

HOUSE BILL No. 4628

May 10, 2011, Introduced by Reps. Yonker and Haveman 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; to require certain provisions in collective bargaining agreements; 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 9.

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 the
6 performance of the mutual obligation of the employer and the

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

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

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

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

24 (b) Establishment of the starting day for the school year and
25 of the amount of pupil contact time required to receive full state
26 school aid under section 1284 of the revised school code, 1976 PA
27 451, MCL 380.1284, and under section 101 of the state school aid

1 act of 1979, 1979 PA 94, MCL 388.1701.

2 (c) The composition of school improvement committees
3 established under section 1277 of the revised school code, 1976 PA
4 451, MCL 380.1277.

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

9 (e) The decision of whether or not to act as an authorizing
10 body to grant a contract to organize and operate 1 or more public
11 school academies under the revised school code, 1976 PA 451, MCL
12 380.1 to 380.1852.

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

24 (g) The use of volunteers in providing services at its
25 schools.

26 (h) Decisions concerning use of experimental or pilot programs
27 and staffing of experimental or pilot programs and decisions

1 concerning use of technology to deliver educational programs and
2 services and staffing to provide the technology, or the impact of
3 these decisions on individual employees or the bargaining unit.

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

7 (J) DECISIONS ABOUT THE DEVELOPMENT, CONTENT, STANDARDS,
8 PROCEDURES, ADOPTION, AND IMPLEMENTATION OF THE PUBLIC SCHOOL
9 EMPLOYER'S POLICY FOR PLACEMENT OF TEACHERS REQUIRED UNDER SECTION
10 1247 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1247, ANY
11 DECISION MADE BY THE PUBLIC SCHOOL EMPLOYER PURSUANT TO THAT
12 POLICY, OR THE IMPACT OF THOSE DECISIONS ON AN INDIVIDUAL EMPLOYEE
13 OR THE BARGAINING UNIT.

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

26 (L) DECISIONS ABOUT THE DEVELOPMENT, CONTENT, STANDARDS,
27 PROCEDURES, ADOPTION, AND IMPLEMENTATION OF A PERFORMANCE

1 EVALUATION SYSTEM, INCLUDING, BUT NOT LIMITED TO, THE PUBLIC SCHOOL
2 EMPLOYER'S PERFORMANCE EVALUATION SYSTEM ADOPTED UNDER SECTION 1249
3 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249, OR UNDER
4 1937 (EX SESS) PA 4, MCL 38.71 TO 38.191, DECISIONS CONCERNING THE
5 CONTENT OF A PERFORMANCE EVALUATION OF AN EMPLOYEE, OR THE IMPACT
6 OF THOSE DECISIONS ON AN INDIVIDUAL EMPLOYEE OR THE BARGAINING
7 UNIT.

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

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

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

1 COMPENSATION, INCLUDING, BUT NOT LIMITED TO, PERFORMANCE-BASED
2 COMPENSATION UNDER SECTION 1250 OF THE REVISED SCHOOL CODE, 1976 PA
3 451, MCL 380.1250, DECISIONS CONCERNING THE PERFORMANCE-BASED
4 COMPENSATION OF AN INDIVIDUAL EMPLOYEE, OR THE IMPACT OF THOSE
5 DECISIONS ON AN INDIVIDUAL EMPLOYEE OR THE BARGAINING UNIT.

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 ~~the~~
12 ~~effective date of the amendatory act that added this subsection~~
13 **MARCH 16, 2011** shall include a provision that allows an emergency
14 manager appointed under the local government and school district
15 fiscal accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**, to
16 reject, modify, or terminate the collective bargaining agreement as
17 provided in the local government and school district fiscal
18 accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**. Provisions
19 required by this subsection are prohibited subjects of bargaining
20 under this act.

21 (8) Collective bargaining agreements under this act may be
22 rejected, modified, or terminated pursuant to the local government
23 and school district fiscal accountability act, **2011 PA 4, MCL**
24 **141.1501 TO 141.1531**. This act does not confer a right to bargain
25 that would infringe on the exercise of powers under the local
26 government and school district fiscal accountability act, **2011 PA**
27 **4, MCL 141.1501 TO 141.1531**.

1 (9) A unit of local government that enters into a consent
2 agreement under the local government and school district fiscal
3 accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**, is not
4 subject to subsection (1) for the term of the consent agreement, as
5 provided in the local government and school district fiscal
6 accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**.

7 Enacting section 1. This amendatory act shall not take effect
8 unless all of the following bills of the 96th Legislature are
9 enacted into law:

10 (a) Senate Bill No. ____ or House Bill No. 4625(request no.
11 00145'11 *).

12 (b) Senate Bill No. ____ or House Bill No. 4626(request no.
13 02019'11 ***).

14 (c) Senate Bill No. ____ or House Bill No. 4627(request no.
15 02178'11).