

SENATE BILL No. 345

April 26, 2011, Introduced by Senator HILDENBRAND and referred to the Committee on Education.

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 9.

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 the
6 performance of the mutual obligation of the employer and the

1 representative of the employees to meet at reasonable times and
2 confer in good faith with respect to wages, hours, and other terms
3 and conditions of employment, or the negotiation of an agreement,
4 or any question arising under the agreement, and the execution of a
5 written contract, ordinance, or resolution incorporating any
6 agreement reached if requested by either party, but this obligation
7 does not compel either party to agree to a proposal or require the
8 making of a concession.

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

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

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

24 (b) Establishment of the starting day for the school year and
25 of the amount of pupil contact time required to receive full state
26 school aid under section 1284 of the revised school code, 1976 PA
27 451, MCL 380.1284, and under section 101 of the state school aid

1 act of 1979, 1979 PA 94, MCL 388.1701.

2 (c) The composition of school improvement committees
3 established under section 1277 of the revised school code, 1976 PA
4 451, MCL 380.1277.

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

9 (e) The decision of whether or not to act as an authorizing
10 body to grant a contract to organize and operate 1 or more public
11 school academies under the revised school code, 1976 PA 451, MCL
12 380.1 to 380.1852.

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

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

26 (h) Decisions concerning use of experimental or pilot programs
27 and staffing of experimental or pilot programs and decisions

1 concerning use of technology to deliver educational programs and
2 services and staffing to provide the technology, or the impact of
3 these decisions on individual employees or the bargaining unit. **AS**
4 **USED IN THIS SUBDIVISION AND SUBDIVISION (I), "STAFFING" SHALL BE**
5 **BROADLY CONSTRUED AND INCLUDES ASSIGNMENT, PROMOTION, TRANSFER,**
6 **LAYOFF, AND RECALL.**

7 (I) **DECISIONS CONCERNING THE STAFFING OF SCHOOLS IDENTIFIED**
8 **FOR IMPROVEMENT UNDER STATE OR FEDERAL REFORM LEGISLATION**
9 **INCLUDING, BUT NOT LIMITED TO, SECTION 1280C OF THE REVISED SCHOOL**
10 **CODE, 1976 PA 451, MCL 380.1280C; THE FEDERAL NO CHILD LEFT BEHIND**
11 **ACT OF 2001, PUBLIC LAW 107-110; AND ANY SIMILAR LAW.**

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

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

21 (5) If a public school is placed in the state school
22 reform/redesign school district or is placed under a chief
23 executive officer under section 1280c of the revised school code,
24 1976 PA 451, MCL 380.1280c, then, for the purposes of collective
25 bargaining under this act, the state school reform/redesign officer
26 or the chief executive officer, as applicable, is the public school
27 employer of the public school employees of that public school for

1 as long as the public school is part of the state school
2 reform/redesign school district or operated by the chief executive
3 officer.

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

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

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

19 (7) Each collective bargaining agreement entered into between
20 a public employer and public employees under this act after ~~the~~
21 ~~effective date of the amendatory act that added this subsection~~
22 **MARCH 16, 2011** shall include a provision that allows an emergency
23 manager appointed under the local government and school district
24 fiscal accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**, to
25 reject, modify, or terminate the collective bargaining agreement as
26 provided in the local government and school district fiscal
27 accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**. Provisions

1 required by this subsection are prohibited subjects of bargaining
2 under this act.

3 (8) Collective bargaining agreements under this act may be
4 rejected, modified, or terminated pursuant to the local government
5 and school district fiscal accountability act, **2011 PA 4, MCL**
6 **141.1501 TO 141.1531**. This act does not confer a right to bargain
7 that would infringe on the exercise of powers under the local
8 government and school district fiscal accountability act, **2011 PA**
9 **4, MCL 141.1501 TO 141.1531**.

10 (9) A unit of local government that enters into a consent
11 agreement under the local government and school district fiscal
12 accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**, is not
13 subject to subsection (1) for the term of the consent agreement, as
14 provided in the local government and school district fiscal
15 accountability act, **2011 PA 4, MCL 141.1501 TO 141.1531**.