

Act No. 9
Public Acts of 2011
Approved by the Governor
March 16, 2011
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March 16, 2011
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011**

Introduced by Senators Pavlov, Brandenburg, Marleau and Proos

ENROLLED SENATE BILL No. 158

AN ACT 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 the title and section 15 (MCL 423.215), section 15 as amended by 2009 PA 201.

The People of the State of Michigan enact:

TITLE

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; and to prescribe means of enforcement and penalties for the violation of the provisions of this act.

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

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

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

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

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

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

(d) The decision of whether or not to provide or allow interdistrict or intradistrict open enrollment opportunity in a school district or of which grade levels or schools in which to allow such an open enrollment opportunity.

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

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

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

(h) Decisions concerning use of experimental or pilot programs and staffing of experimental or pilot programs and decisions concerning use of technology to deliver educational programs and services and staffing to provide the technology, or the impact of these decisions on individual employees or the bargaining unit.

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

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

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

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

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

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

(7) Each collective bargaining agreement entered into between a public employer and public employees under this act after the effective date of the amendatory act that added this subsection shall include a provision that allows an emergency manager appointed under the local government and school district fiscal accountability act to reject, modify, or terminate the collective bargaining agreement as provided in the local government and school district fiscal accountability act. Provisions required by this subsection are prohibited subjects of bargaining under this act.

(8) Collective bargaining agreements under this act may be rejected, modified, or terminated pursuant to the local government and school district fiscal accountability act. This act does not confer a right to bargain that would infringe on the exercise of powers under the local government and school district fiscal accountability act.

(9) A unit of local government that enters into a consent agreement under the local government and school district fiscal accountability act is not subject to subsection (1) for the term of the consent agreement, as provided in the local government and school district fiscal accountability act.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4214 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor

Compiler's note: House Bill No. 4214, referred to in enacting section 1, was filed with the Secretary of State March 16, 2011, and became 2011 PA 4, Imd. Eff. Mar. 16, 2011.