

SUBSTITUTE FOR  
HOUSE BILL NO. 6074

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 sections 1, 9, 10, and 15 (MCL 423.201, 423.209, 423.210, and 423.215), as amended by 2012 PA 349.

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

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

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

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

15 (i) ~~A person~~ **AN INDIVIDUAL** employed by a private organization  
16 or entity who provides services under a time-limited contract with  
17 this state or a political subdivision of this state or who receives  
18 a direct or indirect government subsidy in his or her private  
19 employment is not an employee of this state or that political  
20 subdivision, and is not a public employee. This provision shall not  
21 be superseded by any interlocal agreement, memorandum of  
22 understanding, memorandum of commitment, or other document similar  
23 to these.

24 (ii) If, by April 9, 2000, a public school employer that is the  
25 chief executive officer serving in a school district of the first  
26 class under part 5A of the revised school code, 1976 PA 451, MCL  
27 380.371 to 380.376, issues an order determining that it is in the

1 best interests of the school district, then a public school  
2 administrator employed by that school district is not a public  
3 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 (iii) An individual serving as a graduate student research  
12 assistant or in an equivalent position, ~~and~~ **A STUDENT PARTICIPATING**  
13 **IN INTERCOLLEGIATE ATHLETICS ON BEHALF OF A PUBLIC UNIVERSITY IN**  
14 **THIS STATE, OR** any individual whose position does not have  
15 sufficient indicia of an employer-employee relationship using the  
16 20-factor test announced by the internal revenue service of the  
17 United States department of treasury in revenue ruling 87-41, 1987-  
18 1 C.B. 296 is not a public employee entitled to representation or  
19 collective bargaining rights under this act.

20 (f) "Public school academy" means a public school academy or  
21 strict discipline academy organized under the revised school code,  
22 1976 PA 451, MCL 380.1 to 380.1852.

23 (g) "Public school administrator" means a superintendent,  
24 assistant superintendent, chief business official, principal, or  
25 assistant principal employed by a school district, intermediate  
26 school district, or public school academy.

27 (h) "Public school employer" means a public employer that is

1 the board of a school district, intermediate school district, or  
2 public school academy; is the chief executive officer of a school  
3 district in which a school reform board is in place under part 5A  
4 of the revised school code, 1976 PA 451, MCL 380.371 to 380.376; or  
5 is the governing board of a joint endeavor or consortium consisting  
6 of any combination of school districts, intermediate school  
7 districts, or public school academies.

8 (i) "School district" means that term as defined in section 6  
9 of the revised school code, 1976 PA 451, MCL 380.6, or a local act  
10 school district as defined in section 5 of the revised school code,  
11 1976 PA 451, MCL 380.5.

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

23 (2) This act does not limit, impair, or affect the right of a  
24 public employee to the expression or communication of a view,  
25 grievance, complaint, or opinion on any matter related to the  
26 conditions or compensation of public employment or their betterment  
27 as long as the expression or communication does not interfere with

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1 the full, faithful, and proper performance of the duties of  
2 employment.

3 Sec. 9. (1) Public employees may do any of the following:

4 (a) Organize together or form, join, or assist in labor  
5 organizations; engage in lawful concerted activities for the  
6 purpose of collective negotiation or bargaining or other mutual aid  
7 and protection; or negotiate or bargain collectively with their  
8 public employers through representatives of their own free choice.

9 (b) Refrain from any or all of the activities identified in  
10 subdivision (a).

11 (2) No person shall by force, intimidation, or unlawful  
12 threats compel or attempt to compel any public employee to do any  
13 of the following:

14 (a) Become or remain a member of a labor organization or  
15 bargaining representative or otherwise affiliate with or  
16 financially support a labor organization or bargaining  
17 representative.

18 (b) Refrain from engaging in employment or refrain from  
19 joining a labor organization or bargaining representative or  
20 otherwise affiliating with or financially supporting a labor  
21 organization or bargaining representative.

22 (c) Pay to any charitable organization or third party an  
23 amount that is in lieu of, equivalent to, or any portion of dues,  
24 fees, assessments, or other charges or expenses required of members  
25 of or public employees represented by a labor organization or  
26 bargaining representative.

27 (D) PAY THE COSTS OF AN INDEPENDENT [EXAMINER VERIFICATION] AS

1 **DESCRIBED IN SECTION 10(9).**

2 (3) A person who violates subsection (2) is liable for a civil  
3 fine of not more than \$500.00. A civil fine recovered under this  
4 section shall be submitted to the state treasurer for deposit in  
5 the general fund of this state.

6 Sec. 10. (1) A public employer or an officer or agent of a  
7 public employer shall not do any of the following:

8 (a) Interfere with, restrain, or coerce public employees in  
9 the exercise of their rights guaranteed in section 9.

10 (b) Initiate, create, dominate, contribute to, or interfere  
11 with the formation or administration of any labor organization. A  
12 public school employer's use of public school resources to assist a  
13 labor organization in collecting dues or service fees from wages of  
14 public school employees is a prohibited contribution to the  
15 administration of a labor organization. However, a public school  
16 employer's collection of dues or service fees pursuant to a  
17 collective bargaining agreement that is in effect on March 16, 2012  
18 is not prohibited until the agreement expires or is terminated,  
19 extended, or renewed. A public employer may permit employees to  
20 confer with a labor organization during working hours without loss  
21 of time or pay.

22 (c) Discriminate in regard to hire, terms, or other conditions  
23 of employment to encourage or discourage membership in a labor  
24 organization.

25 (d) Discriminate against a public employee because he or she  
26 has given testimony or instituted proceedings under this act.

27 (e) Refuse to bargain collectively with the representatives of

1 its public employees, subject to ~~the provisions of~~ section 11.

2 (2) A labor organization or its agents shall not do any of the  
3 following:

4 (a) Restrain or coerce public employees in the exercise of the  
5 rights guaranteed in section 9. This subdivision does not impair  
6 the right of a labor organization to prescribe its own rules with  
7 respect to the acquisition or retention of membership.

8 (b) Restrain or coerce a public employer in the selection of  
9 its representatives for the purposes of collective bargaining or  
10 the adjustment of grievances.

11 (c) Cause or attempt to cause a public employer to  
12 discriminate against a public employee in violation of subsection  
13 (1)(c).

14 (d) Refuse to bargain collectively with a public employer,  
15 provided it is the representative of the public employer's  
16 employees, subject to section 11.

17 (3) Except as provided in subsection (4), an individual shall  
18 not be required as a condition of obtaining or continuing public  
19 employment to do any of the following:

20 (a) Refrain or resign from membership in, voluntary  
21 affiliation with, or voluntary financial support of a labor  
22 organization or bargaining representative.

23 (b) Become or remain a member of a labor organization or  
24 bargaining representative.

25 (c) Pay any dues, fees, assessments, or other charges or  
26 expenses of any kind or amount, or provide anything of value to a  
27 labor organization or bargaining representative.

1 (d) Pay to any charitable organization or third party any  
2 amount that is in lieu of, equivalent to, or any portion of dues,  
3 fees, assessments, or other charges or expenses required of members  
4 of or public employees represented by a labor organization or  
5 bargaining representative.

6 (4) The application of subsection (3) is subject to the  
7 following:

8 (a) Subsection (3) does not apply to any of the following:

9 (i) A public police or fire department employee or any person  
10 who seeks to become employed as a public police or fire department  
11 employee as that term is defined under section 2 of 1969 PA 312,  
12 MCL 423.232.

13 (ii) A state police trooper or sergeant who is granted rights  
14 under section 5 of article XI of the state constitution of 1963 or  
15 any individual who seeks to become employed as a state police  
16 trooper or sergeant.

17 (b) Any person described in subdivision (a), or a labor  
18 organization or bargaining representative representing persons  
19 described in subdivision (a) and a public employer or this state  
20 may agree that all employees in the bargaining unit shall share  
21 fairly in the financial support of the labor organization or their  
22 exclusive bargaining representative by paying a fee to the labor  
23 organization or exclusive bargaining representative that may be  
24 equivalent to the amount of dues uniformly required of members of  
25 the labor organization or exclusive bargaining representative.  
26 Section 9(2) shall not be construed to interfere with the right of  
27 a public employer or this state and a labor organization or



1 bargaining representative to enter into or lawfully administer such  
2 an agreement as it relates to the employees or persons described in  
3 subdivision (a).

4 (c) If any of the exclusions in subdivision (a) (i) or (ii) are  
5 found to be invalid by a court, the following apply:

6 (i) The individuals described in the exclusion found to be  
7 invalid shall no longer be excepted from the application of  
8 subsection (3).

9 (ii) Subdivision (b) does not apply to individuals described in  
10 the invalid exclusion.

11 (5) An agreement, contract, understanding, or practice between  
12 or involving a public employer, labor organization, or bargaining  
13 representative that violates subsection (3) is unlawful and  
14 unenforceable. This subsection applies only to an agreement,  
15 contract, understanding, or practice that takes effect or is  
16 extended or renewed after ~~the effective date of the amendatory act~~  
17 ~~that added this subsection.~~ **MARCH 28, 2013.**

18 (6) The court of appeals has exclusive original jurisdiction  
19 over any action challenging the validity of subsection (3), (4), or  
20 (5). The court of appeals shall hear the action in an expedited  
21 manner.

22 (7) For fiscal year 2012-2013, \$1,000,000.00 is appropriated  
23 to the department of licensing and regulatory affairs to be  
24 expended to do all of the following regarding ~~the amendatory act~~  
25 ~~that added this subsection.~~ **2012 PA 349:**

26 (a) Respond to public inquiries regarding ~~the amendatory~~  
27 ~~act.~~ **2012 PA 349.**

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1 (b) Provide the commission with sufficient staff and other  
2 resources to implement ~~the amendatory act.~~ **2012 PA 349.**

3 (c) Inform public employers, public employees, and labor  
4 organizations concerning their rights and responsibilities under  
5 ~~the amendatory act.~~ **2012 PA 349.**

6 (d) Any other purposes that the director of the department of  
7 licensing and regulatory affairs determines in his or her  
8 discretion are necessary to implement ~~the amendatory act.~~ **2012 PA**  
9 **349.**

10 (8) A person, public employer, or labor organization that  
11 violates subsection (3) is liable for a civil fine of not more than  
12 \$500.00. A civil fine recovered under this section shall be  
13 submitted to the state treasurer for deposit in the general fund of  
14 this state.

15 (9) By ~~March~~ **JULY** 1 of each year, each exclusive bargaining  
16 representative that represents public employees in this state shall  
17 ~~[file with the commission an independent audit]~~ **HAVE AN INDEPENDENT**  
**EXAMINER VERIFY**

18 **] THE EXCLUSIVE BARGAINING REPRESENTATIVE'S CALCULATION** of  
19 all expenditures attributed to the costs of collective bargaining,  
20 contract administration, and grievance adjustment during the prior  
21 calendar year **[AND SHALL FILE THAT VERIFICATION WITH THE COMMISSION]**. The  
commission shall make the ~~[audits]~~ **EXCLUSIVE BARGAINING REPRESENTATIVE'S**  
**CALCULATIONS**  
22 **] available to the public on the commission's**  
23 website. **THE EXCLUSIVE BARGAINING REPRESENTATIVE SHALL ALSO FILE**  
24 **A DECLARATION IDENTIFYING THE LOCAL BARGAINING UNITS THAT ARE**  
25 **REPRESENTED. LOCAL BARGAINING UNITS IDENTIFIED IN THE**  
26 **DECLARATION FILED BY THE EXCLUSIVE BARGAINING REPRESENTATIVE ARE**  
27 **NOT REQUIRED TO FILE A SEPARATE [CALCULATION OF ALL EXPENDITURES**  
**ATTRIBUTED TO THE COSTS OF COLLECTIVE BARGAINING, CONTRACT**  
**ADMINISTRATION, AND GRIEVANCE ADJUSTMENT]**. For

1 fiscal year 2011-2012, \$100,000.00 is appropriated to the  
2 commission for the costs of implementing this subsection. **FOR**  
3 **FISCAL YEAR 2014-2015, \$100,000.00 IS APPROPRIATED TO THE**  
4 **COMMISSION FOR THE COSTS OF IMPLEMENTING THIS SUBSECTION.**

5 (10) Except for actions required to be brought under  
6 subsection (6), a person who suffers an injury as a result of a  
7 violation or threatened violation of subsection (3) may bring a  
8 civil action for damages, injunctive relief, or both. In addition,  
9 a court shall award court costs and reasonable attorney fees to a  
10 plaintiff who prevails in an action brought under this subsection.  
11 Remedies provided in this subsection are independent of and in  
12 addition to other penalties and remedies prescribed by this act.

13 Sec. 15. (1) A public employer shall bargain collectively with  
14 the representatives of its employees as described in section 11 and  
15 may make and enter into collective bargaining agreements with those  
16 representatives. Except as otherwise provided in this section, for  
17 the purposes of this section, to bargain collectively is to perform  
18 the mutual obligation of the employer and the representative of the  
19 employees to meet at reasonable times and confer in good faith with  
20 respect to wages, hours, and other terms and conditions of  
21 employment, or to negotiate an agreement, or any question arising  
22 under the agreement, and to execute a written contract, ordinance,  
23 or resolution incorporating any agreement reached if requested by  
24 either party, but this obligation does not compel either party to  
25 agree to a proposal or make a concession.

26 (2) A public school employer has the responsibility,  
27 authority, and right to manage and direct on behalf of the public

1 the operations and activities of the public schools under its  
2 control.

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

6 (a) Who is or will be the policyholder of an employee group  
7 insurance benefit. This subdivision does not affect the duty to  
8 bargain with respect to types and levels of benefits and coverages  
9 for employee group insurance. A change or proposed change in a type  
10 or to a level of benefit, policy specification, or coverage for  
11 employee group insurance shall be bargained by the public school  
12 employer and the bargaining representative before the change may  
13 take effect.

14 (b) Establishment of the starting day for the school year and  
15 of the amount of pupil contact time required to receive full state  
16 school aid under section 1284 of the revised school code, 1976 PA  
17 451, MCL 380.1284, and under section 101 of the state school aid  
18 act of 1979, 1979 PA 94, MCL 388.1701.

19 (c) The composition of school improvement committees  
20 established under section 1277 of the revised school code, 1976 PA  
21 451, MCL 380.1277.

22 (d) The decision of whether or not to provide or allow  
23 interdistrict or intradistrict open enrollment opportunity in a  
24 school district or the selection of grade levels or schools in  
25 which to allow an open enrollment opportunity.

26 (e) The decision of whether or not to act as an authorizing  
27 body to grant a contract to organize and operate 1 or more public

1 school academies under the revised school code, 1976 PA 451, MCL  
2 380.1 to 380.1852.

3 (f) The decision of whether or not to contract with a third  
4 party for 1 or more noninstructional support services; or the  
5 procedures for obtaining the contract for noninstructional support  
6 services other than bidding described in this subdivision; or the  
7 identity of the third party; or the impact of the contract for  
8 noninstructional support services on individual employees or the  
9 bargaining unit. However, this subdivision applies only if the  
10 bargaining unit that is providing the noninstructional support  
11 services is given an opportunity to bid on the contract for the  
12 noninstructional support services on an equal basis as other  
13 bidders.

14 (g) The use of volunteers in providing services at its  
15 schools.

16 (h) Decisions concerning use and staffing of experimental or  
17 pilot programs and decisions concerning use of technology to  
18 deliver educational programs and services and staffing to provide  
19 that technology, or the impact of those decisions on individual  
20 employees or the bargaining unit.

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

24 (j) Any decision made by the public school employer regarding  
25 teacher placement, or the impact of that decision on an individual  
26 employee or the bargaining unit.

27 (k) Decisions about the development, content, standards,

1 procedures, adoption, and implementation of the public school  
2 employer's policies regarding personnel decisions when conducting a  
3 staffing or program reduction or any other personnel determination  
4 resulting in the elimination of a position, when conducting a  
5 recall from a staffing or program reduction or any other personnel  
6 determination resulting in the elimination of a position, or in  
7 hiring after a staffing or program reduction or any other personnel  
8 determination resulting in the elimination of a position, as  
9 provided under section 1248 of the revised school code, 1976 PA  
10 451, MCL 380.1248, any decision made by the public school employer  
11 pursuant to those policies, or the impact of those decisions on an  
12 individual employee or the bargaining unit.

13 (l) Decisions about the development, content, standards,  
14 procedures, adoption, and implementation of a public school  
15 employer's performance evaluation system adopted under section 1249  
16 of the revised school code, 1976 PA 451, MCL 380.1249, or under  
17 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions concerning the  
18 content of a performance evaluation of an employee under those  
19 provisions of law, or the impact of those decisions on an  
20 individual employee or the bargaining unit.

21 (m) For public employees whose employment is regulated by 1937  
22 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions about the  
23 development, content, standards, procedures, adoption, and  
24 implementation of a policy regarding discharge or discipline of an  
25 employee, decisions concerning the discharge or discipline of an  
26 individual employee, or the impact of those decisions on an  
27 individual employee or the bargaining unit. For public employees

1 whose employment is regulated by 1937 (Ex Sess) PA 4, MCL 38.71 to  
2 38.191, a public school employer shall not adopt, implement, or  
3 maintain a policy for discharge or discipline of an employee that  
4 includes a standard for discharge or discipline that is different  
5 than the arbitrary and capricious standard provided under section 1  
6 of article IV of 1937 (Ex Sess) PA 4, MCL 38.101.

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

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

21 (p) Decisions about the development, format, content, and  
22 procedures of the notification to parents and legal guardians  
23 required under section 1249a of the revised school code, 1976 PA  
24 451, MCL 380.1249a.

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

26 (4) Except as otherwise provided in subsection (3)(f), the  
27 matters described in subsection (3) are prohibited subjects of

1 bargaining between a public school employer and a bargaining  
2 representative of its employees, and, for the purposes of this act,  
3 are within the sole authority of the public school employer to  
4 decide.

5 (5) If a public school is placed in the state school  
6 reform/redesign school district or is placed under a chief  
7 executive officer under section 1280c of the revised school code,  
8 1976 PA 451, MCL 380.1280c, then, for the purposes of collective  
9 bargaining under this act, the state school reform/redesign officer  
10 or the chief executive officer, as applicable, is the public school  
11 employer of the public school employees of that public school for  
12 as long as the public school is part of the state school  
13 reform/redesign school district or operated by the chief executive  
14 officer.

15 (6) A public school employer's collective bargaining duty  
16 under this act and a collective bargaining agreement entered into  
17 by a public school employer under this act are subject to all of  
18 the following:

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

22 (b) For a public school in which the superintendent of public  
23 instruction implements 1 of the 4 school intervention models  
24 described in section 1280c of the revised school code, 1976 PA 451,  
25 MCL 380.1280c, if the school intervention model that is implemented  
26 affects collective bargaining or requires modification of a  
27 collective bargaining agreement, any effect on collective



1 bargaining and any modification of a collective bargaining  
2 agreement under that school intervention model.

3 (7) Each collective bargaining agreement entered into between  
4 a public employer and public employees under this act **ON OR** after  
5 March ~~16, 2011~~ **28, 2013** shall include a provision that allows an  
6 emergency manager appointed under the local ~~government and school~~  
7 ~~district fiscal accountability act, 2011 PA 4, MCL 141.1501 to~~  
8 ~~141.1531,~~ **FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL**  
9 **141.1541 TO 141.1575**, to reject, modify, or terminate the  
10 collective bargaining agreement as provided in the local ~~government~~  
11 ~~and school district fiscal accountability act, 2011 PA 4, MCL~~  
12 ~~141.1501 to 141.1531.~~ **FINANCIAL STABILITY AND CHOICE ACT, 2012 PA**  
13 **436, MCL 141.1541 TO 141.1575**. Provisions required by this  
14 subsection are prohibited subjects of bargaining under this act.

15 (8) Collective bargaining agreements under this act may be  
16 rejected, modified, or terminated pursuant to the local ~~government~~  
17 ~~and school district fiscal accountability act, 2011 PA 4, MCL~~  
18 ~~141.1501 to 141.1531.~~ **FINANCIAL STABILITY AND CHOICE ACT, 2012 PA**  
19 **436, MCL 141.1541 TO 141.1575**. This act does not confer a right to  
20 bargain that would infringe on the exercise of powers under the  
21 local ~~government and school district fiscal accountability act,~~  
22 ~~2011 PA 4, MCL 141.1501 to 141.1531.~~ **FINANCIAL STABILITY AND CHOICE**  
23 **ACT, 2012 PA 436, MCL 141.1541 TO 141.1575**.

24 (9) A unit of local government that enters into a consent  
25 agreement under the local ~~government and school district fiscal~~  
26 ~~accountability act, 2011 PA 4, MCL 141.1501 to 141.1531,~~ **FINANCIAL**  
27 **STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541 TO 141.1575**, is

1 not subject to subsection (1) for the term of the consent  
2 agreement, as provided in the local ~~government and school district~~  
3 ~~fiscal accountability act, 2011 PA 4, MCL 141.1501 to~~  
4 ~~141.1531.~~ **FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL**  
5 **141.1541 TO 141.1575.**

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

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

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

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

25 (c) The identities of any other parties to an agreement  
26 described in subdivision (a).

27 (12) ~~Nothing in subsection~~ **SUBSECTION (11) ~~relieves~~ DOES NOT**

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1 **RELIEVE** a public employer of any duty established by law to  
2 collectively bargain with its employees as to the effect of a  
3 contract described in subsection (11)(a) on its employees.

4 **(13) AN AGREEMENT WITH A COLLECTIVE BARGAINING UNIT SHALL NOT**  
5 **REQUIRE A PUBLIC EMPLOYER TO PAY THE COSTS OF AN INDEPENDENT**  
6 **[EXAMINER VERIFICATION] DESCRIBED IN SECTION 10(9).**

7 Enacting section 1. If any part or parts of this act are found  
8 to be in conflict with the state constitution of 1963, the United  
9 States constitution, or federal law, this act shall be implemented  
10 to the maximum extent that the state constitution of 1963, the  
11 United States constitution, and federal law permit. Any provision  
12 held invalid or inoperable shall be severable from the remaining  
13 portions of this act.