30 (1) Membership in the employe organization that serves as

1 the exclusive representative of the collective bargaining unit
2 is not a condition of employment with the public employer.

3 (2) The applicant may opt to be a nonmember by not giving
4 affirmative consent. As a nonmember, the applicant has no
5 statutory obligation to make a payment to the employe
6 organization.

7 Section 403. (a) No collective bargaining agreement entered
8 into on or after the effective date of this section may
9 establish conditions for when a public employe may join or
10 resign from an employe organization acting as the exclusive
11 representative of a unit.

12 (b) A public employe may resign from an employe organization
13 at any time.

14 (c) Resignation shall become effective thirty days after the
15 date of mailing a letter by first class mail to the address of
16 the employe organization or other means deemed appropriate by
17 the board.

18 (d) A stamped receipt from a United States Post Office or
19 other evidence deemed appropriate by the board shall constitute
20 proof of mailing.

21 Section 404. (a) No membership dues or any portion of
22 membership dues may be deducted from the wages of a public
23 employe, except on receipt by the public employer of the
24 affirmative consent of the employe within the previous twelve
25 months.

26 (b) Affirmative consent provided to public employers shall
27 include the following language:

28 I recognize that I have a First Amendment right to
29 associate. My rights provide that I am not compelled to
30 pay an employe organization as a condition of employment,

1 and I do not have to sign this waiver. However, I am
2 hereby choosing to associate with the herein named
3 employe organization and affirmatively consent to allow
4 my employer to deduct payments to such employe
5 organization until such time as I choose to revoke this
6 authorization.

7 (c) The provision under subsection (b) shall be written in
8 bold and in all caps and shall be in a font that is equal to or
9 larger than any other font found in the text of the form. The
10 waiver shall be contained in a separate document and shall not
11 be a part of a document that serves additional purposes or has
12 additional provisions.

13 (d) An employe labor organization may present a public
14 employe with an affirmative consent form on the commencement of
15 employment, but not more often than twice annually thereafter.
16 If any information related to the waiver or the potential
17 execution of the affirmative consent is provided to an employe
18 in any form, representatives of the employer and any relevant
19 union shall be given the equivalent ability to provide
20 information in the same format to the employe.

21 (e) No deadline or any other like requirement may be placed
22 on an employe for the potential execution of an affirmative
23 consent.

24 (f) The following is prohibited in a communication or action
25 that is in any manner related to the potential execution of an
26 affirmative consent:

27 (1) Requiring an employe to attend a meeting with the
28 purpose of influencing the decision of the employe to execute or
29 not execute the affirmative consent.

30 (2) Requesting an employe to announce the employe's decision

1 to execute or not to execute the affirmative consent at a
2 particular place or time.

3 (3) A communication by any means directed at an employe's
4 home.

5 (4) A communication directed in any manner, direct or
6 indirect, to a person other than the employe himself or herself
7 or other employes of the same employer.

8 (5) The promise or provision of an inducement or thing of
9 value, other than a description of membership benefits in the
10 union in question.

11 (6) The threat of negative action of any kind, including,
12 but not limited to, placement on a public list or exclusion from
13 a benefit, event or activity that is a part of the employe's
14 employment.

15 Section 3. Section 606 of the act is amended to read:

16 Section 606. (a) Representatives selected by public
17 employes in a unit appropriate for collective bargaining
18 purposes shall be the exclusive representative of all the
19 employes in such unit that have not chosen to independently
20 bargain to bargain on wages, hours, terms and conditions of
21 employment[: Provided, That any]. Any individual employe or a
22 group of employes shall have the right at any time to [present
23 grievances to their employer and to have them adjusted]
24 independently bargain without the intervention of the bargaining
25 representative [as long as the adjustment is not inconsistent
26 with the terms of a collective bargaining contract then in
27 effect: And, provided further, That the bargaining
28 representative has been given an opportunity to be present at
29 such adjustment].

30 (b) Public employes shall have the right to independently

1 bargain in the employees' relations with the public employer.

2 (c) No provision of an agreement between an employe
3 organization and a public employer or any other public policy
4 shall impose representation by the employe organization on
5 public employes who are not members of that organization and
6 have chosen to bargain independently. Nothing in a collective
7 bargaining agreement shall limit a public employe's ability to
8 negotiate with the employe's public employer or adjust the
9 employe's grievances directly with the employe's public
10 employer, nor shall a resolution of any such negotiation or
11 grievance be controlled or limited by the terms of a collective
12 bargaining agreement.

13 (d) There shall be not more than one exclusive bargaining
14 representative designated by the board pursuant to the
15 provisions of this act as the representative of public employes
16 in an appropriate collective bargaining unit.

17 (e) No provision of an agreement between an employe
18 organization and a public employer or any other public policy
19 shall impose wages or conditions of employment for members of an
20 employe organization that are linked or contingent on wages or
21 conditions of employment to public employes who are not members
22 of the employe organization.

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

24 Section 608. (a) The board shall conduct periodic
25 recertification elections using a secret ballot vote among the
26 public employes in a collective bargaining unit to determine if
27 the majority of the employes desire to continue representation.

28 (b) The board shall conduct recertification elections on
29 expiration of a collective bargaining agreement, but not less
30 than every three years.

1 (c) To meet the recertification requirement, continuation of
2 the employe organization's status as the representative shall be
3 avored in a secret ballot election conducted by the board by
4 more than fifty per cent of the public employes in the
5 collective bargaining unit.

6 (d) If public employes vote not to continue representation
7 under subsection (c), the current representative's duties,
8 including collection of dues, fees and grievance arbitration,
9 shall terminate and the collective bargaining agreement shall
10 remain in effect with respect to wages, hours and conditions of
11 employment.

12 (e) If public employes do not recertify the public employes'
13 current representative under subsection (c), public employes in
14 the unit may certify a new representative in accordance with
15 this section, provided public employes cannot certify a
16 representative affiliated with or substantially similar to the
17 decertified representative for two years following the date of
18 decertification.

19 (f) The board shall assess and collect a fee from each
20 representative participating in an election conducted under this
21 section for the purpose of paying for the election as follows:

22 (1) For a bargaining unit of one to one hundred members, a
23 fee of two hundred dollars (\$200).

24 (2) For a bargaining unit of one hundred one to two hundred
25 fifty members, a fee of three hundred fifty dollars (\$350).

26 (3) For a bargaining unit of two hundred fifty-one to five
27 hundred members, a fee of five hundred dollars (\$500).

28 (4) For a bargaining unit of five hundred one to one
29 thousand members, a fee of seven hundred fifty dollars (\$750).

30 (5) For a bargaining unit of one thousand one to three

1 thousand members, a fee of one thousand five hundred dollars
2 (\$1,500).

3 (6) For a bargaining unit of more than three thousand
4 members, a fee of two thousand dollars (\$2,000).

5 Section 5. Section 705 of the act is amended to read:

6 Section 705. [Membership dues deductions and maintenance of
7 membership are proper subjects of bargaining with the proviso
8 that as to the latter, the payment of dues and assessments while
9 members, may be the only requisite employment condition.] On or
10 after the effective date of section 705.1, maintenance of
11 membership shall not be a proper subject of bargaining, and no
12 collective bargaining agreement entered into on or after the
13 effective date of section 705.1 may contain the provision.

14 Section 6. The act is amended by adding sections to read:

15 Section 705.1. (a) Any collective bargaining agreement
16 entered into, renewed or extended on or after the effective date
17 of this section may not contain provisions requiring the
18 deduction of political contributions or membership dues
19 deductions from a public employe's wages, including, without
20 limitation, wages of public school employes covered by the act
21 of March 10, 1949 (P.L.30, No.14), known as the "Public School
22 Code of 1949."

23 (b) A public employer may not deduct political contributions
24 or membership dues from the wages of a public employe, including
25 public school employes covered by the "Public School Code of
26 1949," except as required by a valid collective bargaining
27 agreement entered into between a public employer and a
28 representative of its employes prior to the effective date of
29 this section.

30 (c) This section shall not apply to any of the following:

1 (1) Employees of a public employer who are not permitted to
2 strike under section 1001.

3 (2) Employees of a public employer who are subject to the act
4 of June 24, 1968 (P.L.237, No.111), referred to as the
5 "Policemen and Firemen Collective Bargaining Act."

6 Section 705.2. A public employer may not collect through a
7 wage deduction any form of payment from a nonmember to an
8 employe organization.

9 Section 7. Repeals are as follows:

10 (1) The General Assembly declares that the repeals under
11 paragraph (2) are necessary to effectuate the addition of
12 sections 301(20), 402 and 705.2 of the act.

13 (2) The following acts and parts of acts are repealed:

14 (i) Section 2215 of the act of April 9, 1929
15 (P.L.177, No.175), known as The Administrative Code of
16 1929.

17 (ii) The act of June 2, 1993 (P.L.45, No.15), known
18 as the Public Employee Fair Share Fee Law.

19 Section 8. This act shall take effect in 30 days.