

# HOUSE BILL No. 6031

November 9, 2016, Introduced by Rep. Irwin and referred to the Committee on Local Government.

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 section 15 (MCL 423.215), as amended by 2014 PA 414.

## **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 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 28, 2013 shall include a provision that allows an emergency~~  
14 ~~manager appointed under the local financial stability and choice~~  
15 ~~act, 2012 PA 436, MCL 141.1541 to 141.1575, to reject, modify, or~~  
16 ~~terminate the collective bargaining agreement as provided in the~~  
17 ~~local financial stability and choice act, 2012 PA 436, MCL 141.1541~~  
18 ~~to 141.1575. Provisions required by this subsection are prohibited~~  
19 ~~subjects of bargaining under this act.~~

20 ~~———— (8) Collective bargaining agreements under this act may be~~  
21 ~~rejected, modified, or terminated pursuant to the local financial~~  
22 ~~stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575.~~  
23 ~~This act does not confer a right to bargain that would infringe on~~  
24 ~~the exercise of powers under the local financial stability and~~  
25 ~~choice act, 2012 PA 436, MCL 141.1541 to 141.1575.~~

26 ~~———— (9) A unit of local government that enters into a consent~~  
27 ~~agreement under the local financial stability and choice act, 2012~~

1 ~~PA 436, MCL 141.1541 to 141.1575, is not subject to subsection (1)~~  
2 ~~for the term of the consent agreement, as provided in the local~~  
3 ~~financial stability and choice act, 2012 PA 436, MCL 141.1541 to~~  
4 ~~141.1575.~~

5       **(7)** ~~(10)~~—If the charter of a city, village, or township with a  
6 population of 500,000 or more requires and specifies the method of  
7 selection of a retirant member of the municipality's fire  
8 department, police department, or fire and police department  
9 pension or retirement board, the inclusion of the retirant member  
10 on the board and the method of selection of that retirant member  
11 are prohibited subjects of collective bargaining, and any provision  
12 in a collective bargaining agreement that purports to modify that  
13 charter requirement is void and of no effect.

14       **(8)** ~~(11)~~—The following are prohibited subjects of bargaining  
15 and are at the sole discretion of the public employer:

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

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

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

26       **(9)** ~~(12)~~—Subsection ~~(11)~~—**(8)** does not relieve a public  
27 employer of any duty established by law to collectively bargain



1 with its employees as to the effect of a contract described in  
2 subsection ~~(11)(a)~~ **(8) (A)** on its employees.

3 **(10)** ~~(13)~~—An agreement with a collective bargaining unit shall  
4 not require a public employer to pay the costs of an independent  
5 examiner verification described in section 10(9).

6 Enacting section 1. This amendatory act takes effect 90 days  
7 after the date it is enacted into law.

8 Enacting section 2. This amendatory act does not take effect  
9 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 6030 (request no.  
10 05679'16) of the 98th Legislature is enacted into law.