

# HOUSE BILL No. 4246

February 10, 2011, Introduced by Rep. Pscholka and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

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 the title and section 15 (MCL 423.215), section 15 as amended by 2009 PA 201, and by adding section 15a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

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; **TO REQUIRE CERTAIN PROVISIONS IN COLLECTIVE**

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1 **BARGAINING AGREEMENTS;** and to prescribe means of enforcement and  
2 penalties for the violation of the provisions of this act.

3       Sec. 15. (1) A public employer shall bargain collectively with  
4 the representatives of its employees as described in section 11 and  
5 may make and enter into collective bargaining agreements with those  
6 representatives. Except as otherwise provided in this section, for  
7 the purposes of this section, to bargain collectively is the  
8 performance of the mutual obligation of the employer and the  
9 representative of the employees to meet at reasonable times and  
10 confer in good faith with respect to wages, hours, and other terms  
11 and conditions of employment, or the negotiation of an agreement,  
12 or any question arising under the agreement, and the execution of a  
13 written contract, ordinance, or resolution incorporating any  
14 agreement reached if requested by either party, but this obligation  
15 does not compel either party to agree to a proposal or require the  
16 making of a concession.

17       (2) A public school employer has the responsibility,  
18 authority, and right to manage and direct on behalf of the public  
19 the operations and activities of the public schools under its  
20 control.

21       (3) Collective bargaining between a public school employer and  
22 a bargaining representative of its employees shall not include any  
23 of the following subjects:

24       (a) Who is or will be the policyholder of an employee group  
25 insurance benefit. This subdivision does not affect the duty to  
26 bargain with respect to types and levels of benefits and coverages  
27 for employee group insurance. A change or proposed change in a type

1 or to a level of benefit, policy specification, or coverage for  
2 employee group insurance shall be bargained by the public school  
3 employer and the bargaining representative before the change may  
4 take effect.

5 (b) Establishment of the starting day for the school year and  
6 of the amount of pupil contact time required to receive full state  
7 school aid under section 1284 of the revised school code, 1976 PA  
8 451, MCL 380.1284, and under section 101 of the state school aid  
9 act of 1979, 1979 PA 94, MCL 388.1701.

10 (c) The composition of school improvement committees  
11 established under section 1277 of the revised school code, 1976 PA  
12 451, MCL 380.1277.

13 (d) The decision of whether or not to provide or allow  
14 interdistrict or intradistrict open enrollment opportunity in a  
15 school district or of which grade levels or schools in which to  
16 allow such an open enrollment opportunity.

17 (e) The decision of whether or not to act as an authorizing  
18 body to grant a contract to organize and operate 1 or more public  
19 school academies under the revised school code, 1976 PA 451, MCL  
20 380.1 to 380.1852.

21 (f) The decision of whether or not to contract with a third  
22 party for 1 or more noninstructional support services; or the  
23 procedures for obtaining the contract for noninstructional support  
24 services other than bidding described in this subdivision; or the  
25 identity of the third party; or the impact of the contract for  
26 noninstructional support services on individual employees or the  
27 bargaining unit. However, this subdivision applies only if the

1 bargaining unit that is providing the noninstructional support  
2 services is given an opportunity to bid on the contract for the  
3 noninstructional support services on an equal basis as other  
4 bidders.

5 (g) The use of volunteers in providing services at its  
6 schools.

7 (h) Decisions concerning use of experimental or pilot programs  
8 and staffing of experimental or pilot programs and decisions  
9 concerning use of technology to deliver educational programs and  
10 services and staffing to provide the technology, or the impact of  
11 these decisions on individual employees or the bargaining unit.

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

15 (4) Except as otherwise provided in subsection (3)(f), the  
16 matters described in subsection (3) are prohibited subjects of  
17 bargaining between a public school employer and a bargaining  
18 representative of its employees, and, for the purposes of this act,  
19 are within the sole authority of the public school employer to  
20 decide.

21 (5) If a public school is placed in the state school  
22 reform/redesign school district or is placed under a chief  
23 executive officer under section 1280c of the revised school code,  
24 1976 PA 451, MCL 380.1280c, then, for the purposes of collective  
25 bargaining under this act, the state school reform/redesign officer  
26 or the chief executive officer, as applicable, is the public school  
27 employer of the public school employees of that public school for

1 as long as the public school is part of the state school  
2 reform/redesign school district or operated by the chief executive  
3 officer.

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

8 (a) Any effect on collective bargaining and any modification  
9 of a collective bargaining agreement occurring under section 1280c  
10 of the revised school code, 1976 PA 451, MCL 380.1280c.

11 (b) For a public school in which the superintendent of public  
12 instruction implements 1 of the 4 school intervention models  
13 described in section 1280c of the revised school code, 1976 PA 451,  
14 MCL 380.1280c, if the school intervention model that is implemented  
15 affects collective bargaining or requires modification of a  
16 collective bargaining agreement, any effect on collective  
17 bargaining and any modification of a collective bargaining  
18 agreement under that school intervention model.

19 **(7) EACH COLLECTIVE BARGAINING AGREEMENT ENTERED INTO BETWEEN**  
20 **A PUBLIC EMPLOYER AND PUBLIC EMPLOYEES UNDER THIS ACT AFTER THE**  
21 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION**  
22 **SHALL INCLUDE A PROVISION THAT ALLOWS AN EMERGENCY MANAGER**  
23 **APPOINTED UNDER THE LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL**  
24 **ACCOUNTABILITY ACT TO REJECT, MODIFY, OR TERMINATE THE COLLECTIVE**  
25 **BARGAINING AGREEMENT AS PROVIDED IN THE LOCAL GOVERNMENT AND SCHOOL**  
26 **DISTRICT FISCAL ACCOUNTABILITY ACT. PROVISIONS REQUIRED BY THIS**  
27 **SUBSECTION ARE PROHIBITED SUBJECTS OF BARGAINING UNDER THIS ACT.**

House Bill No. 4246 as amended February 23, 2011

1           SEC. 15A. COLLECTIVE BARGAINING AGREEMENTS UNDER THIS ACT MAY  
2 BE REJECTED, MODIFIED, OR TERMINATED PURSUANT TO THE LOCAL  
3 GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT.

4           [Enacting section 1. This amendatory act does not take effect  
5 unless House Bill No. 4214 of the 96th Legislature is enacted into law.

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