

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 493

A bill to amend 1947 PA 336, entitled

"An act to prohibit strikes by certain public employees; to provide review from disciplinary action with respect thereto; to provide for the mediation of grievances and the holding of elections; to declare and protect the rights and privileges of public employees; and to prescribe means of enforcement and penalties for the violation of the provisions of this act,"

by amending section 15 (MCL 423.215), as amended by 2011 PA 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 15. (1) A public employer shall bargain collectively with
2 the representatives of its employees as described in section 11 and
3 may make and enter into collective bargaining agreements with those
4 representatives. Except as otherwise provided in this section, for
5 the purposes of this section, to bargain collectively is to perform
6 the mutual obligation of the employer and the representative of the
7 employees to meet at reasonable times and confer in good faith with

1 respect to wages, hours, and other terms and conditions of
2 employment, or to negotiate an agreement, or any question arising
3 under the agreement, and to execute a written contract, ordinance,
4 or resolution incorporating any agreement reached if requested by
5 either party, but this obligation does not compel either party to
6 agree to a proposal or make a concession.

7 (2) A public school employer has the responsibility,
8 authority, and right to manage and direct on behalf of the public
9 the operations and activities of the public schools under its
10 control.

11 (3) Collective bargaining between a public school employer and
12 a bargaining representative of its employees shall not include any
13 of the following subjects:

14 (a) Who is or will be the policyholder of an employee group
15 insurance benefit. This subdivision does not affect the duty to
16 bargain with respect to types and levels of benefits and coverages
17 for employee group insurance. A change or proposed change in a type
18 or to a level of benefit, policy specification, or coverage for
19 employee group insurance shall be bargained by the public school
20 employer and the bargaining representative before the change may
21 take effect.

22 (b) Establishment of the starting day for the school year and
23 of the amount of pupil contact time required to receive full state
24 school aid under section 1284 of the revised school code, 1976 PA
25 451, MCL 380.1284, and under section 101 of the state school aid
26 act of 1979, 1979 PA 94, MCL 388.1701.

27 (c) The composition of school improvement committees

1 established under section 1277 of the revised school code, 1976 PA
2 451, MCL 380.1277.

3 (d) The decision of whether or not to provide or allow
4 interdistrict or intradistrict open enrollment opportunity in a
5 school district or of which grade levels or schools in which to
6 allow such an open enrollment opportunity.

7 (e) The decision of whether or not to act as an authorizing
8 body to grant a contract to organize and operate 1 or more public
9 school academies under the revised school code, 1976 PA 451, MCL
10 380.1 to 380.1852.

11 (f) The decision of whether or not to contract with a third
12 party for 1 or more noninstructional support services; or the
13 procedures for obtaining the contract for noninstructional support
14 services other than bidding described in this subdivision; or the
15 identity of the third party; or the impact of the contract for
16 noninstructional support services on individual employees or the
17 bargaining unit. However, this subdivision applies only if the
18 bargaining unit that is providing the noninstructional support
19 services is given an opportunity to bid on the contract for the
20 noninstructional support services on an equal basis as other
21 bidders.

22 (g) The use of volunteers in providing services at its
23 schools.

24 (h) Decisions concerning use of experimental or pilot programs
25 and staffing of experimental or pilot programs and decisions
26 concerning use of technology to deliver educational programs and
27 services and staffing to provide the technology, or the impact of

1 these decisions on individual employees or the bargaining unit.

2 (i) Any compensation or additional work assignment intended to
3 reimburse an employee for or allow an employee to recover any
4 monetary penalty imposed under this act.

5 (J) ANY DECISION MADE BY THE PUBLIC SCHOOL EMPLOYER REGARDING
6 THE PLACEMENT OF TEACHERS, OR THE IMPACT OF THAT DECISION ON AN
7 INDIVIDUAL EMPLOYEE OR THE BARGAINING UNIT.

8 (K) DECISIONS ABOUT THE DEVELOPMENT, CONTENT, STANDARDS,
9 PROCEDURES, ADOPTION, AND IMPLEMENTATION OF THE PUBLIC SCHOOL
10 EMPLOYER'S POLICIES REGARDING PERSONNEL DECISIONS WHEN CONDUCTING A
11 STAFFING OR PROGRAM REDUCTION OR ANY OTHER PERSONNEL DETERMINATION
12 RESULTING IN THE ELIMINATION OF A POSITION, WHEN CONDUCTING A
13 RECALL FROM A STAFFING OR PROGRAM REDUCTION OR ANY OTHER PERSONNEL
14 DETERMINATION RESULTING IN THE ELIMINATION OF A POSITION, OR IN
15 HIRING AFTER A STAFFING OR PROGRAM REDUCTION OR ANY OTHER PERSONNEL
16 DETERMINATION RESULTING IN THE ELIMINATION OF A POSITION, AS
17 PROVIDED UNDER SECTION 1248 OF THE REVISED SCHOOL CODE, 1976 PA
18 451, MCL 380.1248, ANY DECISION MADE BY THE PUBLIC SCHOOL EMPLOYER
19 PURSUANT TO THOSE POLICIES, OR THE IMPACT OF THOSE DECISIONS ON AN
20 INDIVIDUAL EMPLOYEE OR THE BARGAINING UNIT.

21 (L) DECISIONS ABOUT THE DEVELOPMENT, CONTENT, STANDARDS,
22 PROCEDURES, ADOPTION, AND IMPLEMENTATION OF A PUBLIC SCHOOL
23 EMPLOYER'S PERFORMANCE EVALUATION SYSTEM ADOPTED UNDER SECTION 1249
24 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249, OR UNDER
25 1937 (EX SESS) PA 4, MCL 38.71 TO 38.191, DECISIONS CONCERNING THE
26 CONTENT OF A PERFORMANCE EVALUATION OF AN EMPLOYEE UNDER THOSE
27 PROVISIONS OF LAW, OR THE IMPACT OF THOSE DECISIONS ON AN

1 INDIVIDUAL EMPLOYEE OR THE BARGAINING UNIT.

2 (M) FOR PUBLIC EMPLOYEES WHOSE EMPLOYMENT IS REGULATED BY 1937
3 (EX SESS) PA 4, MCL 38.71 TO 38.191, DECISIONS ABOUT THE
4 DEVELOPMENT, CONTENT, STANDARDS, PROCEDURES, ADOPTION, AND
5 IMPLEMENTATION OF A POLICY REGARDING DISCHARGE OR DISCIPLINE OF AN
6 EMPLOYEE, DECISIONS CONCERNING THE DISCHARGE OR DISCIPLINE OF AN
7 INDIVIDUAL EMPLOYEE, OR THE IMPACT OF THOSE DECISIONS ON AN
8 INDIVIDUAL EMPLOYEE OR THE BARGAINING UNIT. FOR PUBLIC EMPLOYEES
9 WHOSE EMPLOYMENT IS REGULATED BY 1937 (EX SESS) PA 4, MCL 38.71 TO
10 38.191, A PUBLIC SCHOOL EMPLOYER SHALL NOT ADOPT, IMPLEMENT, OR
11 MAINTAIN A POLICY FOR DISCHARGE OR DISCIPLINE OF AN EMPLOYEE THAT
12 INCLUDES A STANDARD FOR DISCHARGE OR DISCIPLINE THAT IS DIFFERENT
13 THAN THE ARBITRARY AND CAPRICIOUS STANDARD PROVIDED UNDER SECTION 1
14 OF ARTICLE IV OF 1937 (EX SESS) PA 4, MCL 38.101.

15 (N) DECISIONS ABOUT THE FORMAT, TIMING, OR NUMBER OF CLASSROOM
16 OBSERVATIONS CONDUCTED FOR THE PURPOSES OF SECTION 3A OF ARTICLE II
17 OF 1937 (EX SESS) PA 4, MCL 38.83A, DECISIONS CONCERNING THE
18 CLASSROOM OBSERVATION OF AN INDIVIDUAL EMPLOYEE, OR THE IMPACT OF
19 THOSE DECISIONS ON AN INDIVIDUAL EMPLOYEE OR THE BARGAINING UNIT.

20 (O) DECISIONS ABOUT THE DEVELOPMENT, CONTENT, STANDARDS,
21 PROCEDURES, ADOPTION, AND IMPLEMENTATION OF THE METHOD OF
22 COMPENSATION REQUIRED UNDER SECTION 1250 OF THE REVISED SCHOOL
23 CODE, 1976 PA 451, MCL 380.1250, DECISIONS ABOUT HOW AN EMPLOYEE
24 PERFORMANCE EVALUATION IS USED TO DETERMINE PERFORMANCE-BASED
25 COMPENSATION UNDER SECTION 1250 OF THE REVISED SCHOOL CODE, 1976 PA
26 451, MCL 380.1250, DECISIONS CONCERNING THE PERFORMANCE-BASED
27 COMPENSATION OF AN INDIVIDUAL EMPLOYEE, OR THE IMPACT OF THOSE

1 DECISIONS ON AN INDIVIDUAL EMPLOYEE OR THE BARGAINING UNIT.

2 (P) DECISIONS ABOUT THE DEVELOPMENT, FORMAT, CONTENT, AND
3 PROCEDURES OF THE NOTIFICATION TO PARENTS AND LEGAL GUARDIANS
4 REQUIRED UNDER SECTION 1249A OF THE REVISED SCHOOL CODE, 1976 PA
5 451, MCL 380.1249A.

6 (4) Except as otherwise provided in subsection (3)(f), the
7 matters described in subsection (3) are prohibited subjects of
8 bargaining between a public school employer and a bargaining
9 representative of its employees, and, for the purposes of this act,
10 are within the sole authority of the public school employer to
11 decide.

12 (5) If a public school is placed in the state school
13 reform/redesign school district or is placed under a chief
14 executive officer under section 1280c of the revised school code,
15 1976 PA 451, MCL 380.1280c, then, for the purposes of collective
16 bargaining under this act, the state school reform/redesign officer
17 or the chief executive officer, as applicable, is the public school
18 employer of the public school employees of that public school for
19 as long as the public school is part of the state school
20 reform/redesign school district or operated by the chief executive
21 officer.

22 (6) A public school employer's collective bargaining duty
23 under this act and a collective bargaining agreement entered into
24 by a public school employer under this act are subject to all of
25 the following:

26 (a) Any effect on collective bargaining and any modification
27 of a collective bargaining agreement occurring under section 1280c

1 of the revised school code, 1976 PA 451, MCL 380.1280c.

2 (b) For a public school in which the superintendent of public
3 instruction implements 1 of the 4 school intervention models
4 described in section 1280c of the revised school code, 1976 PA 451,
5 MCL 380.1280c, if the school intervention model that is implemented
6 affects collective bargaining or requires modification of a
7 collective bargaining agreement, any effect on collective
8 bargaining and any modification of a collective bargaining
9 agreement under that school intervention model.

10 (7) Each collective bargaining agreement entered into between
11 a public employer and public employees under this act after March
12 16, 2011 shall include a provision that allows an emergency manager
13 appointed under the local government and school district fiscal
14 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, to reject,
15 modify, or terminate the collective bargaining agreement as
16 provided in the local government and school district fiscal
17 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531. Provisions
18 required by this subsection are prohibited subjects of bargaining
19 under this act.

20 (8) Collective bargaining agreements under this act may be
21 rejected, modified, or terminated pursuant to the local government
22 and school district fiscal accountability act, 2011 PA 4, MCL
23 141.1501 to 141.1531. This act does not confer a right to bargain
24 that would infringe on the exercise of powers under the local
25 government and school district fiscal accountability act, 2011 PA
26 4, MCL 141.1501 to 141.1531.

27 (9) A unit of local government that enters into a consent

1 agreement under the local government and school district fiscal
2 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, is not
3 subject to subsection (1) for the term of the consent agreement, as
4 provided in the local government and school district fiscal
5 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531.

6 (10) If the charter of a city, village, or township with a
7 population of 500,000 or more specifies the selection of a retirant
8 member of the municipality's fire department, police department, or
9 fire and police department pension or retirement board, the method
10 of selection of that member is a prohibited subject of bargaining.

11 (11) THE FOLLOWING ARE PROHIBITED SUBJECTS OF BARGAINING AND
12 ARE AT THE SOLE DISCRETION OF THE PUBLIC EMPLOYER:

13 (A) A DECISION AS TO WHETHER OR NOT THE PUBLIC EMPLOYER WILL
14 ENTER INTO AN INTERGOVERNMENTAL AGREEMENT TO CONSOLIDATE 1 OR MORE
15 FUNCTIONS OR SERVICES, TO JOINTLY PERFORM 1 OR MORE FUNCTIONS OR
16 SERVICES, OR TO OTHERWISE COLLABORATE REGARDING 1 OR MORE FUNCTIONS
17 OR SERVICES.

18 (B) THE PROCEDURES FOR OBTAINING A CONTRACT FOR THE TRANSFER
19 OF FUNCTIONS OR RESPONSIBILITIES UNDER AN AGREEMENT DESCRIBED IN
20 SUBDIVISION (A).

21 (C) THE IDENTITIES OF ANY OTHER PARTIES TO AN AGREEMENT
22 DESCRIBED IN SUBDIVISION (A).

23 (12) NOTHING IN SUBSECTION (11) RELIEVES A PUBLIC EMPLOYER OF
24 ANY DUTY ESTABLISHED BY LAW TO COLLECTIVELY BARGAIN WITH ITS
25 EMPLOYEES AS TO THE EFFECT OF A CONTRACT DESCRIBED IN SUBSECTION

26 (11) (A) ON ITS EMPLOYEES.