

HOUSE BILL NO. 5807

February 23, 2022, Introduced by Reps. Hood, Weiss, Brenda Carter, Sabo, Clemente, Hope, Stone, Coleman, Haadsma, Breen, Sowerby, Steckloff, Cavanagh, Cherry, Steenland, Neeley, Brabec, Garza, Liberati, O'Neal, Rabhi, Cynthia Johnson, Kuppa, Pohutsky, Tyrone Carter, Manoogian, Bolden, Shannon, Rogers, Scott, Aiyash, Thanedar, Ellison, Young, Peterson, Tate, Morse, Hertel, Jones and Whitsett 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; 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
8 respect to wages, hours, and other terms and conditions of
9 employment, or to negotiate an agreement, or any question arising
10 under the agreement, and to execute a written contract, ordinance,
11 or resolution incorporating any agreement reached if requested by
12 either party, but this obligation does not compel either party to
13 agree to a proposal or make a concession.

14 (2) A public school employer ~~has the responsibility,~~
15 ~~authority, and right to~~ **shall** manage and direct on behalf of the
16 public the operations and activities of the public schools under
17 its control.

18 (3) Collective bargaining between a public school employer and
19 a bargaining representative of its employees ~~shall~~ **must** not include
20 any of the following subjects:

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

1 (b) Establishment of the starting day for the school year and
2 of the amount of pupil contact time required to receive full state
3 school aid under section 1284 of the revised school code, 1976 PA
4 451, MCL 380.1284, and under section 101 of the state school aid
5 act of 1979, 1979 PA 94, MCL 388.1701.

6 (c) The composition of school improvement committees
7 established under section 1277 of the revised school code, 1976 PA
8 451, MCL 380.1277.

9 (d) The decision of whether or not to provide or allow
10 interdistrict or intradistrict open enrollment opportunity in a
11 school district or the selection of grade levels or schools in
12 which to allow an open enrollment opportunity.

13 (e) The decision of whether or not to act as an authorizing
14 body to grant a contract to organize and operate 1 or more public
15 school academies under the revised school code, 1976 PA 451, MCL
16 380.1 to 380.1852.

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

28 (g) The use of volunteers in providing services at its
29 schools.

1 (h) Decisions concerning use and staffing of experimental or
2 pilot programs and decisions concerning use of technology to
3 deliver educational programs and services and staffing to provide
4 that technology, or the impact of those decisions on individual
5 employees or the bargaining unit.

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

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

12 ~~(k) Decisions about the development, content, standards,
13 procedures, adoption, and implementation of the public school
14 employer's policies regarding personnel decisions when conducting a
15 staffing or program reduction or any other personnel determination
16 resulting in the elimination of a position, when conducting a
17 recall from a staffing or program reduction or any other personnel
18 determination resulting in the elimination of a position, or in
19 hiring after a staffing or program reduction or any other personnel
20 determination resulting in the elimination of a position, as
21 provided under section 1248 of the revised school code, 1976 PA
22 451, MCL 380.1248, any decision made by the public school employer
23 pursuant to those policies, or the impact of those decisions on an
24 individual employee or the bargaining unit.~~

25 ~~(l) Decisions about the development, content, standards,
26 procedures, adoption, and implementation of a public school
27 employer's performance evaluation system adopted under section 1249
28 of the revised school code, 1976 PA 451, MCL 380.1249, or under
29 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191, decisions concerning the~~

1 ~~content of a performance evaluation of an employee under those~~
2 ~~provisions of law, or the impact of those decisions on an~~
3 ~~individual employee or the bargaining unit.~~

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

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

22 ~~(o) Decisions about the development, content, standards,~~
23 ~~procedures, adoption, and implementation of the method of~~
24 ~~compensation required under section 1250 of the revised school~~
25 ~~code, 1976 PA 451, MCL 380.1250, decisions about how an employee~~
26 ~~performance evaluation is used to determine performance-based~~
27 ~~compensation under section 1250 of the revised school code, 1976 PA~~
28 ~~451, MCL 380.1250, decisions concerning the performance-based~~
29 ~~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 (j) ~~(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 **former** section 1280c of the revised school
 16 code, 1976 PA 451, ~~MCL 380.1280c,~~ then, for the purposes of
 17 collective bargaining under this act, the state school
 18 reform/redesign officer or the chief executive officer, as
 19 applicable, is the public school employer of the public school
 20 employees of that public school for as long as the public school is
 21 part of the state school reform/redesign school district or
 22 operated by the chief executive 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
 28 of a collective bargaining agreement occurring under **former** section
 29 1280c 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 **former** section 1280c of the revised school code, 1976
4 PA 451, ~~MCL 380.1280c~~, if the school intervention model that is
5 implemented affects collective bargaining or requires modification
6 of a 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 on or after
11 March 28, 2013 ~~shall~~**must** include a provision that allows an
12 emergency manager appointed under the local financial stability and
13 choice act, 2012 PA 436, MCL 141.1541 to 141.1575, to reject,
14 modify, or terminate the collective bargaining agreement as
15 provided in the local financial stability and choice act, 2012 PA
16 436, MCL 141.1541 to 141.1575. Provisions required by this
17 subsection are prohibited subjects of bargaining under this act.

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

24 (9) A unit of local government that enters into a consent
25 agreement under the local financial stability and choice act, 2012
26 PA 436, MCL 141.1541 to 141.1575, is not subject to subsection (1)
27 for the term of the consent agreement, as provided in the local
28 financial stability and choice act, 2012 PA 436, MCL 141.1541 to
29 141.1575.

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

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

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

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

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

22 ~~(12) Subsection (11) does not relieve a public employer of any~~
23 ~~duty established by law to collectively bargain with its employees~~
24 ~~as to the effect of a contract described in subsection (11) (a) on~~
25 ~~its employees.~~

26 **(11)** ~~(13)~~An agreement with a collective bargaining unit shall
27 **must** not require a public employer to pay the costs of an
28 independent examiner verification described in section 10(9).