

HOUSE BILL No. 5213

January 13, 2016, Introduced by Rep. Muxlow 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; to prescribe means of enforcement and penalties for the violation of the provisions of this act; and to make appropriations,"

by amending section 15 (MCL 423.215), as amended by 2014 PA 414.

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 to perform

1 the mutual obligation of the employer and the representative of the
2 employees to meet at reasonable times and confer in good faith with
3 respect to wages, hours, and other terms and conditions of
4 employment, or to negotiate an agreement, or any question arising
5 under the agreement, and to execute a written contract, ordinance,
6 or resolution incorporating any agreement reached if requested by
7 either party, but this obligation does not compel either party to
8 agree to a proposal or make 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~~ **SCHOOL CALENDAR** for the
25 school year and of the amount of pupil contact time required to
26 receive full state school aid under section 1284 of the revised
27 school code, 1976 PA 451, MCL 380.1284, and under section 101 of

1 the state school aid 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 the selection of grade levels or schools in
8 which to allow 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 and staffing of experimental or
27 pilot programs and decisions concerning use of technology to

1 deliver educational programs and services and staffing to provide
2 that technology, or the impact of those decisions on individual
3 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) Any decision made by the public school employer regarding
8 teacher placement, or the impact of that decision on an individual
9 employee or the bargaining unit.

10 (k) Decisions about the development, content, standards,
11 procedures, adoption, and implementation of the public school
12 employer's policies regarding personnel decisions when conducting a
13 staffing or program reduction or any other personnel determination
14 resulting in the elimination of a position, when conducting a
15 recall from a staffing or program reduction or any other personnel
16 determination resulting in the elimination of a position, or in
17 hiring after a staffing or program reduction or any other personnel
18 determination resulting in the elimination of a position, as
19 provided under section 1248 of the revised school code, 1976 PA
20 451, MCL 380.1248, any decision made by the public school employer
21 pursuant to those policies, or the impact of those decisions on an
22 individual employee or the bargaining unit.

23 (l) Decisions about the development, content, standards,
24 procedures, adoption, and implementation of a public school
25 employer's performance evaluation system adopted under ~~section~~
26 **SECTIONS 1249 AND 1249B** of the revised school code, 1976 PA 451,
27 MCL 380.1249 **AND 380.1249B**, or under 1937 (Ex Sess) PA 4, MCL 38.71

1 to 38.191, decisions concerning the content of a performance
2 evaluation of an employee under those provisions of law, or the
3 impact of those decisions on an individual employee or the
4 bargaining unit.

5 (m) For public employees whose employment is regulated by 1937
6 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions about the
7 development, content, standards, procedures, adoption, and
8 implementation of a policy regarding discharge or discipline of an
9 employee, decisions concerning the discharge or discipline of an
10 individual employee, or the impact of those decisions on an
11 individual employee or the bargaining unit. For public employees
12 whose employment is regulated by 1937 (Ex Sess) PA 4, MCL 38.71 to
13 38.191, a public school employer shall not adopt, implement, or
14 maintain a policy for discharge or discipline of an employee that
15 includes a standard for discharge or discipline that is different
16 than the arbitrary and capricious standard provided under section 1
17 of article IV of 1937 (Ex Sess) PA 4, MCL 38.101.

18 (n) Decisions about the format, timing, 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 under section 1250 of the revised school code, 1976 PA
2 451, MCL 380.1250, decisions concerning the performance-based
3 compensation of an individual employee, or the impact of those
4 decisions on an individual employee or the bargaining unit.

5 (p) Decisions about the development, format, content, and
6 procedures of the notification to parents and legal guardians
7 required under section 1249a of the revised school code, 1976 PA
8 451, MCL 380.1249a.

9 (q) Any requirement that would violate section 10(3).

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

16 (5) If a public school is placed in the state school
17 reform/redesign school district or is placed under a chief
18 executive officer under section 1280c of the revised school code,
19 1976 PA 451, MCL 380.1280c, then, for the purposes of collective
20 bargaining under this act, the state school reform/redesign officer
21 or the chief executive officer, as applicable, is the public school
22 employer of the public school employees of that public school for
23 as long as the public school is part of the state school
24 reform/redesign school district or operated by the chief executive
25 officer.

26 (6) A public school employer's collective bargaining duty
27 under this act and a collective bargaining agreement entered into

1 by a public school employer under this act are subject to all of
2 the following:

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

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

14 (7) Each collective bargaining agreement entered into between
15 a public employer and public employees under this act on or after
16 March 28, 2013 shall include a provision that allows an emergency
17 manager appointed under the local financial stability and choice
18 act, 2012 PA 436, MCL 141.1541 to 141.1575, to reject, modify, or
19 terminate the collective bargaining agreement as provided in the
20 local financial stability and choice act, 2012 PA 436, MCL 141.1541
21 to 141.1575. Provisions required by this subsection are prohibited
22 subjects of bargaining under this act.

23 (8) Collective bargaining agreements under this act may be
24 rejected, modified, or terminated pursuant to the local financial
25 stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575.
26 This act does not confer a right to bargain that would infringe on
27 the exercise of powers under the local financial stability and

1 choice act, 2012 PA 436, MCL 141.1541 to 141.1575.

2 (9) A unit of local government that enters into a consent
3 agreement under the local financial stability and choice act, 2012
4 PA 436, MCL 141.1541 to 141.1575, is not subject to subsection (1)
5 for the term of the consent agreement, as provided in the local
6 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
7 141.1575.

8 (10) If the charter of a city, village, or township with a
9 population of 500,000 or more requires and specifies the method of
10 selection of a retirant member of the municipality's fire
11 department, police department, or fire and police department
12 pension or retirement board, the inclusion of the retirant member
13 on the board and the method of selection of that retirant member
14 are prohibited subjects of collective bargaining, and any provision
15 in a collective bargaining agreement that purports to modify that
16 charter requirement is void and of no effect.

17 (11) The following are prohibited subjects of bargaining and
18 are at the sole discretion of the public employer:

19 (a) A decision as to whether or not the public employer will
20 enter into an intergovernmental agreement to consolidate 1 or more
21 functions or services, to jointly perform 1 or more functions or
22 services, or to otherwise collaborate regarding 1 or more functions
23 or services.

24 (b) The procedures for obtaining a contract for the transfer
25 of functions or responsibilities under an agreement described in
26 subdivision (a).

27 (c) The identities of any other parties to an agreement

1 described in subdivision (a).

2 (12) Subsection (11) does not relieve a public employer of any
3 duty established by law to collectively bargain with its employees
4 as to the effect of a contract described in subsection (11)(a) on
5 its employees.

6 (13) An agreement with a collective bargaining unit shall not
7 require a public employer to pay the costs of an independent
8 examiner verification described in section 10(9).

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.