

# SENATE BILL No. 639

June 11, 2009, Introduced by Senator HARDIMAN 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 sections 1 and 15 (MCL 423.201 and 423.215), section 1 as amended by 1999 PA 204 and section 15 as amended by 1994 PA 112.

**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

1 created in section 3 of 1939 PA 176, MCL 423.3.

2 (c) "Intermediate school district" means that term as defined  
3 in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

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

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

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

21 (ii) ~~If, within 30 days after the effective date of the~~  
22 ~~amendatory act that added this subparagraph,~~ **IF BY APRIL 9, 2000** a  
23 public school employer that is the chief executive officer serving  
24 in a school district of the first class under part 5A of the  
25 revised school code, 1976 PA 451, MCL 380.371 to 380.376, issues an  
26 order determining that it is in the best interests of the school  
27 district, then a public school administrator employed by a school

1 district that is a school district of the first class under the  
2 revised school code, 1976 PA 451, MCL 380.1 to 380.1852, is not a  
3 public employee for purposes of this act. The exception under this  
4 subparagraph applies to public school administrators employed by  
5 that school district after the date of the order described in this  
6 subparagraph whether or not the chief executive officer remains in  
7 place in the school district. This exception does not prohibit the  
8 chief executive officer or board of a school district of the first  
9 class or its designee from having informal meetings with public  
10 school administrators to discuss wages and working conditions.

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; **IS**  
23 **A NEIGHBORHOOD PUBLIC SCHOOL ESTABLISHED UNDER PART 6D OF THE**  
24 **REVISED SCHOOL CODE, 1976 PA 451;** or is the governing board of a  
25 joint endeavor or consortium consisting of any combination of  
26 school districts, intermediate school districts, or public school  
27 academies.

1 (i) "School district" means that term as defined in section 6  
2 of the revised school code, 1976 PA 451, MCL 380.6. ~~or a local~~  
3 ~~act school district as defined in section 5 of the revised school~~  
4 ~~code, 1976 PA 451, MCL 380.5.~~

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

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

23 Sec. 15. (1) A public employer shall bargain collectively with  
24 the representatives of its employees as ~~defined~~**INDICATED** in  
25 section 11 and is authorized to make and enter into collective  
26 bargaining agreements with ~~such~~**THOSE** representatives. Except as  
27 otherwise provided in this section, for the purposes of this

1 section, to bargain collectively is ~~the performance of~~ **TO PERFORM**  
2 the mutual obligation of the employer and the representative of the  
3 employees to meet at reasonable times and confer in good faith with  
4 respect to wages, hours, and other terms and conditions of  
5 employment, or the negotiation of an agreement, or any question  
6 arising under the agreement, and the execution of a written  
7 contract, ordinance, or resolution incorporating any agreement  
8 reached if requested by either party, but this obligation does not  
9 compel either party to agree to a proposal or require the making of  
10 a concession.

11 (2) A public school employer has the responsibility,  
12 authority, and right to manage and direct on behalf of the public  
13 the operations and activities of the public schools under its  
14 control.

15 (3) Collective bargaining between a public school employer and  
16 a bargaining representative of its employees shall not include any  
17 of the following subjects:

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

26 (b) Establishment of the starting day for the school year and  
27 of the amount of pupil contact time required to receive full state

1 school aid under section 1284 of the **REVISED** school code, ~~of 1976,~~  
2 ~~Act No. 451 of the Public Acts of 1976, being section 380.1284 of~~  
3 ~~the Michigan Compiled Laws 1976 PA 451, MCL 380.1284,~~ and under  
4 section 101 of the state school aid act of 1979, ~~Act No. 94 of the~~  
5 ~~Public Acts of 1979, being section 388.1701 of the Michigan~~  
6 ~~Compiled Laws 1979 PA 94, MCL 388.1701.~~

7 (c) Composition of ~~site based decision making bodies~~  
8 ~~established pursuant to section 1202a of Act No. 451 of the Public~~  
9 ~~Acts of 1976, being section 380.1202a of the Michigan Compiled~~  
10 ~~Laws, or of school improvement committees established under section~~  
11 ~~1277 of Act No. 451 of the Public Acts of 1976, being section~~  
12 ~~380.1277 of the Michigan Compiled Laws~~ **THE REVISED SCHOOL CODE,**  
13 **1976 PA 451, MCL 380.1277.**

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

18 (e) The decision of whether or not to act as an authorizing  
19 body to grant a contract to organize and operate 1 or more public  
20 school academies under part 6a of ~~Act No. 451 of the Public Acts of~~  
21 ~~1976, being sections 380.501 to 380.507 of the Michigan Compiled~~  
22 ~~Laws~~ **THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.501 TO 380.507,**  
23 or the granting of a leave of absence to an employee of a school  
24 district to participate in a public school academy.

25 (f) The decision of whether or not to contract with a third  
26 party for 1 or more noninstructional support services; or the  
27 procedures for obtaining the contract; or the identity of the third

1 party; or the impact of the contract on individual employees or the  
2 bargaining unit.

3 (g) The use of volunteers in providing services at its  
4 schools.

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

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

13 **(J) DECISIONS CONCERNING THE GRANT OF A LEAVE OF ABSENCE TO**  
14 **TEACH IN A NEIGHBORHOOD PUBLIC SCHOOL ESTABLISHED UNDER PART 6D OF**  
15 **THE REVISED SCHOOL CODE, 1976 PA 451.**

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

21 Enacting section 1. This amendatory act does not take effect  
22 unless Senate Bill No. 636

23 of the 95th Legislature is enacted into law.