

PUBLIC EMPLOYMENT RELATIONS (EXCERPT)
Act 336 of 1947

***** 423.215.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2012 REGULAR SESSION SINE DIE *****

423.215.amended Collective bargaining; duties of employer and employees' representative; prohibited subjects between public school employer and bargaining representative of employee; placement of public school in state school reform/redesign school district or under chief executive officer; effect of local government and school district fiscal accountability act; selection method for certain departments or boards; prohibited subjects of bargaining; duties.

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 to perform 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 to negotiate an agreement, or any question arising under the agreement, and to execute 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 make 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 the selection of grade levels or schools in which to allow 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 and staffing of experimental or pilot programs and decisions concerning use of technology to deliver educational programs and services and staffing to provide that technology, or the impact of those 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.

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

(k) Decisions about the development, content, standards, procedures, adoption, and implementation of the public school employer's policies regarding personnel decisions when conducting a staffing or program reduction or any other personnel determination resulting in the elimination of a position, when conducting a recall from a staffing or program reduction or any other personnel determination resulting in the elimination of a position, or in hiring after a staffing or program reduction or any other personnel determination resulting

in the elimination of a position, as provided under section 1248 of the revised school code, 1976 PA 451, MCL 380.1248, any decision made by the public school employer pursuant to those policies, or the impact of those decisions on an individual employee or the bargaining unit.

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

(m) For public employees whose employment is regulated by 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions about the development, content, standards, procedures, adoption, and implementation of a policy regarding discharge or discipline of an employee, decisions concerning the discharge or discipline of an individual employee, or the impact of those decisions on an individual employee or the bargaining unit. For public employees whose employment is regulated by 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, a public school employer shall not adopt, implement, or maintain a policy for discharge or discipline of an employee that includes a standard for discharge or discipline that is different than the arbitrary and capricious standard provided under section 1 of article IV of 1937 (Ex Sess) PA 4, MCL 38.101.

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

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

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

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

(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 March 16, 2011 shall include a provision that allows an emergency manager appointed under the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, to reject, modify, or terminate the collective bargaining agreement as provided in the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531. 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, 2011 PA 4, MCL 141.1501 to 141.1531. 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, 2011 PA 4, MCL 141.1501 to 141.1531.

(9) A unit of local government that enters into a consent agreement under the local government and school district fiscal accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, 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, 2011 PA 4, MCL 141.1501 to 141.1531.

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

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

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

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

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

(12) Nothing in subsection (11) relieves a public employer of any duty established by law to collectively bargain with its employees as to the effect of a contract described in subsection (11)(a) on its employees.

History: Add. 1965, Act 379, Imd. Eff. July 23, 1965;—Am. 1994, Act 112, Eff. Mar. 30, 1995;—Am. 2009, Act 201, Imd. Eff. Jan. 4, 2010;—Am. 2011, Act 9, Imd. Eff. Mar. 16, 2011;—Am. 2011, Act 25, Imd. Eff. May 11, 2011;—Am. 2011, Act 103, Imd. Eff. July 19, 2011;—Am. 2011, Act 260, Imd. Eff. Dec. 14, 2011;—Am. 2012, Act 12, Imd. Eff. Feb. 15, 2012;—Am. 2012, Act 45, Imd. Eff. Mar. 13, 2012;—Am. 2012, Act 349, Eff. (sine die).

Compiler's note: Enacting section 1 of Act 349 of 2012 provides:

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

Popular name: Public Employment Relations