

**SUBSTITUTE FOR  
HOUSE BILL NO. 4771**

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

by amending section 15 (MCL 423.215), as amended by 2011 PA 103.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 15. (1) A public employer shall bargain collectively with  
2 the representatives of its employees as described in section 11 and  
3 may make and enter into collective bargaining agreements with those  
4 representatives. Except as otherwise provided in this section, for  
5 the purposes of this section, to bargain collectively is to perform  
6 the mutual obligation of the employer and the representative of the  
7 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 of which grade levels or schools in which to  
6 allow such 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 of experimental or pilot programs  
25 and staffing of experimental or pilot programs and decisions  
26 concerning use of technology to deliver educational programs and  
27 services and staffing to provide the technology, or the impact of

1 these decisions on individual 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 the placement of teachers, or the impact of that decision on an  
7 individual 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 reduction in force or any other personnel determination resulting  
12 in the elimination of a position or a recall from a reduction in  
13 force or any other personnel determination resulting in the  
14 elimination of a position or in hiring after a reduction in force  
15 or any other personnel determination resulting in the elimination  
16 of a position, as provided under section 1248 of the revised school  
17 code, 1976 PA 451, MCL 380.1248, any decision made by the public  
18 school employer pursuant to those policies, or the impact of those  
19 decisions on an individual employee or the bargaining unit.

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

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

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

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

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

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

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

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

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

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

9           (7) Each collective bargaining agreement entered into between  
10 a public employer and public employees under this act after March  
11 16, 2011 shall include a provision that allows an emergency manager  
12 appointed under the local government and school district fiscal  
13 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, to reject,  
14 modify, or terminate the collective bargaining agreement as  
15 provided in the local government and school district fiscal  
16 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531. Provisions  
17 required by this subsection are prohibited subjects of bargaining  
18 under this act.

19           (8) Collective bargaining agreements under this act may be  
20 rejected, modified, or terminated pursuant to the local government  
21 and school district fiscal accountability act, 2011 PA 4, MCL  
22 141.1501 to 141.1531. This act does not confer a right to bargain  
23 that would infringe on the exercise of powers under the local  
24 government and school district fiscal accountability act, 2011 PA  
25 4, MCL 141.1501 to 141.1531.

26           (9) A unit of local government that enters into a consent  
27 agreement under the local government and school district fiscal

1 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531, is not  
2 subject to subsection (1) for the term of the consent agreement, as  
3 provided in the local government and school district fiscal  
4 accountability act, 2011 PA 4, MCL 141.1501 to 141.1531.

5 (10) If the charter of a city, village, or township with a  
6 population of 500,000 or more specifies the selection of a retirant  
7 member of the municipality's fire department, police department, or  
8 fire and police department pension or retirement board, the method  
9 of selection of that member is a prohibited subject of bargaining.

10 (11) **HEALTH INSURANCE OR OTHER FRINGE BENEFITS FOR ANY**  
11 **INDIVIDUAL CURRENTLY RESIDING IN THE SAME RESIDENCE AS AN EMPLOYEE**  
12 **OF A PUBLIC EMPLOYER ON TERMS THAT CONFLICT WITH THE PUBLIC**  
13 **EMPLOYEE DOMESTIC PARTNER BENEFIT RESTRICTION ACT ARE A PROHIBITED**  
14 **SUBJECT OF BARGAINING.**

15 Enacting section 1. This amendatory act does not take effect  
16 unless House Bill No. 4770 of the 96th Legislature is enacted into  
17 law.