

**SUBSTITUTE FOR
HOUSE BILL NO. 4354**

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 2023 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 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 must 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 must be bargained by the public school
22 employer and the bargaining representative before the change takes
23 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
28 act of 1979, 1979 PA 94, MCL 388.1701.

29 (c) The composition of school improvement committees

1 established under section 1277 of the revised school code, 1976 PA
2 451, MCL 380.1277.

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

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

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

22 (g) The use of volunteers in providing services at its
23 schools.

24 (h) Decisions concerning use and staffing of experimental or
25 pilot programs and decisions concerning use of technology to
26 deliver educational programs and services and staffing to provide
27 that technology, or the impact of those decisions on individual
28 employees or the bargaining unit.

29 (i) Any compensation or additional work assignment intended to

1 reimburse an employee for or allow an employee to recover any
2 monetary penalty imposed under this act.

3 ~~(j) Any decision made by the public school employer regarding
4 teacher placement, or the impact of that decision on an individual
5 employee or the bargaining unit.~~

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

19 ~~(l) Decisions about the development, content, standards,
20 procedures, adoption, and implementation of a public school
21 employer's performance evaluation system adopted under section 1249
22 of the revised school code, 1976 PA 451, MCL 380.1249, or under
23 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions concerning the
24 content of a performance evaluation of an employee under those
25 provisions of law, or the impact of those decisions on an
26 individual employee or the bargaining unit.~~

27 ~~(m) For public employees whose employment is regulated by 1937
28 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions about the
29 development, content, standards, procedures, adoption, and~~

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

11 ~~(n) Decisions about the format, timing, or number of classroom~~
12 ~~observations conducted for the purposes of section 3a of article II~~
13 ~~of 1937 (Ex Sess) PA 4, MCL 38.83a, decisions concerning the~~
14 ~~classroom observation of an individual employee, or the impact of~~
15 ~~those decisions on an individual employee or the bargaining unit.~~

16 ~~(o) Decisions about the development, content, standards,~~
17 ~~procedures, adoption, and implementation of the method of~~
18 ~~compensation required under section 1250 of the revised school~~
19 ~~code, 1976 PA 451, MCL 380.1250, decisions about how an employee~~
20 ~~performance evaluation is used to determine performance-based~~
21 ~~compensation under section 1250 of the revised school code, 1976 PA~~
22 ~~451, MCL 380.1250, decisions concerning the performance based~~
23 ~~compensation of an individual employee, or the impact of those~~
24 ~~decisions on an individual employee or the bargaining unit.~~

25 ~~(p) Decisions about the development, format, content, and~~
26 ~~procedures of the notification to parents and legal guardians~~
27 ~~required under section 1249a of the revised school code, 1976 PA~~
28 ~~451, MCL 380.1249a.~~

29 (4) Except as otherwise provided in subsection (3) (f), the

1 matters described in subsection (3) are prohibited subjects of
2 bargaining between a public school employer and a bargaining
3 representative of its employees, and, for the purposes of this act,
4 are within the sole authority of the public school employer to
5 decide.

6 (5) Each collective bargaining agreement entered into between
7 a public employer and public employees under this act on or after
8 March 28, 2013 must include a provision that allows an emergency
9 manager appointed under the local financial stability and choice
10 act, 2012 PA 436, MCL 141.1541 to 141.1575, to reject, modify, or
11 terminate the collective bargaining agreement as provided in the
12 local financial stability and choice act, 2012 PA 436, MCL 141.1541
13 to 141.1575. Provisions required by this subsection are prohibited
14 subjects of bargaining under this act.

15 (6) Collective bargaining agreements under this act may be
16 rejected, modified, or terminated pursuant to the local financial
17 stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575.
18 This act does not confer a right to bargain that would infringe on
19 the exercise of powers under the local financial stability and
20 choice act, 2012 PA 436, MCL 141.1541 to 141.1575.

21 (7) A unit of local government that enters into a consent
22 agreement under the local financial stability and choice act, 2012
23 PA 436, MCL 141.1541 to 141.1575, is not subject to subsection (1)
24 for the term of the consent agreement, as provided in the local
25 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
26 141.1575.

27 (8) If the charter of a city, village, or township with a
28 population of 500,000 or more requires and specifies the method of
29 selection of a retirant member of the municipality's fire

1 department, police department, or fire and police department
2 pension or retirement board, the inclusion of the retirant member
3 on the board and the method of selection of that retirant member
4 are prohibited subjects of collective bargaining, and any provision
5 in a collective bargaining agreement that purports to modify that
6 charter requirement is void and of no effect.

7 ~~(9) The following are prohibited subjects of bargaining and~~
8 ~~are at the sole discretion of the public employer:~~

9 ~~(a) A decision as to whether or not the public employer will~~
10 ~~enter into an intergovernmental agreement to consolidate 1 or more~~
11 ~~functions or services, to jointly perform 1 or more functions or~~
12 ~~services, or to otherwise collaborate regarding 1 or more functions~~
13 ~~or services.~~

14 ~~(b) The procedures for obtaining a contract for the transfer~~
15 ~~of functions or responsibilities under an agreement described in~~
16 ~~subdivision (a).~~

17 ~~(c) The identities of any other parties to an agreement~~
18 ~~described in subdivision (a).~~

19 ~~(10) Subsection (9) does not relieve a public employer of any~~
20 ~~duty established by law to collectively bargain with its employees~~
21 ~~as to the effect of a contract described in subsection (9)(a) on~~
22 ~~its employees.~~

23 **(9)** ~~(11)~~ An agreement with a collective bargaining unit must
24 not require a public employer to pay the costs of an independent
25 examiner verification described in section 10(4).