

SENATE BILL No. 385

April 14, 2005, Introduced by Senators CLARK-COLEMAN, SCOTT, CLARKE, THOMAS, BASHAM, SWITALSKI, JACOBS, LELAND, PRUSI, BARCIA, BRATER, EMERSON, SCHAUER and BERNERO and referred to the Committee on Education.

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 1 (MCL 423.201), as amended by 1999 PA 204.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) As used in this act:

2 (a) "Bargaining representative" means a labor organization
3 recognized by an employer or certified by the commission as the
4 sole and exclusive bargaining representative of certain employees
5 of the employer.

6 (b) "Commission" means the employment relations commission
7 created in section 3 of 1939 PA 176, MCL 423.3.

8 (c) "Intermediate school district" means that term as defined

1 in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

2 (d) "Lockout" means the temporary withholding of work from a
3 group of employees by means of shutting down the operation of the
4 employer in order to bring pressure upon the affected employees or
5 the bargaining representative, or both, to accept the employer's
6 terms of settlement of a labor dispute.

7 (e) "Public employee" means a person holding a position by
8 appointment or employment in the government of this state, in the
9 government of 1 or more of the political subdivisions of this
10 state, in the public school service, in a public or special
11 district, in the service of an authority, commission, or board, or
12 in any other branch of the public service, subject to the following
13 exceptions:

14 (i) Beginning March 31, 1997, a person employed by a private
15 organization or entity that provides services under a time-limited
16 contract with ~~the~~ **THIS** state or a political subdivision of ~~the~~
17 **THIS** state is not an employee of ~~the~~ **THIS** state or that political
18 subdivision ~~—~~ and is not a public employee.

19 (ii) ~~If, within 30 days after the effective date of the~~
20 ~~amendatory act that added this subparagraph,~~ **IF BY APRIL 9, 2000** a
21 public school employer that is the chief executive officer serving
22 in a school district of the first class under part 5A of the
23 revised school code, 1976 PA 451, MCL 380.371 to 380.376, issues an
24 order determining that it is in the best interests of the school
25 district, then a public school administrator employed by a school
26 district that is a school district of the first class under the
27 revised school code, 1976 PA 451, MCL 380.1 to 380.1852, is not a

1 public employee for purposes of this act. The exception under this
2 subparagraph applies to public school administrators employed by
3 that school district after the date of the order described in this
4 subparagraph whether or not the chief executive officer remains in
5 place in the school district. This exception does not prohibit the
6 chief executive officer or board of a school district of the first
7 class or its designee from having informal meetings with public
8 school administrators to discuss wages and working conditions. **AN**
9 **EXCEPTION FOR A PUBLIC SCHOOL ADMINISTRATOR UNDER THIS SUBPARAGRAPH**
10 **EXPIRES JULY 1, 2005.**

11 (f) "Public school academy" means a public school academy or
12 strict discipline academy organized under the revised school code,
13 1976 PA 451, MCL 380.1 to 380.1852.

14 (g) "Public school administrator" means a superintendent,
15 assistant superintendent, chief business official, principal, or
16 assistant principal employed by a school district, intermediate
17 school district, or public school academy.

18 (h) "Public school employer" means a public employer that is
19 the board of a school district, intermediate school district, or
20 public school academy; is the chief executive officer of a school
21 district in which a school reform board is in place under part 5A
22 of the revised school code, 1976 PA 451, MCL 380.371 to 380.376; or
23 is the governing board of a joint endeavor or consortium consisting
24 of any combination of school districts, intermediate school
25 districts, or public school academies.

26 (i) "School district" means that term as defined in section 6
27 of the revised school code, 1976 PA 451, MCL 380.6, or a local act

1 school district as defined in section 5 of the revised school code,
2 1976 PA 451, MCL 380.5.

3 (j) "Strike" means the concerted failure to report for duty,
4 the willful absence from one's position, the stoppage of work, or
5 the abstinence in whole or in part from the full, faithful, and
6 proper performance of the duties of employment for the purpose of
7 inducing, influencing, or coercing a change in employment
8 conditions, compensation, or the rights, privileges, or obligations
9 of employment. For employees of a public school employer, strike
10 also includes an action described in this subdivision that is taken
11 for the purpose of protesting or responding to an act alleged or
12 determined to be an unfair labor practice committed by the public
13 school employer.

14 (2) This act does not limit, impair, or affect the right of a
15 public employee to the expression or communication of a view,
16 grievance, complaint, or opinion on any matter related to the
17 conditions or compensation of public employment or their betterment
18 as long as the expression or communication does not interfere with
19 the full, faithful, and proper performance of the duties of
20 employment.