

HOUSE BILL No. 4771

June 16, 2011, Introduced by Reps. Agema, Crawford, Potvin, Genetski, McMillin, Lund, Lori, Haveman, Pettalia, Shirkey, Haines, Poleski, Knollenberg, O'Brien, Bumstead, Lyons, McBroom, Opsommer, Johnson, Muxlow, Shaughnessy, Outman, Damrow, Rogers, Jacobsen, Rendon, Kurtz, Hooker, Yonker, Daley, Kowall, Heise, Huuki, Scott and MacGregor and referred to the Committee on Oversight, Reform, and Ethics.

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 15 (MCL 423.215), as amended by 2011 PA 25.

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
3 and, **SUBJECT TO POWERS AND DUTIES OF THE PUBLIC EMPLOYER**
4 **ESTABLISHED BY LAW**, may make and enter into collective bargaining
5 agreements with those representatives. Except as otherwise provided
6 in this section, for the purposes of this section, to bargain
7 collectively is to perform the mutual obligation of the employer

1 and the representative of the employees to meet at reasonable times
2 and confer in good faith with respect to wages, hours, and other
3 terms and conditions of employment, or to negotiate an agreement,
4 or any question arising under the agreement, and to execute 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 make a
8 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 (4) Except as otherwise provided in subsection (3)(f), the
8 matters described in subsection (3) are prohibited subjects of
9 bargaining between a public school employer and a bargaining
10 representative of its employees, and, for the purposes of this act,
11 are within the sole authority of the public school employer to
12 decide.

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

23 (6) A public school employer's collective bargaining duty
24 under this act and a collective bargaining agreement entered into
25 by a public school employer under this act are subject to all of
26 the following:

27 (a) Any effect on collective bargaining and any modification

1 of a collective bargaining agreement occurring under section 1280c
2 of the revised school code, 1976 PA 451, MCL 380.1280c.

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

11 (7) Each collective bargaining agreement entered into between
12 a public employer and public employees under this act after March
13 16, 2011 shall include a provision that allows an emergency manager
14 appointed under the local government and school district fiscal
15 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, to reject,
16 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 (10) If the charter of a city, village, or township with a
8 population of 500,000 or more specifies the selection of a retirant
9 member of the municipality's fire department, police department, or
10 fire and police department pension or retirement board, the method
11 of selection of that member is a prohibited subject of bargaining.

12 **(11) HEALTH INSURANCE OR OTHER FRINGE BENEFITS FOR ANY**
13 **CORESIDENT OF AN EMPLOYEE OF A PUBLIC EMPLOYER ON TERMS THAT**
14 **CONFLICT WITH THE PUBLIC EMPLOYEE DOMESTIC PARTNER BENEFIT**
15 **RESTRICTION ACT.**

16 Enacting section 1. This amendatory act does not take effect
17 unless Senate Bill No. ___ or House Bill No. 4770 (request no.
18 03005'11) of the 96th Legislature is enacted into law.