

HOUSE BILL No. 6074

December 2, 2014, Introduced by Rep. Pscholka and referred to the Committee on Michigan Competitiveness.

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

1 of the employer.

2 (b) "Commission" means the employment relations commission
3 created in section 3 of 1939 PA 176, MCL 423.3.

4 (C) **"INDEPENDENT AUDIT" MEANS AN AUDIT THAT IS CONDUCTED IN**
5 **ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS BY AN AUDITOR**
6 **THAT IS NOT AFFILIATED WITH THE EXCLUSIVE BARGAINING**
7 **REPRESENTATIVE.**

8 (D) ~~(e)~~ "Intermediate school district" means that term as
9 defined in section 4 of the revised school code, 1976 PA 451, MCL
10 380.4.

11 (E) ~~(d)~~ "Lockout" means the temporary withholding of work from
12 a group of employees by shutting down the operation of the employer
13 to bring pressure upon the affected employees or the bargaining
14 representative, or both, to accept the employer's terms of
15 settlement of a labor dispute.

16 (F) ~~(e)~~ "Public employee" means ~~a person~~ **AN INDIVIDUAL** holding
17 a position by appointment or employment in the government of this
18 state, in the government of 1 or more of the political subdivisions
19 of this state, in the public school service, in a public or special
20 district, in the service of an authority, commission, or board, or
21 in any other branch of the public service, subject to the following
22 exceptions:

23 (i) ~~A person~~ **AN INDIVIDUAL** employed by a private organization
24 or entity who provides services under a time-limited contract with
25 this state or a political subdivision of this state or who receives
26 a direct or indirect government subsidy in his or her private
27 employment is not an employee of this state or that political

1 subdivision, and is not a public employee. This provision shall not
2 be superseded by any interlocal agreement, memorandum of
3 understanding, memorandum of commitment, or other document similar
4 to these.

5 (ii) If, by April 9, 2000, a public school employer that is the
6 chief executive officer serving in a school district of the first
7 class under part 5A of the revised school code, 1976 PA 451, MCL
8 380.371 to 380.376, issues an order determining that it is in the
9 best interests of the school district, then a public school
10 administrator employed by that school district is not a public
11 employee for purposes of this act. The exception under this
12 subparagraph applies to public school administrators employed by
13 that school district after the date of the order described in this
14 subparagraph whether or not the chief executive officer remains in
15 place in the school district. This exception does not prohibit the
16 chief executive officer or board of a school district of the first
17 class or its designee from having informal meetings with public
18 school administrators to discuss wages and working conditions.

19 (iii) An individual serving as a graduate student research
20 assistant or in an equivalent position, ~~and~~ **A STUDENT PARTICIPATING**
21 **IN INTERCOLLEGIATE ATHLETICS ON BEHALF OF A PUBLIC UNIVERSITY IN**
22 **THIS STATE, OR** any individual whose position does not have
23 sufficient indicia of an employer-employee relationship using the
24 20-factor test announced by the internal revenue service of the
25 United States department of treasury in revenue ruling 87-41, 1987-
26 1 C.B. 296 is not a public employee entitled to representation or
27 collective bargaining rights under this act.

1 (G) ~~(f)~~—"Public school academy" means a public school academy
2 or strict discipline academy organized under the revised school
3 code, 1976 PA 451, MCL 380.1 to 380.1852.

4 (H) ~~(g)~~—"Public school administrator" means a superintendent,
5 assistant superintendent, chief business official, principal, or
6 assistant principal employed by a school district, intermediate
7 school district, or public school academy.

8 (I) ~~(h)~~—"Public school employer" means a public employer that
9 is the board of a school district, intermediate school district, or
10 public school academy; is the chief executive officer of a school
11 district in which a school reform board is in place under part 5A
12 of the revised school code, 1976 PA 451, MCL 380.371 to 380.376; or
13 is the governing board of a joint endeavor or consortium consisting
14 of any combination of school districts, intermediate school
15 districts, or public school academies.

16 (J) ~~(i)~~—"School district" means that term as defined in
17 section 6 of the revised school code, 1976 PA 451, MCL 380.6, or a
18 local act school district as defined in section 5 of the revised
19 school code, 1976 PA 451, MCL 380.5.

20 (K) ~~(j)~~—"Strike" means the concerted failure to report for
21 duty, the willful absence from one's position, the stoppage of
22 work, or the abstinence in whole or in part from the full,
23 faithful, and proper performance of the duties of employment for
24 the purpose of inducing, influencing, or coercing a change in
25 employment conditions, compensation, or the rights, privileges, or
26 obligations of employment. For employees of a public school
27 employer, strike also includes an action described in this

1 subdivision that is taken for the purpose of protesting or
2 responding to an act alleged or determined to be an unfair labor
3 practice committed by the public school employer.

4 (2) This act does not limit, impair, or affect the right of a
5 public employee to the expression or communication of a view,
6 grievance, complaint, or opinion on any matter related to the
7 conditions or compensation of public employment or their betterment
8 as long as the expression or communication does not interfere with
9 the full, faithful, and proper performance of the duties of
10 employment.

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

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

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

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

22 (a) Become or remain a member of a labor organization or
23 bargaining representative or otherwise affiliate with or
24 financially support a labor organization or bargaining
25 representative.

26 (b) Refrain from engaging in employment or refrain from
27 joining a labor organization or bargaining representative or

1 otherwise affiliating with or financially supporting a labor
2 organization or bargaining representative.

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

8 (D) **PAY THE COSTS OF AN INDEPENDENT AUDIT AS DESCRIBED IN**
9 **SECTION 10(9).**

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

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

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

18 (b) Initiate, create, dominate, contribute to, or interfere
19 with the formation or administration of any labor organization. A
20 public school employer's use of public school resources to assist a
21 labor organization in collecting dues or service fees from wages of
22 public school employees is a prohibited contribution to the
23 administration of a labor organization. However, a public school
24 employer's collection of dues or service fees pursuant to a
25 collective bargaining agreement that is in effect on March 16, 2012
26 is not prohibited until the agreement expires or is terminated,
27 extended, or renewed. A public employer may permit employees to

1 confer with a labor organization during working hours without loss
2 of time or pay.

3 (c) Discriminate in regard to hire, terms, or other conditions
4 of employment to encourage or discourage membership in a labor
5 organization.

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

8 (e) Refuse to bargain collectively with the representatives of
9 its public employees, subject to ~~the provisions of~~ section 11.

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

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

16 (b) Restrain or coerce a public employer in the selection of
17 its representatives for the purposes of collective bargaining or
18 the adjustment of grievances.

19 (c) Cause or attempt to cause a public employer to
20 discriminate against a public employee in violation of subsection
21 (1)(c).

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

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

1 (a) Refrain or resign from membership in, voluntary
2 affiliation with, or voluntary financial support of a labor
3 organization or bargaining representative.

4 (b) Become or remain a member of a labor organization or
5 bargaining representative.

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

9 (d) Pay to any charitable organization or third party any
10 amount that is in lieu of, equivalent to, or any portion of dues,
11 fees, assessments, or other charges or expenses required of members
12 of or public employees represented by a labor organization or
13 bargaining representative.

14 (4) The application of subsection (3) is subject to the
15 following:

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

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

21 (ii) A state police trooper or sergeant who is granted rights
22 under section 5 of article XI of the state constitution of 1963 or
23 any individual who seeks to become employed as a state police
24 trooper or sergeant.

25 (b) Any person described in subdivision (a), or a labor
26 organization or bargaining representative representing persons
27 described in subdivision (a) and a public employer or this state

1 may agree that all employees in the bargaining unit shall share
2 fairly in the financial support of the labor organization or their
3 exclusive bargaining representative by paying a fee to the labor
4 organization or exclusive bargaining representative that may be
5 equivalent to the amount of dues uniformly required of members of
6 the labor organization or exclusive bargaining representative.
7 Section 9(2) shall not be construed to interfere with the right of
8 a public employer or this state and a labor organization or
9 bargaining representative to enter into or lawfully administer such
10 an agreement as it relates to the employees or persons described in
11 subdivision (a).

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

14 (i) The individuals described in the exclusion found to be
15 invalid shall no longer be excepted from the application of
16 subsection (3).

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

19 (5) An agreement, contract, understanding, or practice between
20 or involving a public employer, labor organization, or bargaining
21 representative that violates subsection (3) is unlawful and
22 unenforceable. This subsection applies only to an agreement,
23 contract, understanding, or practice that takes effect or is
24 extended or renewed after ~~the effective date of the amendatory act~~
25 ~~that added this subsection.~~ **MARCH 28, 2013.**

26 (6) The court of appeals has exclusive original jurisdiction
27 over any action challenging the validity of subsection (3), (4), or

1 (5). The court of appeals shall hear the action in an expedited
2 manner.

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

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

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

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

14 (d) Any other purposes that the director of the department of
15 licensing and regulatory affairs determines in his or her
16 discretion are necessary to implement ~~the amendatory act.~~**2012 PA**
17 **349.**

18 (8) A person, public employer, or labor organization that
19 violates subsection (3) is liable for a civil fine of not more than
20 \$500.00. A civil fine recovered under this section shall be
21 submitted to the state treasurer for deposit in the general fund of
22 this state.

23 (9) By March 1 of each year, each exclusive bargaining
24 representative that represents public employees in this state shall
25 file with the commission an independent audit of all expenditures
26 attributed to the costs of collective bargaining, contract
27 administration, and grievance adjustment during the prior calendar

1 year. The commission shall make the audits available to the public
2 on the commission's website. **A LOCAL BARGAINING UNIT AFFILIATED**
3 **WITH AN EXCLUSIVE BARGAINING REPRESENTATIVE THAT IS SUBJECT TO THIS**
4 **SUBSECTION IS NOT REQUIRED TO FILE A SEPARATE, INDEPENDENT AUDIT IF**
5 **ALL OF THE LOCAL BARGAINING UNIT'S EXPENDITURES ATTRIBUTED TO THE**
6 **COSTS OF COLLECTIVE BARGAINING, CONTRACT ADMINISTRATION, AND**
7 **GRIEVANCE ADJUSTMENT ARE INCLUDED IN THE INDEPENDENT AUDIT OF THE**
8 **AFFILIATED BARGAINING REPRESENTATIVE.** For fiscal year 2011-2012,
9 \$100,000.00 is appropriated to the commission for the costs of
10 implementing this subsection. **FOR FISCAL YEAR 2014-2015,**
11 **\$100,000.00 IS APPROPRIATED TO THE COMMISSION FOR THE COSTS OF**
12 **IMPLEMENTING THIS SUBSECTION.**

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

21 Sec. 15. (1) A public employer shall bargain collectively with
22 the representatives of its employees as described in section 11 and
23 may make and enter into collective bargaining agreements with those
24 representatives. Except as otherwise provided in this section, for
25 the purposes of this section, to bargain collectively is to perform
26 the mutual obligation of the employer and the representative of the
27 employees to meet at reasonable times and confer in good faith with

1 respect to wages, hours, and other terms and conditions of
2 employment, or to negotiate an agreement, or any question arising
3 under the agreement, and to execute a written contract, ordinance,
4 or resolution incorporating any agreement reached if requested by
5 either party, but this obligation does not compel either party to
6 agree to a proposal or make a concession.

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

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

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

22 (b) Establishment of the starting day for the school year and
23 of the amount of pupil contact time required to receive full state
24 school aid under section 1284 of the revised school code, 1976 PA
25 451, MCL 380.1284, and under section 101 of the state school aid
26 act of 1979, 1979 PA 94, MCL 388.1701.

27 (c) The composition of school improvement committees

1 established under section 1277 of the revised school code, 1976 PA
2 451, MCL 380.1277.

3 (d) The decision of whether or not to provide or allow
4 interdistrict or intradistrict open enrollment opportunity in a
5 school district or the selection of grade levels or schools in
6 which to allow an open enrollment opportunity.

7 (e) The decision of whether or not to act as an authorizing
8 body to grant a contract to organize and operate 1 or more public
9 school academies under the revised school code, 1976 PA 451, MCL
10 380.1 to 380.1852.

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

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

24 (h) Decisions concerning use and staffing of experimental or
25 pilot programs and decisions concerning use of technology to
26 deliver educational programs and services and staffing to provide
27 that technology, or the impact of those decisions on individual

1 employees or the bargaining unit.

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

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

8 (k) Decisions about the development, content, standards,
9 procedures, adoption, and implementation of the public school
10 employer's policies regarding personnel decisions when conducting a
11 staffing or program reduction or any other personnel determination
12 resulting in the elimination of a position, when conducting a
13 recall from a staffing or program reduction or any other personnel
14 determination resulting in the elimination of a position, or in
15 hiring after a staffing or program reduction or any other personnel
16 determination resulting in the elimination of a position, as
17 provided under section 1248 of the revised school code, 1976 PA
18 451, MCL 380.1248, any decision made by the public school employer
19 pursuant to those policies, or the impact of those decisions on an
20 individual employee or the bargaining unit.

21 (l) Decisions about the development, content, standards,
22 procedures, adoption, and implementation of a public school
23 employer's performance evaluation system adopted under section 1249
24 of the revised school code, 1976 PA 451, MCL 380.1249, or under
25 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions concerning the
26 content of a performance evaluation of an employee under those
27 provisions of law, or the impact of those decisions on an

1 individual employee or the bargaining unit.

2 (m) For public employees whose employment is regulated by 1937
3 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions about the
4 development, content, standards, procedures, adoption, and
5 implementation of a policy regarding discharge or discipline of an
6 employee, decisions concerning the discharge or discipline of an
7 individual employee, or the impact of those decisions on an
8 individual employee or the bargaining unit. For public employees
9 whose employment is regulated by 1937 (Ex Sess) PA 4, MCL 38.71 to
10 38.191, a public school employer shall not adopt, implement, or
11 maintain a policy for discharge or discipline of an employee that
12 includes a standard for discharge or discipline that is different
13 than the arbitrary and capricious standard provided under section 1
14 of article IV of 1937 (Ex Sess) PA 4, MCL 38.101.

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

20 (o) Decisions about the development, content, standards,
21 procedures, adoption, and implementation of the method of
22 compensation required under section 1250 of the revised school
23 code, 1976 PA 451, MCL 380.1250, decisions about how an employee
24 performance evaluation is used to determine performance-based
25 compensation under section 1250 of the revised school code, 1976 PA
26 451, MCL 380.1250, decisions concerning the performance-based
27 compensation of an individual employee, or the impact of those

1 decisions on an individual employee or the bargaining unit.

2 (p) Decisions about the development, format, content, and
3 procedures of the notification to parents and legal guardians
4 required under section 1249a of the revised school code, 1976 PA
5 451, MCL 380.1249a.

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

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 **ON OR** after
13 March ~~16, 2011~~ **28, 2013** shall include a provision that allows an
14 emergency manager appointed under the local ~~government and school~~
15 ~~district fiscal accountability act, 2011 PA 4, MCL 141.1501 to~~
16 ~~141.1531, FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL~~
17 **141.1541 TO 141.1575**, to reject, modify, or terminate the
18 collective bargaining agreement as provided in the local ~~government~~
19 ~~and school district fiscal accountability act, 2011 PA 4, MCL~~
20 ~~141.1501 to 141.1531. FINANCIAL STABILITY AND CHOICE ACT, 2012 PA~~
21 **436, MCL 141.1541 TO 141.1575**. Provisions required by this
22 subsection are prohibited subjects of bargaining under this act.

23 (8) Collective bargaining agreements under this act may be
24 rejected, modified, or terminated pursuant to the local ~~government~~
25 ~~and school district fiscal accountability act, 2011 PA 4, MCL~~
26 ~~141.1501 to 141.1531. FINANCIAL STABILITY AND CHOICE ACT, 2012 PA~~
27 **436, MCL 141.1541 TO 141.1575**. This act does not confer a right to

1 bargain that would infringe on the exercise of powers under the
2 local ~~government and school district fiscal accountability act,~~
3 ~~2011 PA 4, MCL 141.1501 to 141.1531.~~ **FINANCIAL STABILITY AND CHOICE**
4 **ACT, 2012 PA 436, MCL 141.1541 TO 141.1575.**

5 (9) A unit of local government that enters into a consent
6 agreement under the local ~~government and school district fiscal~~
7 ~~accountability act, 2011 PA 4, MCL 141.1501 to 141.1531,~~ **FINANCIAL**
8 **STABILITY AND CHOICE ACT, 2012 PA 436, MCL 141.1541 TO 141.1575,** is
9 not subject to subsection (1) for the term of the consent
10 agreement, as provided in the local ~~government and school district~~
11 ~~fiscal accountability act, 2011 PA 4, MCL 141.1501 to~~
12 ~~141.1531.~~ **FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436, MCL**
13 **141.1541 TO 141.1575.**

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

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

25 (a) A decision as to whether or not the public employer will
26 enter into an intergovernmental agreement to consolidate 1 or more
27 functions or services, to jointly perform 1 or more functions or

1 services, or to otherwise collaborate regarding 1 or more functions
2 or services.

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

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

8 (12) ~~Nothing in subsection~~ **SUBSECTION** (11) ~~relieves~~ **DOES NOT**
9 **RELIEVE** a public employer of any duty established by law to
10 collectively bargain with its employees as to the effect of a
11 contract described in subsection (11)(a) on its employees.

12 **(13) AN AGREEMENT WITH A COLLECTIVE BARGAINING UNIT SHALL NOT**
13 **REQUIRE A PUBLIC EMPLOYER TO PAY THE COSTS OF AN INDEPENDENT AUDIT**
14 **DESCRIBED IN SECTION 10(9).**

15 Enacting section 1. If any part or parts of this act are found
16 to be in conflict with the state constitution of 1963, the United
17 States constitution, or federal law, this act shall be implemented
18 to the maximum extent that the state constitution of 1963, the
19 United States constitution, and federal law permit.