

HOUSE BILL NO. 4688

May 30, 2023, Introduced by Reps. Haadsma, Rheingans, Tyrone Carter, Brenda Carter, Churches, Scott, Young, O'Neal, Glanville, Dievendorf, McKinney, Puri, Koleszar, Farhat, Hood, Coffia, Edwards, Weiss, Morse, Witwer, Hoskins, Martus, Skaggs, Fitzgerald, Miller and Aiyash and referred to the Committee on Labor.

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 11 and 15 (MCL 423.211 and 423.215), section 15 as amended by 2023 PA 9.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. Representatives designated or selected for purposes
2 of collective bargaining by the majority of the public employees in
3 a unit appropriate for ~~such~~**those** purposes, ~~shall be~~**are** the
4 exclusive representatives of all the public employees in ~~such~~**the**
5 unit for the purposes of collective bargaining ~~in~~**with** respect to
6 rates of pay, wages, hours of employment, or other conditions of
7 employment, **including, but not limited to, minimum staffing levels**
8 **within the unit**, and shall be so recognized by the public employer,
9 ~~: Provided, That~~**except that** any individual employee at any time
10 may present grievances to his employer and have the grievances
11 adjusted, without intervention of the bargaining representative, if
12 the adjustment is not inconsistent with the terms of a collective
13 bargaining contract or agreement then in effect, ~~provided that~~**and**
14 the bargaining representative has been given opportunity to be
15 present at such adjustment.

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

1 (2) A public school employer has the responsibility,
2 authority, and right to manage and direct on behalf of the public
3 the operations and activities of the public schools under its
4 control.

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

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

16 (b) Establishment of the starting day for the school year and
17 of the amount of pupil contact time required to receive full state
18 school aid under section 1284 of the revised school code, 1976 PA
19 451, MCL 380.1284, and under section 101 of the state school aid
20 act of 1979, 1979 PA 94, MCL 388.1701.

21 (c) The composition of school improvement committees
22 established under section 1277 of the revised school code, 1976 PA
23 451, MCL 380.1277.

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

28 (e) The decision of whether or not to act as an authorizing
29 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,
28 procedures, adoption, and implementation of the public school
29 employer's policies regarding personnel decisions when conducting a

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

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

19 (m) For public employees whose employment is regulated by 1937
20 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions about the
21 development, content, standards, procedures, adoption, and
22 implementation of a policy regarding discharge or discipline of an
23 employee, decisions concerning the discharge or discipline of an
24 individual employee, or the impact of those decisions on an
25 individual employee or the bargaining unit. For public employees
26 whose employment is regulated by 1937 (Ex Sess) PA 4, MCL 38.71 to
27 38.191, a public school employer shall not adopt, implement, or
28 maintain a policy for discharge or discipline of an employee that
29 includes a standard for discharge or discipline that is different

1 than the arbitrary and capricious standard provided under section 1
2 of article IV of 1937 (Ex Sess) PA 4, MCL 38.101.

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

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

17 (p) Decisions about the development, format, content, and
18 procedures of the notification to parents and legal guardians
19 required under section 1249a of the revised school code, 1976 PA
20 451, MCL 380.1249a.

21 (4) Except as otherwise provided in subsection (3)(f), the
22 matters described in subsection (3) are prohibited subjects of
23 bargaining between a public school employer and a bargaining
24 representative of its employees, and, for the purposes of this act,
25 are within the sole authority of the public school employer to
26 decide.

27 (5) Each collective bargaining agreement entered into between
28 a public employer and public employees under this act on or after
29 March 28, 2013 must include a provision that allows an emergency

1 manager appointed under the local financial stability and choice
2 act, 2012 PA 436, MCL 141.1541 to 141.1575, to reject, modify, or
3 terminate the collective bargaining agreement as provided in the
4 local financial stability and choice act, 2012 PA 436, MCL 141.1541
5 to 141.1575. Provisions required by this subsection are prohibited
6 subjects of bargaining under this act.

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

13 (7) A unit of local government that enters into a consent
14 agreement under the local financial stability and choice act, 2012
15 PA 436, MCL 141.1541 to 141.1575, is not subject to subsection (1)
16 for the term of the consent agreement, as provided in the local
17 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
18 141.1575.

19 (8) If the charter of a city, village, or township with a
20 population of 500,000 or more requires and specifies the method of
21 selection of a retirant member of the municipality's fire
22 department, police department, or fire and police department
23 pension or retirement board, the inclusion of the retirant member
24 on the board and the method of selection of that retirant member
25 are prohibited subjects of collective bargaining, and any provision
26 in a collective bargaining agreement that purports to modify that
27 charter requirement is void and of no effect.

28 (9) The following are prohibited subjects of bargaining and
29 are at the sole discretion of the public employer:

1 (a) A decision as to whether or not the public employer will
2 enter into an intergovernmental agreement to consolidate 1 or more
3 functions or services, to jointly perform 1 or more functions or
4 services, or to otherwise collaborate regarding 1 or more functions
5 or services.

6 (b) The procedures for obtaining a contract for the transfer
7 of functions or responsibilities under an agreement described in
8 subdivision (a).

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

11 (10) Subsection (9) does not relieve a public employer of any
12 duty established by law to collectively bargain with its employees
13 as to the effect of a contract described in subsection (9)(a) on
14 its employees.

15 (11) An agreement with a collective bargaining unit must not
16 require a public employer to pay the costs of an independent
17 examiner verification described in section 10(4).