

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1446 Session of
1989

INTRODUCED BY SAURMAN, ROBINSON, TRELLO, HECKLER, LANGTRY AND
FOX, MAY 22, 1989

REFERRED TO COMMITTEE ON EDUCATION, MAY 22, 1989

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for collective bargaining
6 between school districts and employees; imposing penalties;
7 and making a repeal.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
11 as the Public School Code of 1949, is amended by adding an
12 article to read:

13 ARTICLE XI-A

14 COLLECTIVE BARGAINING

15 (a) Declaration of Purpose.

16 Section 1101-A. Declaration of Policy.--The General Assembly
17 of the Commonwealth of Pennsylvania declares that it is the
18 public policy of this Commonwealth and the purpose of this
19 article to promote orderly and constructive relationships
20 between school districts and their professional employes

1 subject, however, to the paramount right of the citizens of this
2 Commonwealth to keep inviolate the guarantees for their health,
3 safety and welfare. Unresolved disputes between school districts
4 and their professional employes are injurious to the public and
5 the General Assembly is therefore aware that adequate means must
6 be established for minimizing them and providing for their
7 resolution. Within the limitations imposed upon the governmental
8 processes by these rights of the public at large and recognizing
9 that harmonious relationships are required between the school
10 districts and their professional employes, the General Assembly
11 has determined that the overall policy may best be accomplished
12 by:

13 (1) granting to professional employes the right to organize
14 and choose freely their representatives;

15 (2) requiring school districts to negotiate and bargain with
16 employe organizations representing professional employes and to
17 enter into written agreements evidencing the result of such
18 bargaining; and

19 (3) establishing procedures to provide for the protection of
20 the rights of the professional employes, school district and the
21 public at large.

22 (b) Definitions.

23 Section 1102-A. Definitions.--As used in this act:

24 (1) "Board" shall mean the Pennsylvania Labor Relations
25 Board.

26 (2) "Budget submission date" shall mean the date by which
27 under the law or practice a public employer's proposed budget,
28 or budget containing proposed expenditures applicable to such
29 public employer is submitted to the Legislature or other similar
30 body for final action.

1 (3) "Confidential employe" shall mean any employe who works:
2 (i) in the personnel offices of a public employer and has access
3 to information subject to use by the public employer in
4 collective bargaining; or (ii) in a close continuing
5 relationship with public officers or representatives associated
6 with collective bargaining on behalf of the employer.

7 (4) "Employe organization" shall mean an organization of any
8 kind, or any agency or employe representation committee or plan
9 in which membership includes public employes, and which exists
10 for the purpose, in whole or in part, of dealing with employers
11 concerning grievances, employe-employer disputes, wages, rates
12 of pay, hours of employment or conditions of work but shall not
13 include any organization which practices discrimination in
14 membership because of race, color, creed, national origin or
15 political affiliation.

16 (5) "First level of supervision" and "first level
17 supervisor" shall mean the lowest level at which an employe
18 functions as a supervisor.

19 (6) "Maintenance of membership" shall mean that all employes
20 who have joined an employe organization or who join the employe
21 organization in the future must remain members for the duration
22 of a collective bargaining agreement so providing with the
23 proviso that any such employe or employes may resign from such
24 employe organization during a period of fifteen (15) days prior
25 to the expiration of any such agreement.

26 (7) "Management level employe" shall mean any individual
27 who is involved directly in the determination of policy or who
28 responsibly directs the implementation thereof and shall include
29 all employes above the first level of supervision.

30 (8) "Meet and discuss" shall mean the obligation of a public

1 employer upon request to meet at reasonable times and discuss
2 recommendations submitted by representatives of public employes:
3 Provided, That any decisions or determinations on matters so
4 discussed shall remain with the public employer and be deemed
5 final on any issue or issues raised.

6 (9) "Membership dues deduction" shall mean the practice of a
7 public employer to deduct from the wages of a public employe,
8 with his written consent, an amount for the payment of his
9 membership dues in an employe organization, which deduction is
10 transmitted by the public employer to the employe organization.

11 (10) "Person" shall include an individual, public employer,
12 public employe, authority, commission, legal representative,
13 labor organization, employe organization, profit or nonprofit
14 corporation, trustee, board or association.

15 (11) "Professional employe" shall mean any employe whose
16 work: (i) is predominantly intellectual and varied in character;
17 (ii) requires consistent exercise of discretion and judgment;
18 (iii) requires knowledge of an advanced nature in the field of
19 science or learning customarily acquired by specialized study in
20 an institution of higher learning or its equivalent; and (iv) is
21 of such character that the output or result accomplished cannot
22 be standardized in relation to a given period of time.

23 (12) "Public employe" or employe" shall mean any employe
24 employed by a public employer and shall include those who are
25 certificated as teachers, supervisors, supervising principals,
26 principals, assistant principals, vice-principals, directors of
27 vocational education, dental hygienists, visiting teachers, home
28 and school visitors, school counselors, child nutrition program
29 specialists, school librarians, school secretaries the selection
30 of whom is on the basis of merit as determined by eligibility

1 lists and school nurses. The term shall not include elected
2 officials, management level employes and confidential employes.

3 (13) "Public employer" shall mean the board of school
4 directors and includes the board of public education in school
5 districts of the first class, but shall not include employers
6 covered or presently subject to coverage under the act of June
7 1, 1937 (P.L.1168, No.294), known as the Pennsylvania Labor
8 Relations Act, the National Labor Relations Act (61 Stat. 152,
9 29 U.S.C. Ch. 7 Subch. 11).

10 (14) "Representative" shall mean any individuals acting for
11 public employers or employes and shall include employe
12 organizations.

13 (15) "Strike" shall mean concerted action in failing to
14 report for duty, the wilful absence from one's position, the
15 stoppage of work, slowdown or the abstinence in whole or in part
16 from the full, faithful and proper performance of the duties of
17 employment for the purpose of inducing, influencing or coercing
18 a change in the conditions or compensation or the rights,
19 privileges or obligations of employment.

20 (16) "Supervisor" shall mean any individual having authority
21 in the interests of the employer to hire, transfer, suspend, lay
22 off, recall, promote, discharge, assign, reward or discipline
23 other employes or responsibly to direct them or adjust their
24 grievances; or to a substantial degree effectively recommend
25 such action, if in connection with the foregoing, the exercise
26 of such authority is not merely routine or clerical in nature
27 but calls for the use of independent judgment.

28 (17) "Unfair practice" shall mean any practice prohibited by
29 section 1136-A.

30 (18) "Wages" shall mean hourly rates of pay, salaries or

1 other forms of compensation for services rendered.

2 (c) Rights of Employees.

3 Section 1103-A. Employe Rights.--Subject to the provisions
4 of section 2215, it shall be lawful for public employes to
5 organize, form, join or assist in employe organizations or to
6 engage in lawful concerted activities for the purpose of
7 collective bargaining or other mutual aid and protection or to
8 bargain collectively through representatives of their own free
9 choice and such employes shall also have the right to refrain
10 from any or all such activities, except as may be required
11 pursuant to a maintenance of membership provision in a
12 collective bargaining agreement.

13 (d) Powers and Duties of Pennsylvania Labor Relations Board.

14 Section 1104-A. Powers and Duties of Board.--The board shall
15 exercise those powers and perform those duties which are
16 specifically provided for in this article. These powers and
17 duties shall be in addition to and exercised completely
18 independent of any powers and duties specifically granted to it
19 by other statutory enactments.

20 Section 1105-A. Rules and Regulations.--The board shall have
21 authority from time to time to make, amend and rescind such
22 rules and regulations as may be necessary to carry out the
23 provisions of this article.

24 Section 1106-A. Fact-finding Boards.--The board shall
25 establish, after consulting representatives of employe
26 organizations and of public employers, panels of qualified
27 persons broadly representative of the public to be available to
28 serve as members of fact-finding boards.

29 Section 1107-A. Selection of Representatives.--Public
30 employers may select representatives to act in their interest in

1 any collective bargaining with representatives of public
2 employes.

3 Section 1108-A. Recognition of Representatives.--(a) A
4 public employer may recognize employe representatives for
5 collective bargaining purposes, provided the parties jointly
6 request certification by the board which shall issue such
7 certification if it finds the unit appropriate.

8 (b) Any employe representatives in existence on January 1,
9 1970, shall so continue without the requirement of an election
10 and certification until such time as a question concerning
11 representation is appropriately raised under this article; or
12 until the board would find the unit not to be appropriate after
13 challenge by the public employer, a member of the unit or an
14 employe organization. The appropriateness of the unit shall not
15 be challenged until the expiration of any collective bargaining
16 agreement in effect on the date of the passage of this act.

17 Section 1109-A. Election of Representatives.--(a) A public
18 employe, a group of public employes or an employe organization
19 may notify the public employer that thirty per centum (30%) or
20 more of the public employes in an appropriate unit desire to be
21 exclusively represented for collective bargaining purposes by a
22 designated representative and request the public employer to
23 consent to an election.

24 (b) If the public employer consents, the public employe,
25 group of public employes or employe organization whichever
26 applicable may submit in a form and manner established by the
27 board an election request. Such request shall include a
28 description of the unit deemed to be appropriate, the basis upon
29 which it was determined that thirty per centum (30%) or more of
30 the employes desired to be represented and a joinder by the

1 public employer. The board may on the basis of the submissions
2 order an election to be held or it may at its discretion
3 investigate or conduct hearings to determine the validity of the
4 matters contained in such submissions before determining whether
5 or not an order should issue.

6 (c) If a public employer refuses to consent to an election,
7 the party making the request may file a petition with the board
8 alleging that thirty per centum (30%) or more of the public
9 employees in an appropriate unit wish to be exclusively
10 represented for collective bargaining purposes by a designated
11 representative. The board shall send a copy of the petition to
12 the public employer and provide for an appropriate hearing upon
13 due notice. If it deems the allegations in the petition to be
14 valid and the unit to be appropriate it shall order an election.
15 If it finds to the contrary it may dismiss the petition or
16 permit its amendment in accordance with procedures established
17 by the board.

18 (d) If a public employer receives notification that thirty
19 per centum (30%) or more of the public employees desire to be
20 exclusively represented for collective bargaining purposes by a
21 designated representative and the party giving notice does not
22 thereafter seek an election the public employer may file a
23 petition for the same with the board. The board shall then
24 follow the procedures as established for petitions filed under
25 subsection (c).

26 Section 1110-A. Appropriateness of Unit.--The board shall
27 determine the appropriateness of a unit which shall be the
28 public employer unit or a subdivision thereof. In determining
29 the appropriateness of the unit, the board shall:

30 (1) Take into consideration, but shall not be limited to,

1 the following: (i) public employes must have an identifiable
2 community of interest; and (ii) the effects of
3 overfragmentization.

4 (2) Not decide that any unit is appropriate if such unit
5 includes both professional and nonprofessional employes, unless
6 a majority of such professional employes vote for inclusion in
7 such unit.

8 (3) Not permit employes at the first level of supervision to
9 be included with any other units of public employes but shall
10 permit them to form their own separate homogenous units. In
11 determining supervisory status the board may take into
12 consideration the extent to which supervisory and nonsupervisory
13 functions are performed.

14 Section 1111-A. Conduct of Elections.--Representation
15 elections shall be conducted by secret ballot at such times and
16 places selected by the board subject to the following:

17 (1) The board shall give no less then ten (10) days notice
18 of the time and place of such election.

19 (2) The board shall establish rules and regulations
20 concerning the conduct of any election including but not limited
21 to regulations which would guarantee the secrecy of the ballot.

22 (3) A representative may not be certified unless it receives
23 a majority of the valid ballots cast.

24 (4) The board shall include on the ballot a choice of "no
25 representative."

26 (5) In an election where none of the choices on the ballot
27 receives a majority, a run-off election shall be conducted, the
28 ballot providing for a selection between the two choices or
29 parties receiving the highest and the second highest number of
30 ballots cast in the election.

1 (6) The board shall certify the results of said election
2 within five (5) working days after the final tally of votes if
3 no charge is filed by any person alleging that an "unfair
4 practice" existed in connection with said election. If the board
5 has reason to believe that such allegations are valid, it shall
6 set a time for hearing on the matter after due notice. Any such
7 hearing shall be conducted within two weeks of the date of
8 receipt of such charge. If the board determines that the outcome
9 of the election was affected by the "unfair practice" charged or
10 for any other "unfair practice" it may deem existed, it shall
11 require corrective action and order a new election. If the board
12 determines that no unfair practice existed or if it existed, did
13 not affect the outcome of the election, it shall immediately
14 certify the election results.

15 (7) (i) No election shall be conducted pursuant to this
16 section in any appropriate bargaining unit within which in the
17 preceding twelve-month period an election shall have been held
18 nor during the term of any lawful collective bargaining
19 agreement between a public employer and an employe
20 representative. This restriction shall not apply to that period
21 of time covered by any collective bargaining agreement which
22 exceeds three (3) years. For the purposes of this section,
23 extensions of agreements shall not affect the expiration date of
24 the original agreement.

25 (ii) Petitions for elections may be filed with the board not
26 sooner than ninety (90) days nor later than sixty (60) days
27 before the expiration date of any collective bargaining
28 agreement or after the expiration date until such time as a new
29 written agreement has been entered into. For the purposes of
30 this section, extensions of agreements shall not affect the

1 expiration date of the original agreement.

2 Section 1112-A. Exclusive Representative.--Representatives
3 selected by public employes in a unit appropriate for collective
4 bargaining purposes shall be the exclusive representative of all
5 the employes in such unit to bargain on wages, hours, terms and
6 conditions of employment: Provided, That any individual employe
7 or a group of employes shall have the right at any time to
8 present grievances to their employer and to have them adjusted
9 without the intervention of the bargaining representative as
10 long as the adjustment is not inconsistent with the terms of a
11 collective bargaining contract then in effect: And, provided
12 further, That the bargaining representative has been given an
13 opportunity to be present at such adjustment.

14 Section 1113-A. Decertification.--If there is a duly
15 certified representative:

16 (1) a public employe or a group of public employes may file
17 a petition for decertification provided it is supported by a
18 thirty per centum (30%) showing of interest; or

19 (2) a public employer alleging a good faith doubt of the
20 majority status of said representative may file a petition in
21 accordance with the rules and regulations established by the
22 board, subject to the provisions of clause (7) of section 1111-
23 A.

24 (e) Scope of Bargaining.

25 Section 1114-A. Mutual Obligation.--Collective bargaining is
26 the performance of the mutual obligation of the public employer
27 and the representative of the public employes to meet at
28 reasonable times and confer in good faith with respect to wages,
29 hours and other terms and conditions of employment, or the
30 negotiation of an agreement or any question arising thereunder

1 and the execution of a written contract incorporating any
2 agreement reached but such obligation does not compel either
3 party to agree to a proposal or require the making of a
4 concession.

5 Section 1115-A. Matters of Inherent Managerial Policy.--
6 Public employers shall not be required to bargain over matters
7 of inherent managerial policy, which shall include but shall not
8 be limited to such areas of discretion or policy as the
9 functions and programs of the public employer, standards of
10 services, its overall budget, utilization of technology, the
11 organizational structure and selection and direction of
12 personnel. Public employers, however, shall be required to meet
13 and discuss on policy matters affecting wages, hours and terms
14 and conditions of employment as well as the impact thereon upon
15 request by public employe representatives.

16 Section 1116-A. Conflict with Law Prohibited.--The parties
17 to the collective bargaining process shall not effect or
18 implement a provision in a collective bargaining agreement if
19 the implementation of that provision would be in violation of,
20 or inconsistent with, or in conflict with any statute or
21 statutes enacted by the General Assembly of the Commonwealth of
22 Pennsylvania or the provisions of municipal home rule charters.

23 Section 1117-A. Meet and Discuss Obligation.--Public
24 employers shall not be required to bargain with units of first
25 level supervisors or their representatives but shall be required
26 to meet and discuss with first level supervisors or their
27 representatives, on matters deemed to be bargainable for other
28 public employes covered by this article.

29 Section 1118-A. Dues Deductions.--Subject to the provisions
30 of section 2215, membership dues deductions and maintenance of

1 membership are proper subjects of bargaining with the proviso
2 that as to the latter, the payment of dues and assessments while
3 members, may be the only requisite employment condition.

4 Section 1119-A. Right to Hire and Discharge.--Nothing
5 contained in this article shall impair the employer's right to
6 hire employes or to discharge employes for just cause consistent
7 with other provisions of this act.

8 (f) Collective Bargaining Impasse.

9 Section 1120-A. Procedure if no Agreement is Reached.--If
10 after a reasonable period of negotiation, a dispute or impasse
11 exists between the representatives of the public employer and
12 the public employes, the parties may voluntarily submit to
13 mediation but if no agreement is reached between the parties
14 within twenty-one days after negotiations have commenced, but in
15 no event later than one hundred fifty days (150) prior to the
16 "budget submission date," and mediation has not been utilized by
17 the parties, both parties shall immediately, in writing, call in
18 the service of the Pennsylvania Bureau of Mediation.

19 Section 1121-A. Mediation.--(a) Once mediation has
20 commenced, it shall continue for so long as the parties have not
21 reached an agreement. If, however, an agreement has not been
22 reached within twenty (20) days after mediation has commenced or
23 in no event later than August 15, the Bureau of Mediation shall
24 notify the board of this fact. Upon receiving such notice the
25 board shall appoint a fact-finding panel which panel may consist
26 of either one or three members. The panel so designated or
27 selected shall hold hearings and take oral or written testimony
28 and shall have subpoena power. If during this time the parties
29 have not reached an agreement, the panel shall make findings of
30 fact and recommendations.

1 (b) The findings of fact and recommendations shall be sent
2 by registered mail to the board and to both parties not more
3 than forty (40) days after the Bureau of Mediation has notified
4 the board as provided in subsection (a).

5 (c) Not more than ten (10) days after the findings and
6 recommendations shall have been sent, the parties shall notify
7 the board and each other whether or not they accept the
8 recommendations of the fact-finding panel and if they do not,
9 the panel shall publicize its findings of fact and
10 recommendations.

11 (d) Not less than five (5) days nor more than ten (10) days
12 after the publication of the findings of fact and
13 recommendations, the parties shall again inform the board and
14 each other whether or not they will accept the recommendations
15 of the fact-finding panel.

16 (e) The Commonwealth shall pay one-half the cost of the
17 fact-finding panel; the remaining one-half of the cost shall be
18 divided equally between the parties. The board shall establish
19 rules and regulations under which panels shall operate,
20 including, but not limited to, compensation for panel members.

21 Section 1122-A. Refusal to Submit to Procedures.--If the
22 representatives of either or both the public employes and the
23 public employer refuse to submit to the procedures set forth in
24 sections 1120-A and 1121-A, such refusal shall be deemed a
25 refusal to bargain in good faith and unfair practice charges may
26 be filed by the submitting party or the board may on its own,
27 issue an unfair practice complaint and conduct such hearings and
28 issue such orders as provided for in Article XIII.

29 Section 1123-A. Voluntary Binding Arbitration.--Nothing in
30 this article shall prevent the parties from submitting impasses

1 to voluntary binding arbitration with the proviso the decisions
2 of the arbitrator which would require legislative enactment to
3 be effective shall be considered advisory only.

4 (g) Collective Bargaining Agreement.

5 Section 1124-A. Reduction to Writing.--Once an agreement is
6 reached between the representatives of the public employes and
7 the public employer, the agreement shall be reduced to writing
8 and signed by the parties. Any provisions of the contract
9 requiring legislative action will only be effective if such
10 legislation is enacted.

11 Section 1125-A. Persons Entitled to Vote on Ratification.--
12 If the provisions of the constitution or bylaws of an employe
13 organization requires ratification of a collective bargaining
14 agreement by its membership, only those members who belong to
15 the bargaining unit involved shall be entitled to vote on such
16 ratification notwithstanding such provisions.

17 Section 1126-A. Arbitration of Grievances.--(a) Arbitration
18 of disputes or grievances arising out of the interpretation of
19 the provisions of a collective bargaining agreement is
20 mandatory. The procedure to be adopted is a proper subject of
21 bargaining with the proviso that the final step shall provide
22 for a binding decision by an arbitrator or a tri-partite board
23 of arbitrators as the parties may agree. Any decisions of the
24 arbitrator or arbitrators requiring legislation will only be
25 effective if such legislation is enacted:

26 (b) If the parties cannot voluntarily agree upon the
27 selection of an arbitrator, the parties shall notify the Bureau
28 of Mediation of their inability to do so. The Bureau of
29 Mediation shall then submit to the parties the names of seven
30 (7) arbitrators. Each party shall alternately strike a name

1 until one name remains. The public employer shall strike the
2 first name. The person remaining shall be the arbitrator.

3 (c) The costs of arbitration shall be shared equally by the
4 parties. Fees paid to arbitrators shall be based on a schedule
5 established by the Bureau of Mediation.

6 (h) Strikes.

7 Section 1127-A. Strikes During Collective Bargaining
8 Procedures Prohibited.--Strikes by public employes during the
9 pendency of collective bargaining procedures set forth in
10 sections 1120-A and 1121-A are prohibited. In the event of a
11 strike during this period the public employer shall forthwith
12 initiate an action for the same relief and utilizing the same
13 procedures required for prohibited strikes under sections 1120-A
14 and 1121-A.

15 Section 1128-A. Strike After Collective Bargaining
16 Procedures.--If a strike by public employes occurs after the
17 collective bargaining processes set forth in sections 1120-A and
18 1121-A have been completely utilized and exhausted, it shall not
19 be prohibited unless or until such a strike creates a clear and
20 present danger or threat to the health, safety or welfare of the
21 public. In such cases the public employer shall initiate, in the
22 court of common pleas of the jurisdiction where such strike
23 occurs, an action for equitable relief including but not limited
24 to appropriate injunctions and shall be entitled to such relief
25 if the court finds that the strike creates a clear and present
26 danger or threat to the health, safety or welfare of the public.
27 Prior to the filing of any complaint in equity under the
28 provisions of this section the moving party shall serve upon the
29 defendant a copy of said complaint as provided for in the
30 Pennsylvania Rules of Civil Procedure applicable to such

1 actions. Hearings shall be required before relief is granted
2 under this section and notices of the same shall be served in
3 the manner required for the original process with a duty imposed
4 upon the court to hold such hearings forthwith.

5 Section 1129-A. Unfair Practice Not a Defense to Prohibited
6 Strike.--An unfair practice by a public employer shall not be a
7 defense to a prohibited strike. Unfair practices by the employer
8 during the collective bargaining processes shall receive
9 priority by the board as set forth in section 1144-A.

10 Section 1130-A. Action for Contempt.--If a public employe
11 refuses to comply with a lawful order of a court of competent
12 jurisdiction issued for a violation of any of the provisions of
13 this article the public employer shall initiate an action for
14 contempt and if the public employe is adjudged guilty of such
15 contempt, he shall be subject to suspension, demotion or
16 discharge at the discretion of the public employer, provided the
17 public employer has not exercised that discretion in violation
18 of clauses (1), (2), (3) and (4) of section 1137-A.

19 Section 1131-A. Compensation During Strike Prohibited.--No
20 public employe shall be entitled to pay or compensation from the
21 public employer for the period engaged in any strike.

22 Section 1132-A. Refusal to Obey Court Order.--In the event
23 any public employe refuses to obey an order issued by a court of
24 competent jurisdiction for a violation of the provisions of this
25 article, the punishment for such contempt may be by fine or by
26 imprisonment in the prison of the county where the court is
27 sitting or both in the discretion of the court.

28 Section 1133-A. Wilful Disobedience of Court Order by
29 Employe Organization.--Where an employe organization wilfully
30 disobeys a lawful order of a court of competent jurisdiction

1 issued for a violation of the provisions of this article, the
2 punishment for each day that such contempt persists may be by a
3 fine fixed in the discretion of the court.

4 Section 1134-A. Factors in Determining Punishment for
5 Contempt.--In fixing the amount of the fine or imprisonment for
6 contempt, the court shall consider all the facts and
7 circumstances directly related to the contempt including but not
8 limited to:

9 (1) any unfair practices committed by the public employer
10 during the collective bargaining processes;

11 (2) the extent of the wilful defiance or resistance to the
12 court's order;

13 (3) the impact of the strike on the health, safety or
14 welfare of the public; and

15 (4) the ability of the employe organization or the employe
16 to pay the fine imposed.

17 Section 1135. Request for Modification of Fines or
18 Penalties.--Nothing in this article shall prevent the parties
19 from voluntarily requesting the court for a diminution or
20 suspension of any fines or penalties imposed. Any requests by
21 employe representatives for such participation by the public
22 employer shall be subject to the requirements of "meet and
23 discuss."

24 (i) Picketing.

25 Section 1136-A. Refusal to Cross Picket Line Constitutes
26 Prohibited Strike.--Public employes, other than those engaged in
27 a nonprohibited strike, who refuse to cross a picket line shall
28 be deemed to be engaged in a prohibited strike and shall be
29 subject to the terms and conditions of this article pertaining
30 to prohibited strikes.

1 (j) Unfair Practices.

2 Section 1137-A. Enumeration of Unfair Practices.--(a)

3 Public employers, their agents or representatives are prohibited
4 from:

5 (1) Interfering, restraining or coercing employes in the
6 exercise of the rights guaranteed in this article.

7 (2) Dominating or interfering with the formation, existence
8 or administration of any employe organization.

9 (3) Discriminating in regard to hire or tenure of employment
10 or any term or condition of employment to encourage or
11 discourage membership in any employe organization.

12 (4) Discharging or otherwise discriminating against an
13 employe because he has signed or filed an affidavit, petition or
14 complaint or given any information or testimony under this act.

15 (5) Refusing to bargain collectively in good faith with an
16 employe representative which is the exclusive representative of
17 employes in an appropriate unit, including but not limited to
18 the discussing of grievances with the exclusive representative.

19 (6) Refusing to reduce a collective bargaining agreement to
20 writing and sign such agreement.

21 (7) Violating any of the rules and regulations established
22 by the board regulating the conduct of representation elections.

23 (8) Refusing to comply with the provisions of an arbitration
24 award deemed binding under section 1126-A.

25 (9) Refusing to comply with the requirements of "meet and
26 discuss."

27 (b) Employe organizations, their agents, or representatives,
28 or public employes are prohibited from:

29 (1) Restraining or coercing employes in the exercise of the
30 rights guaranteed in this article.

1 (2) Restraining or coercing a public employer in the
2 selection of his representative for the purposes of collective
3 bargaining or the adjustment of grievances.

4 (3) Refusing to bargain collectively in good faith with a
5 public employer, if they have been designated in accordance with
6 the provisions of this act as the exclusive representative of
7 employees in an appropriate unit.

8 (4) Violating any of the rules and regulations established
9 by the board regulating the conduct of representation elections.

10 (5) Refusing to reduce a collective bargaining agreement to
11 writing and sign such agreement.

12 (6) Calling, instituting, maintaining or conducting a strike
13 or boycott against any public employer or picketing any place of
14 business of a public employer on account of any jurisdictional
15 controversy.

16 (7) Engaging in, or inducing or encouraging any individual
17 employed by any person to engage in a strike or refusal to
18 handle goods or perform services; or threatening, coercing or
19 restraining any person where an object thereof is to (i) force
20 or require any public employer to cease dealing or doing
21 business with any other person or (ii) force or require a public
22 employer to recognize for representation purposes an employe
23 organization not certified by the board.

24 (8) Refusing to comply with the provisions of an arbitration
25 award deemed binding under section 1126-A.

26 (9) Refusing to comply with the requirements of "meet and
27 discuss."

28 (k) Prevention of Unfair Practices.

29 Section 1138-A. Power to Prevent.--The board is empowered,
30 as hereinafter provided, to prevent any person from engaging in

1 any unfair practice listed in this article. This power shall be
2 exclusive and shall not be affected by any other means of
3 adjustment or prevention that have been or may be established by
4 agreement, law, or otherwise.

5 Section 1139-A. Issuance of Complaint.--Whenever it is
6 charged by any interested party that any person has engaged in
7 or is engaging in any such unfair practice, the board, or any
8 member or designated agent thereof, shall have authority to
9 issue and cause to be served upon such person a complaint,
10 stating the charges in that respect, and containing a notice of
11 hearing before the board, or any member or designated agent
12 thereof, at a place therein fixed, not less than five (5) days
13 after the serving of said complaint. Any such complaint may be
14 amended by the board, member or agent conducting the hearing at
15 any time prior to the issuance of an order based thereon. The
16 person so complained of shall have the right to file an answer
17 to the original or amended complaint and to appear in person, or
18 otherwise, to give testimony at the place and time set in the
19 complaint. In the discretion of a member or agent conducting the
20 hearing or of the board, any other person may be allowed to
21 intervene in the said proceeding and to present testimony. In
22 any such proceeding, the rules of evidence prevailing in courts
23 of law or equity shall be followed but shall not be controlling.

24 Section 1140-A. Hearing and Order.--Testimony shall be taken
25 at the hearing and filed with the board. The board upon notice
26 may take further testimony or hear argument. If, upon all the
27 testimony taken, the board shall determine that any person named
28 in the complaint has engaged in or is engaging in any such
29 unfair practice, the board shall state its findings of fact, and
30 issue and cause to be served on such person an order requiring

1 such person to cease and desist from such unfair practice, and
2 to take such reasonable affirmative action, including
3 reinstatement of employes, discharged in violation of this
4 article, with or without back pay, as will effectuate the
5 policies of this act. Such order may further require such person
6 to make reasonable reports, from time to time, showing the
7 extent to which the order has been complied with. If, upon all
8 the testimony, the board shall be of the opinion that the person
9 or persons named in the complaint has not engaged in or is not
10 engaging in any such unfair practice, then the board shall make
11 its findings of fact and shall issue an order dismissing the
12 complaint. A copy of such findings of fact, conclusions of law,
13 and order shall be mailed to all parties to the proceedings.

14 Section 1141-A. Modification of Order.--Until a transcript
15 of the record in a case shall have been filed in a court as
16 hereinafter provided, the board may at any time, upon reasonable
17 notice, and in such manner as it shall deem proper, modify or
18 set aside, in whole or in part, any finding or order made or
19 issued by it: Provided, That any agreement made between an
20 employer and a bona fide employe organization, and all the
21 provisions thereof, shall be entitled to full force and effect
22 unless the board specifically finds that these provisions
23 involve the commission of an unfair practice.

24 Section 1142-A. Conduct of Proceedings.--The proceedings
25 before the board or before any of its examiners shall be
26 conducted with speed and dispatch. No findings shall be made on
27 the basis of evidence relating to acts which occurred prior to
28 the original passage of this article.

29 Section 1143-A. Prosecution of Cases.--All cases in which
30 complaints are actually issued by the board, shall be prosecuted

1 before the board or its examiner, or both, by the
2 representatives of the employe organization or party filing the
3 charge, and, in addition thereto or in lieu thereof if the
4 Attorney General sees fit, by a deputy attorney general
5 especially assigned to this type of case. No examiner shall have
6 any other position with the government of this State or of the
7 United States or with the board while in the employ of the
8 board.

9 (l) Unfair Practices During Procedures.

10 Section 1144-A. Unfair Practices During Collective
11 Bargaining Procedures.--(a) Notwithstanding any other
12 provisions of this article, the board upon the filing of a
13 charge alleging the commission of an unfair labor practice
14 committed during, or arising out of the collective bargaining
15 procedures set forth in sections 1121-A and 1122-A, shall be
16 empowered to petition the court of competent jurisdiction for
17 appropriate relief or restraining order.

18 (b) Upon the filing of any such petition the board shall
19 cause notice thereof to be served upon such person and thereupon
20 the court shall have jurisdiction to grant to the board such
21 temporary relief or restraining order as it deems just and
22 proper.

23 (m) Judicial Review.

24 Section 1145-A. Enforcement of Order.--The board shall have
25 power to petition the court of common pleas of any county
26 wherein the unfair practice in question occurred, or wherein any
27 person charged with the commission of any unfair practice
28 resides or transacts business, for the enforcement of such order
29 and for appropriate temporary relief or restraining order, and
30 shall certify and file in the court a transcript of the entire

1 record in the proceeding, including the pleadings and testimony
2 upon which such order was entered and the findings and order of
3 the board. Upon such filing, the court shall cause notice
4 thereof to be served upon such person, and thereupon shall have
5 jurisdiction of the proceeding and of the question determined
6 therein, and shall have power to grant such temporary relief,
7 restraining or mandamus order as it deems just and proper or
8 requisite to effectuate the policies of this act and to make and
9 enter upon the pleadings, testimony, and proceedings set forth
10 in such transcript a decree enforcing, modifying and enforcing
11 as so modified, or setting aside, in whole or in part, the order
12 of the board. The parties before the court shall be the board,
13 the person charged with the commission of any unfair labor
14 practice, and may include the charging party. No objection that
15 has not been urged before the board, its members or agents shall
16 be considered by the court unless the failure or neglect to urge
17 such objection shall be excused because of extraordinary
18 circumstances. The findings of the board as to the facts, if
19 supported by substantial and legally credible evidence, shall be
20 conclusive. If either party shall apply to the court for leave
21 to adduce additional evidence, and shall show to the
22 satisfaction of the court, that such additional evidence is
23 material, and that there were reasonable grounds for the failure
24 to adduce such evidence at the hearing before the board, its
25 members or agent, the court may order such additional evidence
26 to be taken before the board, its members or agent, and to be
27 made a part of the transcript. The board may modify its findings
28 as to the facts or make new findings by reason of additional
29 evidence so taken and filed, and it shall file such modified or
30 new findings which, if supported by substantial and legally

1 credible evidence, shall be conclusive, and shall file its
2 recommendations, if any, for the modification or setting aside
3 of its original order. The jurisdiction of the court of common
4 pleas shall be exclusive within the limits of its jurisdiction.

5 Section 1146-A. Jurisdiction not Limited.--When granting
6 appropriate temporary relief, a restraining or mandamus order or
7 making and entering a decree enforcing, modifying, or enforcing
8 as so modified, or setting aside, in whole or in part, an order
9 of the board, as provided in this section, the jurisdiction of
10 courts sitting in equity shall not be limited by acts pertaining
11 to equity jurisdiction of courts. The act of June 2, 1937
12 (P.L.1198), known as the "Labor Anti-Injunction Act," shall not
13 be applicable to orders of the board, or to court orders
14 enforcing orders of the board, or any provision of this act, or
15 to violations of any order of the board, or of court orders
16 enforcing orders of the board, or any provisions of this act.

17 Section 1147-A. Questions Involving Representation.--No
18 petitions or charges involving questions arising under clause
19 (2) of subsection (a) of section 1137-A shall relieve the board
20 of determining any questions arising under sections 1109-A,
21 1110-A and 1111-A immediately, and in their regular and normal
22 order, and the making of a certification thereon if such is
23 warranted. No petition or charge shall be entertained which
24 relates to acts which occurred or statements which were made
25 more than four (4) months prior to the filing of the petition or
26 charge.

27 (n) Investigatory Powers of Board.

28 Section 1148-A. Powers Vested in Board.--For the purpose of
29 all hearings and investigations which, in the opinion of the
30 board, are necessary and proper for the exercise of the powers

1 vested in it by this article, and for the purpose of
2 investigating and considering disputes, other than a question
3 concerning the representation of employes, which it shall be the
4 duty of the board to undertake whenever petitioned so to do by
5 either an employe organization, an employer, or the
6 representative of any unit of employes, the board shall have the
7 investigatory powers granted in this article.

8 Section 1149-A. Access to Evidence.--The board or its duly
9 authorized agents shall at all reasonable times have access to,
10 for the purpose of examination and the right to copy, any
11 evidence of any person being investigated or proceeded against
12 that relates to any matter under investigation or in question.
13 Any member of the board shall have the power to issue subpoenas
14 requiring the attendance and testimony of witnesses and the
15 production of any evidence that relates to any matter under
16 investigation or in question before the board, its members or
17 agent conducting the hearing or investigation. Such subpoenas
18 shall be issued as a matter of right upon the request of either
19 party at any time during the pendency of a proceeding. Any
20 member of the board, or any agent designated by the board for
21 such purposes, may administer oaths and affirmations, examine
22 witnesses, and receive evidence.

23 Section 1150-A. Depositions.--If any witness resides outside
24 of the Commonwealth or through illness or other cause is unable
25 to testify before the board or its members or agent conducting
26 the hearing or investigation, his or her testimony or deposition
27 may be taken within or without this Commonwealth, in such manner
28 and in such forms as the board or its members or agent
29 conducting the hearing, may by special or general rule
30 prescribe.

1 Section 1151-A. Refusal to Obey Subpoena.--In case of
2 contumacy or refusal to obey a subpoena issued to any person,
3 the court upon application by the board, shall issue to such
4 person an order requiring such person to appear before the
5 board, its members or agent, there to produce evidence if so
6 ordered, or there to give testimony touching the matter under
7 investigation or in question, and any failure to obey such order
8 of the courts may be punished by said court as a contempt
9 thereof.

10 Section 1152-A. Immunity.--No person shall be excused from
11 attending and testifying or from producing books, records,
12 correspondence, documents or other evidence in obedience to the
13 subpoena of the board on the ground that the testimony or
14 evidence required of him may tend to incriminate him or subject
15 him to a penalty or forfeiture, but no individual shall be
16 prosecuted or subjected to any penalty or forfeiture for, or on
17 account of, any transaction, matter or thing concerning which he
18 is compelled, after having claimed his privilege against self-
19 incrimination, to testify or produce evidence, except that such
20 individual so testifying shall not be exempt from prosecution
21 and punishment for perjury committed in so testifying.

22 Section 1153-A. Service of Process.--Complaints, orders and
23 other process and papers of the board, its members or agent may
24 be served, either personally or by registered mail or by
25 telegraph or by leaving a copy thereof at the principal office
26 or place of business of the person required to be served. The
27 verified return by the individual so serving the same, setting
28 forth the manner of such service, shall be proof of the same and
29 the return post office receipt or telegraph receipt therefor
30 when registered and mailed or telegraphed as aforesaid, shall be

1 proof of service of the same. Witnesses summoned before the
2 board, its members or agent shall be paid the same fees and
3 mileage that are paid witnesses in the courts of this
4 Commonwealth, and witnesses whose depositions are taken and the
5 person taking the same shall severally be entitled to the same
6 fees as are paid for like services in the courts of this
7 Commonwealth.

8 (o) Employe Organizations.

9 Section 1154-A. Contributions by Employe Organizations

10 Prohibited.--(a) No employe organization shall make any
11 contribution out of the funds of the employe organization either
12 directly or indirectly to any political party or organization or
13 in support of any political candidate for public office.

14 (b) The board shall establish such rules and regulations as
15 it may find necessary to prevent the circumvention or evasion of
16 the provisions of this section.

17 (c) If an employe organization has made contributions in
18 violation of this section it shall file with the board a report
19 or affidavit evidencing such contributions within ninety (90)
20 days of the end of its fiscal year. Such report or affidavit
21 shall be signed by its president and treasurer or corresponding
22 principals.

23 (d) Any employe organization which violates the provisions
24 of this section or fails to file any required report or
25 affidavit or files a false report or affidavit shall be subject
26 to a fine of not more than two thousand dollars (\$2,000).

27 (e) Any person who wilfully violates this section, or who
28 makes a false statement knowing it to be false, or who knowingly
29 fails to disclose a material fact shall be fined not more than
30 one thousand dollars (\$1,000) or imprisoned for not more than

1 thirty (30) days or both. Each individual required to sign
2 affidavits or reports under this section shall be personally
3 responsible for filing such report or affidavit and for any
4 statement contained therein he knows to be false.

5 (f) Nothing in this section shall be deemed to prohibit
6 voluntary contributions by individuals to political parties or
7 candidates.

8 Section 1155-A. Conflict of Interest.--(a) No person who is
9 a member of the same local, State, national or international
10 organization as the employe organization with which the public
11 employer is bargaining or who has an interest in the outcome of
12 such bargaining which interest is in conflict with the interest
13 of the public employer, shall participate on behalf of the
14 public employer in the collective bargaining processes with the
15 proviso that such person may, where entitled, vote on the
16 ratification of an agreement.

17 (b) Any person who violates subsection (a) of this section
18 shall be immediately removed by the public employer from his
19 role, if any, in the collective bargaining negotiations or in
20 any matter in connection with such negotiations.

21 (p) Penalties.

22 Section 1156-A. Wilfull Interference with Member of Board.--
23 Any person who shall wilfully resist, prevent, impede or
24 interfere with any member of the board, or any of its agents, in
25 the performance of duties pursuant to this article, shall be
26 guilty of a misdemeanor, and, upon conviction thereof, shall be
27 sentenced to pay a fine of not more than five thousand dollars
28 (\$5,000), or by imprisonment for not more than one (1) year, or
29 both.

30 Section 2. The act of July 23, 1970 (P.L.563, No.195), known

1 as the Public Employe Relations Act, is repealed insofar as it
2 is inconsistent with this act.

3 Section 3. This act shall take effect in 60 days.