

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 791

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 and 14 (MCL 423.201 and 423.214), section 1 as amended by 2023 PA 237 and section 14 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) "Intermediate school district" means that term as defined
5 in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

6 (d) "Lockout" means the temporary withholding of work from a
7 group of employees by shutting down the operation of the employer
8 to bring pressure upon the affected employees or the bargaining
9 representative, or both, to accept the employer's terms of
10 settlement of a labor dispute.

11 (e) "Public employee" means, except as otherwise provided in
12 subdivisions (f) and (g), an individual holding a position by
13 appointment or employment in the government of this state, in the
14 government of 1 or more of the political subdivisions of this
15 state, in the public school service, in a public or special
16 district, in the service of an authority, commission, or board, or
17 in any other branch of the public service. Public employee includes
18 ~~an~~ **both of the following:**

19 (i) **An individual serving as a graduate student research**
20 **assistant or in an equivalent position.**

21 (ii) **An individual designated by the legislature as a public**
22 **employee. The legislature may designate an individual as a public**
23 **employee only for the purpose of collective bargaining. The**
24 **designation does not render the individual an employee of this**
25 **state or political subdivision of this state for any purpose other**
26 **than the limited purpose authorized by the legislature.**

27 (f) An individual employed by a private organization or entity
28 who provides services under a time-limited contract with this state
29 or a political subdivision of this state ~~or who receives a direct~~

1 ~~or indirect government subsidy in the individual's private~~
2 ~~employment is not an employee of this state or that political~~
3 ~~subdivision, and is not a public employee. This provision~~
4 ~~supersedes any interlocal agreement, memorandum of understanding,~~
5 ~~memorandum of commitment, or other document similar to these.~~

6 (g) A student participating in intercollegiate athletics on
7 behalf of a public university in this state is not a public
8 employee entitled to representation or collective bargaining rights
9 under this act.

10 (h) "Public school academy" means a public school academy or
11 strict discipline academy organized under the revised school code,
12 1976 PA 451, MCL 380.1 to 380.1852.

13 (i) "Public school employer" means a public employer that is
14 any of the following:

15 (i) The board of a school district, an intermediate school
16 district, or a public school academy.

17 (ii) The governing board of a joint endeavor or consortium
18 consisting of any combination of school districts, intermediate
19 school districts, or public school academies.

20 (j) "School district" means that term as defined in section 6
21 of the revised school code, 1976 PA 451, MCL 380.6, or a local act
22 school district as defined in section 5 of the revised school code,
23 1976 PA 451, MCL 380.5.

24 (k) "Strike" means the concerted failure to report for duty,
25 the willful absence from one's position, the stoppage of work, or
26 the abstinence in whole or in part from the full, faithful, and
27 proper performance of the duties of employment for the purpose of
28 inducing, influencing, or coercing a change in employment
29 conditions, compensation, or the rights, privileges, or obligations

1 of employment. For employees of a public school employer, strike
 2 also includes an action described in this subdivision that is taken
 3 for the purpose of protesting or responding to an act alleged or
 4 determined to be an unfair labor practice committed by the public
 5 school employer.

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

13 Sec. 14. ~~(1)~~ An election ~~shall~~**must** not be directed in any
 14 bargaining unit or any subdivision within which, in the preceding
 15 12-month period, a valid election was held. The commission shall
 16 determine who is eligible to vote in the election and shall
 17 promulgate rules governing the election. In an election involving
 18 more than 2 choices, if none of the choices on the ballot receives
 19 a majority vote, a runoff election ~~shall~~**must** be conducted between
 20 the 2 choices receiving the 2 largest numbers of valid votes cast
 21 in the election. An election ~~shall~~**must** not be directed in any
 22 bargaining unit or subdivision of any bargaining unit if there is
 23 in force and effect a valid collective bargaining agreement that
 24 was not prematurely extended and that is of fixed duration. A
 25 collective bargaining agreement does not bar an election upon the
 26 petition of persons not parties to the collective bargaining
 27 agreement if more than 3 years have elapsed since the agreement's
 28 execution or last timely renewal, whichever was later.

29 ~~(2) An election shall not be directed for, and the commission~~

1 ~~or a public employer shall not recognize, a bargaining unit of a~~
2 ~~public employer consisting of individuals who are not public~~
3 ~~employees. A bargaining unit that is formed or recognized in~~
4 ~~violation of this subsection is invalid and void.~~