

HOUSE BILL No. 4016

January 31, 1991, Introduced by Rep. Keith and referred to the Committee on Labor.

A bill to amend the title and sections 2, 3, 6, 7, and 15 of Act No. 336 of the Public Acts of 1947, entitled as amended

"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,"

being sections 423.202, 423.203, 423.206, 423.207, and 423.215 of the Michigan Compiled Laws; to add sections 17, 18, 19, 19a, 19b, 19c, 19d, 19e, 19f, 19g, 19h, 20, 20a, 21, 22, 23, and 24; and to repeal certain parts of the act on specific dates.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 3, 6, 7, and 15 of Act
2 No. 336 of the Public Acts of 1947, being sections 423.202,
3 423.203, 423.206, 423.207, and 423.215 of the Michigan Compiled
4 Laws, are amended and sections 17, 18, 19, 19a, 19b, 19c, 19d,

1 19e, 19f, 19g, 19h, 20, 20a, 21, 22, 23, and 24 are added to read
2 as follows:

3 TITLE

4 An act to prohibit strikes by certain public employees; TO
5 REGULATE STRIKES BY PUBLIC EMPLOYEES; to provide review from dis-
6 ciplinary action with respect thereto; to provide for the media-
7 tion of grievances, ~~and~~ the holding of elections, AND THE ARBI-
8 TRATION OF PUBLIC SCHOOL IMPASSES; to declare and protect the
9 rights and privileges of public employees; ~~and~~ to prescribe
10 means of enforcement and penalties for the violation of ~~the pro-~~
11 ~~visions of~~ this act; AND TO REPEAL CERTAIN PARTS OF THIS ACT ON
12 SPECIFIC DATES.

13 Sec. 2. ~~No~~ A person holding a position by appointment or
14 employment ~~in the government of the state of Michigan,~~ WITH
15 THIS STATE or in the government of any 1 or more of the political
16 subdivisions ~~thereof, or in the public school service, or in~~
17 ~~any~~ OF THIS STATE, IN A public or special district, ~~or~~ in the
18 service of ~~any~~ AN authority, commission, or board, or in any
19 other branch of the public service, ~~hereinafter~~ called a
20 "public employee" ~~, " "~~ IN THIS ACT shall NOT strike. EXCEPT AS
21 PERMITTED IN SECTION 20, A PERSON HOLDING A POSITION BY APPOINT-
22 MENT OR EMPLOYMENT IN A PUBLIC SCHOOL SHALL NOT STRIKE.

23 Sec. 3. ~~No~~ EXCEPT AS PERMITTED IN SECTION 20, A person
24 exercising ~~any~~ authority, supervision, or direction over ~~any~~
25 A public employee shall ~~have the power to authorize,~~ NOT DO
26 EITHER OF THE FOLLOWING:

1 (A) AUTHORIZE, approve, or consent to a strike by public
2 employees. ~~, and such person shall not authorize, approve, or~~
3 ~~consent to such strike, nor shall any such person discharge~~

4 (B) DISCHARGE or cause ~~any~~ A public employee to be dis-
5 charged or separated from his or her employment because of par-
6 ticipation in the submission of a grievance ~~in accordance with~~
7 ~~the provisions of~~ PURSUANT TO section 7.

8 Sec. 6. ~~Notwithstanding the provisions of any other law,~~
9 ~~any person holding such a position~~ PUBLIC SCHOOL EMPLOYEES
10 ENGAGED IN A LEGAL STRIKE PURSUANT TO SECTION 20 SHALL NOT BE
11 SUBJECT TO THIS SECTION. A PUBLIC EMPLOYEE who, by concerted
12 action with others ~~,~~ and without the lawful approval of his OR
13 HER superior, ~~wilfully~~ WILLFULLY absents himself OR HERSELF
14 from his OR HER position, or abstains in whole or in part from
15 the full, faithful, and proper performance of his OR HER duties
16 for the purpose of inducing, influencing, or coercing a change in
17 the conditions or compensation, or the rights, privileges, or
18 obligations of employment shall be ~~deemed~~ CONSIDERED to be on
19 strike. ~~but~~ HOWEVER, the person, upon request, shall be enti-
20 tled to a determination as to whether he ~~did violate the provi-~~
21 ~~sions of~~ OR SHE VIOLATED this act. The request shall be filed,
22 in writing, with the officer or body having power to remove or
23 discipline ~~such~~ THE employee, within 10 days after regular com-
24 pensation of ~~such~~ THE employee has ceased or other discipline
25 has been imposed. ~~In the event of such~~ UPON RECEIPT OF THE
26 request, the officer or body, ~~shall~~ within 10 days AFTER
27 RECEIVING THE REQUEST, SHALL commence a proceeding for the

1 determination of whether ~~the provisions of~~ this act ~~have been~~
2 WAS violated by the public employee ~~, in accordance with~~
3 PURSUANT TO the law and ~~regulations~~ RULES appropriate to a pro-
4 ceeding to remove the public employee. The proceedings shall be
5 undertaken without unnecessary delay. The decision of the pro-
6 ceeding shall be made within 10 days. If the employee involved
7 is held to have violated this ~~law~~ ACT and ~~his~~ THE EMPLOYEE'S
8 employment IS terminated or other discipline IS imposed, ~~he~~ THE
9 EMPLOYEE shall have the right of review to the circuit court
10 having jurisdiction of the parties, within 30 days ~~from such~~
11 AFTER THE decision, for determination whether ~~such~~ THE decision
12 is supported by competent, material, and substantial evidence on
13 the whole record.

14 Sec. 7. (1) Upon the request of the collective bargaining
15 representative ~~defined~~ DESCRIBED in section 11, or ~~, if a~~
16 representative has not been designated or selected, upon the
17 request of a majority of any given group of public employees evi-
18 denced by a petition signed by the majority and delivered to the
19 EMPLOYMENT RELATIONS commission, or upon request of any public
20 employer of the employees, the commission ~~forthwith~~ IMMEDIATELY
21 shall mediate the grievances set forth in the petition or
22 notice. ~~, and for~~ FOR the purposes of mediating the griev-
23 ances, the commission shall exercise the powers and authority
24 conferred upon the commission by sections 10, ~~and~~ 11, AND 25 of
25 Act No. 176 of the Public Acts of 1939, as amended, being sec-
26 tions 423.10, ~~and~~ 423.11, AND 423.25 of the Michigan Compiled
27 Laws.

1 (2) At least 60 days before the expiration date of a
2 collective bargaining agreement, the parties shall notify the
3 commission of the status of negotiations. If the dispute remains
4 unresolved 30 days after the notification on the status of nego-
5 tiations and a request for mediation is not received, the commis-
6 sion shall appoint a mediator.

7 Sec. 15. A public employer shall bargain collectively with
8 the representatives of its employees, as ~~defined~~ DESCRIBED in
9 section 11, and ~~is authorized to~~ MAY make and enter into col-
10 lective bargaining agreements with ~~such~~ THOSE representatives.
11 THE PUBLIC EMPLOYEES' REPRESENTATIVE MAY MAKE AND ENTER INTO COL-
12 LECTIVE BARGAINING AGREEMENTS AND SHALL BARGAIN COLLECTIVELY WITH
13 THE PUBLIC EMPLOYEES' EMPLOYER. For ~~the~~ purposes of this sec-
14 tion, to bargain collectively is the performance of the mutual
15 obligation of the employer and the EMPLOYEES' representative ~~of~~
16 ~~the employees~~ to meet at reasonable times and ~~confer~~ BARGAIN
17 in good faith with respect to wages, hours, and other terms and
18 conditions of employment; ~~, or~~ the negotiation of an agreement
19 ~~, or~~ any question arising ~~thereunder,~~ UNDER AN AGREEMENT; and
20 the execution of a written contract, ordinance, or resolution
21 incorporating ~~any~~ AN agreement reached if requested by either
22 party. ~~, but such~~ HOWEVER, THE obligation TO BARGAIN
23 COLLECTIVELY does not compel either party to agree to a proposal
24 or require the making of a concession. THE DUTY OF THE PUBLIC
25 EMPLOYER TO BARGAIN COLLECTIVELY DOES NOT REQUIRE NEGOTIATION ON
26 POWERS DELEGATED TO THE PUBLIC EMPLOYER BY LAW.

1 SEC. 17. (1) THIS SECTION AND SECTIONS 18 TO 24 APPLY ONLY
2 TO PUBLIC SCHOOL EMPLOYEES AND EMPLOYERS AND ARE REPEALED
3 EFFECTIVE JUNE 30, 1991, EXCEPT THAT PROCEEDINGS THEN PENDING
4 UNDER SECTIONS 19 TO 19H MAY CONTINUE UNTIL COMPLETION.

5 (2) AS USED IN THIS SECTION AND SECTIONS 18 TO 24:

6 (A) "COMMISSION" MEANS THE EMPLOYMENT RELATIONS COMMISSION
7 CREATED BY ACT NO. 176 OF THE PUBLIC ACTS OF 1939, BEING SECTIONS
8 423.1 TO 423.30 OF THE MICHIGAN COMPILED LAWS.

9 (B) "EMPLOYEE" MEANS A PERSON EMPLOYED BY A PUBLIC K TO 12
10 OR INTERMEDIATE SCHOOL DISTRICT ORGANIZED UNDER THE SCHOOL CODE
11 OF 1976, ACT NO. 451 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS
12 380.1 TO 380.1852 OF THE MICHIGAN COMPILED LAWS, EXCEPT PERSONS
13 EMPLOYED PURSUANT TO SECTIONS 1601 TO 1607 OF THAT ACT AND SUPER-
14 VISORY PERSONNEL AS DEFINED BY THE COMMISSION.

15 (C) "EMPLOYER" MEANS THE SCHOOL BOARD OF A K TO 12 OR INTER-
16 MEDIATE SCHOOL DISTRICT ORGANIZED UNDER ACT NO. 451 OF THE PUBLIC
17 ACTS OF 1976, OR AN OFFICER OR AGENT OF THE SCHOOL BOARD.

18 (D) "IMPASSE" MEANS A POINT IN THE COLLECTIVE BARGAINING OR
19 NEGOTIATION PROCESS AT WHICH THE COMMISSION DETERMINES FURTHER
20 PROGRESS IS IMPRACTICAL PURSUANT TO SECTION 19.

21 (E) "MASTER AGREEMENT" MEANS A WRITTEN CONTRACT AGREED TO BY
22 THE EMPLOYER AND EMPLOYEES' REPRESENTATIVE PURSUANT TO SECTION 15
23 AND RATIFIED PURSUANT TO SECTION 18.

24 SEC. 18. (1) A MASTER AGREEMENT SHALL SPECIFY THE TERMS OF
25 THE CONTRACT AGREED TO PURSUANT TO SECTION 15.

26 (2) A MASTER AGREEMENT OR AN AMENDMENT TO A MASTER AGREEMENT
27 SHALL NOT BECOME EFFECTIVE UNTIL THE AGREEMENT OR AMENDMENT IS

1 RATIFIED BY A MAJORITY OF THE MEMBERS OF THE SCHOOL BOARD OF THE
2 SCHOOL DISTRICT AND BY A MAJORITY OF THE MEMBERS OF THE BARGAIN-
3 ING UNIT VOTING IN SECRET, OR BY THE BARGAINING COMMITTEE WHEN
4 THE AGREEMENT OR AMENDMENT HAS BEEN AUTHORIZED BY THE MEMBERS OF
5 THE LABOR ORGANIZATION.

6 (3) A LABOR ORGANIZATION OR ITS AGENTS OR MEMBERS SHALL NOT
7 ENGAGE IN OR INDUCE OR ENCOURAGE A STRIKE FOR THE PURPOSE OF
8 INDUCING, INFLUENCING, OR COERCING A CHANGE IN THE CONDITIONS OF
9 COMPENSATION OR THE RIGHTS, PRIVILEGES, OR OBLIGATIONS OF EMPLOY-
10 MENT ON BEHALF OF PERSONS WHO ARE NOT PROTECTED BY THE SAME
11 MASTER AGREEMENT. A VIOLATION OF THIS SUBSECTION IS SUBJECT TO
12 THE PENALTIES PRESCRIBED BY SECTIONS 23 AND 24.

13 SEC. 19. (1) THE COMMISSION OR ITS AGENT MAY DETERMINE AN
14 IMPASSE IS REACHED IF ALL OF THE FOLLOWING OCCUR:

15 (A) ONE OF THE PARTIES HAS REQUESTED THE COMMISSION OR ITS
16 AGENT TO DETERMINE THAT AN IMPASSE HAS BEEN REACHED.

17 (B) THE ISSUES IN DISPUTE ARE SUITABLE FOR SUBMISSION FOR
18 ARBITRATION.

19 (C) THE LAST POSITION ON EACH ITEM HAS BEEN PRESENTED TO THE
20 COMMISSION BY EACH PARTY.

21 (2) AFTER THE COMMISSION OR ITS AGENT HAS DETERMINED THAT AN
22 IMPASSE HAS BEEN REACHED, FOR THE PURPOSE OF REPORTING THE CIR-
23 CUMSTANCES SURROUNDING THE IMPASSE, THE COMMISSION SHALL CALL A
24 PUBLIC HEARING ACCORDING TO THE FOLLOWING:

25 (A) THE PUBLIC HEARING SHALL BE WITHIN THE DISTRICT AT A
26 REASONABLE TIME CONVENIENT TO THE EMPLOYER, THE EMPLOYEES'
27 REPRESENTATIVE, AND THE GENERAL PUBLIC.

1 (B) THE COMMISSION OR ITS AGENT SHALL CHAIR THE MEETING.

2 (C) THE COMMISSION OR ITS AGENT SHALL ISSUE A STATEMENT ON
3 WHETHER OR NOT EACH SIDE HAS BARGAINED IN GOOD FAITH PURSUANT TO
4 SECTION 15.

5 (D) THE COMMISSION OR ITS AGENT SHALL PROVIDE EACH SIDE WITH
6 AN APPROPRIATE AMOUNT OF TIME TO PRESENT ITS POSITION.

7 (E) THE COMMISSION OR ITS AGENT MAY ALLOW QUESTIONS FROM THE
8 GENERAL PUBLIC TO BE ANSWERED BY THE APPROPRIATE SIDE.

9 (F) THE COMMISSION OR ITS AGENT, UPON THE REQUEST OF EITHER
10 THE EMPLOYER OR THE EMPLOYEES' REPRESENTATIVE, SHALL REQUEST FROM
11 THE SUPERINTENDENT OF PUBLIC INSTRUCTION A STATEMENT CONTAINING
12 HIS OR HER BEST POSSIBLE ESTIMATE OF THE FINANCIAL RESOURCES OF
13 THE EMPLOYER. THE STATEMENT SHALL FOLLOW RULES PROMULGATED BY
14 THE STATE BOARD OF EDUCATION AND SHALL BE MADE PUBLIC.

15 (3) IF THE COMMISSION DETERMINES THAT THE PARTIES HAVE
16 REACHED AN IMPASSE, THE EMPLOYER OR EMPLOYEES' REPRESENTATIVE MAY
17 FILE A PETITION FOR ARBITRATION WITH THE COMMISSION.

18 (4) A PETITION OF AN EMPLOYER FOR ARBITRATION SHALL DESCRIBE
19 BRIEFLY THE NATURE OF THE IMPASSE, SPECIFY THE EMPLOYER'S POSI-
20 TION WITH REGARD TO EACH ISSUE, AND BE SIGNED BY THE EMPLOYER.

21 (5) A PETITION OF AN EMPLOYEES' REPRESENTATIVE FOR ARBITRA-
22 TION SHALL DESCRIBE BRIEFLY THE NATURE OF THE IMPASSE, SPECIFY
23 THE EMPLOYEES' POSITION WITH REGARD TO EACH ISSUE, AND BE SIGNED
24 BY THE EMPLOYEES' REPRESENTATIVE.

25 SEC. 19A. (1) THE COMMISSION SHALL CERTIFY EACH ISSUE OF
26 THE IMPASSE, THE FINAL POSITION OF THE EMPLOYER AND EMPLOYEES'

1 REPRESENTATIVE, AND THE ISSUES TO BE CONSIDERED BY THE ARBITRATOR
2 OR ARBITRATION PANEL.

3 (2) THE COMMISSION SHALL FIX THE TIME AND PLACE FOR A HEAR-
4 ING BEFORE AN ARBITRATOR OR ARBITRATION PANEL, WHICH DATE SHALL
5 BE NOT MORE THAN 20 DAYS AFTER THE APPOINTMENT OF THE ARBITRATOR
6 OR ARBITRATION PANEL. THE HEARING SHALL BE HELD IN THE COUNTY IN
7 WHICH THE PRINCIPAL ADMINISTRATIVE OFFICE OF THE EMPLOYER IS
8 LOCATED, UNLESS BOTH THE EMPLOYER AND EMPLOYEES' REPRESENTATIVE
9 AGREE TO ANOTHER LOCATION.

10 SEC. 19B. THE EMPLOYER AND EMPLOYEES' REPRESENTATIVE SHALL
11 SELECT A SINGLE, MUTUALLY ACCEPTABLE ARBITRATOR. IF THE PARTIES
12 ARE UNABLE TO AGREE ON A SINGLE ARBITRATOR WITHIN 10 DAYS AFTER
13 THE PETITION FOR ARBITRATION WAS FILED, THE COMMISSION SHALL MAKE
14 THE SELECTION FROM ITS PANEL OF ARBITRATORS. HOWEVER, EITHER
15 PARTY MAY REQUEST A PANEL OF 3 ARBITRATORS. IN THIS CASE, EACH
16 PARTY SHALL NAME ITS DELEGATE TO THE PANEL WITHIN 10 DAYS AFTER
17 THE PETITION FOR ARBITRATION IS FILED OR WITHIN FURTHER ADDI-
18 TIONAL PERIODS AS THEY MAY AGREE. THE DELEGATES SHALL THEN DES-
19 IGNATE AN IMPARTIAL, COMPETENT, AND REPUTABLE PERSON TO SERVE AS
20 THE CHAIRPERSON OF THE PANEL. IF THE DELEGATES FAIL TO AGREE
21 UPON AND APPOINT THE CHAIRPERSON WITHIN THE ALLOWED TIME, THE
22 COMMISSION SHALL APPOINT THE CHAIRPERSON.

23 SEC. 19C. (1) THE ARBITRATOR OR ARBITRATION PANEL SHALL
24 ASSUME JURISDICTION OVER ISSUES CERTIFIED BY THE COMMISSION. THE
25 HEARING SHALL BE INFORMAL, AND TECHNICAL RULES OF EVIDENCE SHALL
26 NOT APPLY. ANY ORAL OR DOCUMENTARY EVIDENCE OR OTHER DATA

1 CONSIDERED RELEVANT BY THE ARBITRATOR OR ARBITRATION PANEL MAY BE
2 RECEIVED INTO EVIDENCE.

3 (2) THE ARBITRATOR OR ARBITRATION PANEL MAY ADMINISTER OATHS
4 AND MAY ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE OF WITNESSES OR
5 THE PRODUCTION OF DOCUMENTS NECESSARY FOR A JUST DETERMINATION OF
6 THE ISSUES CERTIFIED. IF A PERSON REFUSES TO OBEY A SUBPOENA OR
7 REFUSES TO BE SWORN OR TO TESTIFY, OR IF A WITNESS, PARTY, OR
8 ATTORNEY CONTEMPTUOUSLY RESISTS THE AUTHORITY OF THE ARBITRATOR
9 OR ARBITRATION PANEL, THE ARBITRATOR OR ARBITRATION PANEL MAY
10 REQUEST THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE HEARING IS
11 HELD TO ISSUE AN APPROPRIATE ORDER. A PERSON WHO VIOLATES THE
12 COURT ORDER IS GUILTY OF CONTEMPT AND MAY BE PUNISHED PURSUANT TO
13 SECTIONS 1711 AND 1715 OF THE REVISED JUDICATURE ACT OF 1961, ACT
14 NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS 600.1711 AND
15 600.1715 OF THE MICHIGAN COMPILED LAWS.

16 (3) UPON APPLICATION AND FOR GOOD CAUSE SHOWN, THE ARBITRA-
17 TOR OR ARBITRATION PANEL MAY PERMIT A PERSON, ASSOCIATION, LABOR
18 ORGANIZATION, OR GOVERNMENTAL AGENCY OR DEPARTMENT HAVING A SUB-
19 STANTIAL INTEREST IN THE RESOLUTION OF THE IMPASSE TO INTERVENE
20 IN THE HEARING.

21 (4) THE EXPENSE OF THE PROCEEDINGS, INCLUDING A FEE TO THE
22 CHAIRPERSON, ESTABLISHED IN ADVANCE BY THE COMMISSION SHALL BE
23 BORNE EQUALLY BY EACH OF THE PARTIES TO THE DISPUTE AND THE
24 STATE. THE DELEGATES, IF PUBLIC OFFICERS OR EMPLOYEES, SHALL
25 CONTINUE ON THE PAYROLL OF THE PUBLIC EMPLOYER AT THEIR USUAL
26 RATE OF PAY.

1 (5) AN ARBITRATION HEARING CONDUCTED PURSUANT TO THIS
2 SECTION SHALL BE OPEN TO THE PUBLIC IN COMPLIANCE WITH THE OPEN
3 MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976, BEING SEC-
4 TIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS.

5 SEC. 19D. (1) AT ANY TIME BEFORE THE RENDERING OF AN ORDER,
6 THE ARBITRATOR OR CHAIRPERSON OF THE ARBITRATION PANEL, IF IT
7 WOULD BE USEFUL OR BENEFICIAL TO DO SO, MAY REMAND THE DISPUTE TO
8 THE PARTIES FOR FURTHER COLLECTIVE BARGAINING FOR NOT MORE THAN 3
9 WEEKS. THE ARBITRATOR OR CHAIRPERSON OF THE ARBITRATION PANEL
10 SHALL NOTIFY THE COMMISSION OF THE REMAND.

11 (2) AT ANY TIME DURING THE COURSE OF ARBITRATION, THE PAR-
12 TIES MAY SETTLE ANY OF THE CERTIFIED ISSUES OR THE TERMS OF THE
13 MASTER AGREEMENT.

14 SEC. 19E. (1) THE ARBITRATOR OR ARBITRATION PANEL, WITHIN
15 30 DAYS AFTER THE CONCLUSION OF THE HEARING OR SUCH FURTHER ADDI-
16 TIONAL PERIODS TO WHICH THE PARTIES MAY AGREE, SHALL MAKE WRITTEN
17 FINDINGS OF FACT AND SHALL ISSUE A WRITTEN OPINION AND ORDER FOR
18 EACH ISSUE CERTIFIED BY THE COMMISSION. THE ARBITRATOR OR ARBI-
19 TRATION PANEL SHALL MAIL OR OTHERWISE DELIVER A TRUE COPY OF THE
20 OPINION AND ORDER TO THE EMPLOYER, THE EMPLOYEES' REPRESENTATIVE,
21 THE COMMISSION, AND ANY INTERVENING PARTY.

22 (2) THE ARBITRATOR OR ARBITRATION PANEL SHALL ADOPT THE LAST
23 OFFER OF SETTLEMENT WHICH, IN THE OPINION OF THE ARBITRATOR OR
24 ARBITRATION PANEL, MORE NEARLY COMPLIES WITH THE APPLICABLE FAC-
25 TORS PRESCRIBED IN SECTION 19F. THE FINDINGS, OPINION, AND ORDER
26 AS TO ALL OTHER ISSUES SHALL BE BASED UPON THE APPLICABLE FACTORS

1 PRESCRIBED IN SECTION 19F. MAJORITY ACTIONS AND RULINGS SHALL
2 CONSTITUTE THE ACTIONS AND RULINGS OF THE ARBITRATION PANEL.

3 SEC. 19F. THE ARBITRATOR OR ARBITRATION PANEL SHALL BASE
4 ITS FINDINGS, OPINION, AND ORDER UPON ALL OF THE FOLLOWING APPLI-
5 CABLE FACTORS:

6 (A) THE OBLIGATION OF THE EMPLOYER TO CONDUCT ITS OPERATIONS
7 WITHIN STATUTORY LIMITS.

8 (B) THE FINANCIAL RESOURCES OF THE EMPLOYER.

9 (C) THE AVERAGE CONSUMER PRICES FOR GOODS AND SERVICES.

10 (D) THE COMPARISON OF COMPENSATION, HOURS, AND TERMS AND
11 CONDITIONS OF EMPLOYMENT OF THE EMPLOYEES INVOLVED IN THE ARBI-
12 TRATION HEARING WITH THE COMPENSATION, HOURS, AND TERMS AND CON-
13 DITIONS OF EMPLOYMENT OF EMPLOYEES EMPLOYED IN PUBLIC AND PRIVATE
14 EMPLOYMENT IN COMPARABLE COMMUNITIES AND SCHOOL DISTRICTS.

15 (E) THE INTERESTS AND WELFARE OF THE STUDENTS AND THE
16 PUBLIC.

17 (F) THE STIPULATIONS OF THE PARTIES.

18 (G) THE GOOD FAITH EFFORTS OF THE PARTIES TO REACH
19 AGREEMENT.

20 (H) THE OVERALL COMPENSATION PRESENTLY RECEIVED BY THE
21 EMPLOYEES, INCLUDING DIRECT WAGE COMPENSATION, VACATIONS, HOLI-
22 DAYS, AND OTHER EXCUSED TIME; INSURANCE AND PENSIONS; MEDICAL AND
23 HOSPITALIZATION BENEFITS; THE CONTINUITY AND STABILITY OF EMPLOY-
24 MENT; AND ALL OTHER BENEFITS RECEIVED.

25 (I) OTHER FACTORS THE ARBITRATOR OR ARBITRATION PANEL CON-
26 SIDERS RELEVANT TO THE RESOLUTION OF THE ISSUES CERTIFIED.

1 SEC. 19G. (1) THE EMPLOYER AND EMPLOYEES' REPRESENTATIVE
2 SHALL HAVE 10 DAYS AFTER RECEIPT OF THE ARBITRATOR'S OR
3 ARBITRATION PANEL'S ORDER IN WHICH TO CONSIDER THE ORDER.

4 (2) IF EITHER PARTY DOES NOT TAKE ANY ACTION WITHIN THE
5 10-DAY PERIOD, THE ORDER SHALL BE CONSIDERED ACCEPTED AND SHALL
6 BE FINAL AND BINDING UPON BOTH PARTIES.

7 (3) IF EITHER PARTY REJECTS THE ORDER WITHIN THE 10-DAY TIME
8 PERIOD, THE REJECTING PARTY SHALL NOTIFY THE COMMISSION AND THE
9 OTHER PARTY, AND SHALL ISSUE A PUBLIC STATEMENT EXPLAINING THE
10 REASONS FOR ITS REJECTION AND DETAILING THE SPECIFIC ISSUES OF
11 DISAGREEMENT. BOTH PARTIES THEN SHALL ENGAGE IN NOT LESS THAN 10
12 DAYS OF INTENSIVE BARGAINING UNDER THE SUPERVISION OF THE COMMIS-
13 SION TO RESOLVE THE REMAINING ISSUES OF DISAGREEMENT
14 VOLUNTARILY.

15 (4) IF THE ISSUES OF DISAGREEMENT ARE NOT RESOLVED AFTER THE
16 10 DAYS OF INTENSIVE BARGAINING AND EITHER PARTY SUBSEQUENTLY
17 ACCEPTS THE ORDER AND NOTIFIES THE COMMISSION AND THE OTHER
18 PARTY, THE ORDER SHALL BE FINAL AND BINDING UPON BOTH PARTIES.

19 (5) AN EMPLOYER AND EMPLOYEES' REPRESENTATIVE TOGETHER MAY
20 STIPULATE BEFORE THE ARBITRATION HEARING THAT THE FINDINGS, OPIN-
21 ION, AND ORDER SHALL BE FINAL AND BINDING UPON BOTH PARTIES AND
22 NOTIFY THE COMMISSION, IN WRITING, OF THIS STIPULATION. IF BOTH
23 PARTIES STIPULATE THAT THE FINDINGS, OPINION, AND ORDER OF THE
24 ARBITRATOR OR ARBITRATION PANEL SHALL BE BINDING, SUBSECTIONS (1)
25 TO (4) SHALL NOT APPLY.

26 (6) IF SUBSECTION (2) OR (5) IS INVOKED, ECONOMIC ISSUES
27 SHALL APPLY RETROACTIVELY TO THE DATE OF THE EXPIRATION OF THE

1 PREVIOUS AGREEMENT, AND NONECONOMIC ISSUES SHALL BE EFFECTIVE AS
2 OF THE DATE THE MASTER AGREEMENT IS SIGNED.

3 SEC. 19H. AN ORDER OF THE ARBITRATOR OR ARBITRATION PANEL
4 MAY BE REVIEWED BY THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
5 HEARING WAS HELD ONLY IF 1 OR MORE OF THE FOLLOWING CONDITIONS
6 OCCUR:

7 (A) THE ARBITRATOR OR ARBITRATION PANEL EXCEEDED ITS
8 JURISDICTION.

9 (B) THE ORDER IS NOT SUPPORTED BY COMPETENT, MATERIAL, AND
10 SUBSTANTIAL EVIDENCE ON THE WHOLE RECORD.

11 (C) THE ARBITRATOR'S OR ARBITRATION PANEL'S ORDER WAS PRO-
12 CURED BY FRAUD OR COLLUSION.

13 SEC. 20. A PUBLIC SCHOOL EMPLOYEE OR AN ORGANIZATION
14 SELECTED AS AN EXCLUSIVE REPRESENTATIVE UNDER SECTION 11 MAY
15 STRIKE ONLY IF THE FOLLOWING STEPS ARE TAKEN:

16 (A) THE COMMISSION HAS DETERMINED THAT THE PARTIES HAVE
17 REACHED AN IMPASSE PURSUANT TO SECTION 19(1).

18 (B) A PETITION FOR ARBITRATION HAS BEEN FILED WITH THE COM-
19 MISSION PURSUANT TO SECTION 19(3).

20 (C) THE MASTER AGREEMENT WAS EXTENDED PURSUANT TO
21 SECTION 22(2).

22 (D) THE ARBITRATION PROCESS IS COMPLETED AND A WRITTEN OPIN-
23 ION AND ORDER WAS ISSUED PURSUANT TO SECTION 19E.

24 (E) AN ARBITRATION ORDER WAS REJECTED PURSUANT TO
25 SECTION 19G. BOTH PARTIES FAILED TO RESOLVE THEIR DIFFERENCES
26 THROUGH 10 DAYS OF FURTHER BARGAINING, AND NEITHER PARTY
27 SUBSEQUENTLY ACCEPTED THE ORDER.

1 (F) A MAJORITY OF THE VOTING MEMBERS OF THE BARGAINING UNIT
2 APPROVED THE STRIKE BY SECRET BALLOT UNDER AN ELECTION SUPERVISED
3 BY THE COMMISSION.

4 (G) THE EMPLOYEES' REPRESENTATIVE GIVES NOTICE TO THE
5 EMPLOYER AND COMMISSION NOT LESS THAN 10 DAYS IN ADVANCE OF THE
6 PROPOSED STRIKE.

7 SEC. 20A. (1) THE CIRCUIT COURT HAVING JURISDICTION FOR THE
8 COUNTY IN WHICH THE SCHOOL DISTRICT PREDOMINATELY IS LOCATED
9 SHALL RESTRAIN A STRIKE BY PUBLIC SCHOOL EMPLOYEES UPON A SHOWING
10 OF VIOLENCE, IRREPARABLE INJURY, BREACH OF THE PEACE, OR
11 ILLEGALITY.

12 (2) A PUBLIC SCHOOL EMPLOYEES' STRIKE SHALL BE TERMINATED
13 IMMEDIATELY IF THE EMPLOYER ACCEPTS AN ARBITRATOR'S OR ARBITRA-
14 TION PANEL'S ORDER PURSUANT TO SECTION 19G AND NOTIFIES THE COM-
15 MISSION AND THE EMPLOYEES' REPRESENTATIVE.

16 SEC. 21. IF A PUBLIC SCHOOL EMPLOYEES' STRIKE PREVENTS AN
17 EMPLOYER FROM FULFILLING THE MINIMUM 180 DAYS OF STUDENT INSTRUCC-
18 TION REQUIREMENT IMPOSED BY SECTION 1284 OF THE SCHOOL CODE OF
19 1976, ACT NO. 451 OF THE PUBLIC ACTS OF 1976, BEING SECTION
20 380.1284 OF THE MICHIGAN COMPILED LAWS, AND SECTION 101 OF THE
21 STATE SCHOOL AID ACT OF 1979, ACT NO. 94 OF THE PUBLIC ACTS OF
22 1979, BEING SECTION 388.1701 OF THE MICHIGAN COMPILED LAWS, AN
23 EMPLOYEE ENGAGED IN THE STRIKE SHALL FORFEIT 1/180 OR A DAY'S
24 PROPORTION, WHICHEVER IS LESS, OF THE EMPLOYEE'S ANNUAL COMPENSA-
25 TION AS PRESCRIBED IN A MASTER AGREEMENT SUBSEQUENTLY APPROVED,
26 FOR EACH DAY THE REQUIREMENT IS NOT FULFILLED. UPON REQUEST, IN
27 THE EVENT OF A DISPUTE, THE COMMISSION SHALL DETERMINE THE EXACT

1 AMOUNT OF THE FORFEITURE. FOR PURPOSES OF COMPUTING THE 180 DAYS
2 OF INSTRUCTION, THE SCHOOL YEAR SHALL CONCLUDE ON OR BEFORE THE
3 THIRD FRIDAY IN JUNE. THE DAYS OF STUDENT INSTRUCTION SHALL NOT
4 INCLUDE SATURDAYS, SUNDAYS, LABOR DAY, THANKSGIVING DAY,
5 CHRISTMAS DAY, NEW YEAR'S DAY, MEMORIAL DAY, DAYS LOST BECAUSE OF
6 PUBLIC SCHOOL EMPLOYEES' STRIKES, TEACHER PROFESSIONAL DEVELOP-
7 MENT DAYS, OR NONINSTRUCTIONAL WORK DAYS. THE CALENDAR SHALL
8 INCLUDE AT LEAST 10 VACATION DAYS, SCHEDULED AFTER THE FIRST 2
9 WEEKS OF THE SCHOOL YEAR AND BEFORE THE LAST 2 WEEKS OF THE
10 SCHOOL YEAR. SATURDAYS, SUNDAYS, HOLIDAYS, TEACHER PROFESSIONAL
11 DEVELOPMENT DAYS, OR NONINSTRUCTIONAL WORK DAYS SHALL NOT BE USED
12 TO COMPUTE VACATION DAYS.

13 SEC. 22. (1) AN EMPLOYER AND EMPLOYEES' REPRESENTATIVE
14 ENGAGED IN COLLECTIVE BARGAINING OR NEGOTIATION FOR THE PURPOSE
15 OF MAKING, AMENDING, RENEWING, OR EXTENDING A MASTER AGREEMENT
16 SHALL MAKE A GOOD FAITH EFFORT TO COMPLY WITH THE FOLLOWING NEGO-
17 TIATIONS SCHEDULE AND PROCEDURES:

18 (A) SELECTION OF NEGOTIATORS, COMPLETED NOT LATER THAN
19 APRIL 1.

20 (B) PRELIMINARY MEETINGS TO PREPARE AGENDA, COMPLETED NOT
21 LATER THAN APRIL 15.

22 (C) A WRITTEN PROPOSAL FOR THE MASTER AGREEMENT, SUBMITTED
23 BY THE EMPLOYEES' REPRESENTATIVE TO THE EMPLOYER, IN WRITING, NOT
24 LATER THAN MAY 1.

25 (D) A WRITTEN RESPONSE AND COUNTERPROPOSAL FOR THE MASTER
26 AGREEMENT, SUBMITTED BY THE EMPLOYER TO THE EMPLOYEES'
27 REPRESENTATIVE, IN WRITING, AND CONTAINING PRELIMINARY POSITIONS

1 ON ECONOMIC ISSUES BASED ON REVENUE ESTIMATES MADE IN ACCORDANCE
2 WITH MILLAGE LEVIES ALREADY AUTHORIZED AND THE STATE SCHOOL AID
3 RECOMMENDATIONS OF THE EXECUTIVE BUDGET, NOT LATER THAN MAY 15.

4 (E) COMMENCEMENT OF NEGOTIATIONS, NOT LATER THAN MAY 25.

5 (F) RESOLUTION OF ALL NONECONOMIC ISSUES, WITH UNRESOLVED
6 ECONOMIC ISSUES IDENTIFIED AND NO NEW ISSUES OF ANY TYPE TO BE
7 INTRODUCED, NOT LATER THAN JULY 1.

8 (G) SUBMISSION OF REVISED PROPOSALS FROM THE EMPLOYER ON
9 ECONOMIC ISSUES, IF APPROPRIATE, ON THE BASIS OF REVISED REVENUE
10 ESTIMATES MADE POSSIBLE BY NEW MILLAGE LEVY AUTHORIZATIONS OR
11 FINAL LEGISLATIVE ACTION ON STATE SCHOOL AID, OR BOTH, NOT LATER
12 THAN 10 DAYS AFTER THE MILLAGE AUTHORIZATION OR LEGISLATIVE
13 DETERMINATION IS MADE.

14 (H) EXECUTION OF A MASTER AGREEMENT PURSUANT TO
15 SECTION 18(1), NOT LATER THAN AUGUST 1.

16 (I) RATIFICATION OF A MASTER AGREEMENT PURSUANT TO
17 SECTION 18(2), NOT LATER THAN AUGUST 15.

18 (J) REQUEST FOR MEDIATION PURSUANT TO SECTION 7, IF NEEDED,
19 NOT LATER THAN SEPTEMBER 1.

20 (K) PETITION FOR ARBITRATION PURSUANT TO SECTION 19(3), IF
21 NEEDED, NOT LATER THAN OCTOBER 1.

22 (2) IF A NEW MASTER AGREEMENT IS NOT RATIFIED BY THE TIME
23 THE EXISTING MASTER AGREEMENT EXPIRES, THE EXISTING MASTER AGREE-
24 MENT SHALL BE EXTENDED UNTIL A NEW MASTER AGREEMENT IS RATIFIED
25 OR UNTIL ALL THE PROVISIONS OF SECTIONS 19 TO 19H ARE
26 IMPLEMENTED.

1 (3) THE TERMS OF A MASTER AGREEMENT PROVIDING FOR ITS
2 AMENDMENT, EXTENSION, OR RENEWAL SHALL BE CONSISTENT WITH THIS
3 SECTION.

4 SEC. 23. A PERSON WHO NEGLECTS OR REFUSES TO DO OR PERFORM
5 ANY ACT REQUIRED BY THIS ACT, OR WHO OTHERWISE VIOLATES THIS ACT,
6 OR KNOWINGLY PERMITS OR CONSENTS TO THE VIOLATION OF THIS ACT BY
7 ANOTHER, IS GUILTY OF A MISDEMEANOR AND SHALL BE FINED NOT MORE
8 THAN \$500.00, OR IMPRISONED NOT MORE THAN 3 MONTHS, OR BOTH.

9 SEC. 24. (1) IF A KNOWING VIOLATION OF THE TERMS OF AN
10 INJUNCTION, ORDER, DECREE, OR JUDGMENT ISSUED PURSUANT TO THIS
11 ACT OCCURS, THE EXCLUSIVE BARGAINING AGENT, BY AND ON BEHALF OF
12 ITS MEMBERS FOUND TO BE IN VIOLATION, SHALL FORFEIT AND PAY TO
13 THE STATE A CIVIL PENALTY WHICH SHALL BE NOT LESS THAN \$50.00 PER
14 BARGAINING UNIT MEMBER AND NOT MORE THAN \$100.00 PER BARGAINING
15 UNIT MEMBER IN THE DISTRICT. A SEPARATE PENALTY SHALL BE
16 ASSESSED FOR EACH VIOLATION. A SEPARATE VIOLATION SHALL ACCRUE
17 FOR EACH DAY DURING WHICH THE PROSCRIBED CONDUCT OCCURS.

18 (2) FOR PURPOSES OF THIS SECTION, THE COURT ISSUING THE
19 INJUNCTION, ORDER, DECREE, OR JUDGMENT SHALL RETAIN JURISDICTION,
20 AND THE CAUSE SHALL BE CONTINUED SO THAT THE ATTORNEY GENERAL MAY
21 PETITION FOR RECOVERY OF THE CIVIL PENALTY PROVIDED IN THIS
22 SECTION.

23 Section 2. This amendatory act shall not take effect unless
24 all of the following bills of the 86th Legislature are enacted
25 into law:

26 (a) Senate Bill No. _____ or House Bill No. 4023 (request
27 no. 00851'91).

1 (b) Senate Bill No. _____ or House Bill No. 4022 (request
2 no. 00852'91).