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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 708**      Session of  
1995

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INTRODUCED BY HANNA, KELLER, TIGUE, TRELLO, YOUNGBLOOD, BELARDI,  
BOSCOLA, CAPPABIANCA, STEELMAN AND SURRA, FEBRUARY 13, 1995

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REFERRED TO COMMITTEE ON LABOR RELATIONS, FEBRUARY 13, 1995

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AN ACT

1 Amending the act of July 23, 1970 (P.L.563, No.195), entitled  
2 "An act establishing rights in public employes to organize  
3 and bargain collectively through selected representatives;  
4 defining public employes to include employes of nonprofit  
5 organizations and institutions; providing compulsory  
6 mediation and fact-finding, for collective bargaining  
7 impasses; providing arbitration for certain public employes  
8 for collective bargaining impasses; defining the scope of  
9 collective bargaining; establishing unfair employe and  
10 employer practices; prohibiting strikes for certain public  
11 employes; permitting strikes under limited conditions;  
12 providing penalties for violations; and establishing  
13 procedures for implementation," including confidential  
14 employees.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Section 301 of the act of July 23, 1970 (P.L.563,  
18 No.195), known as the Public Employe Relations Act, is amended  
19 to read:

20 Section 301. As used in this act:

21 (1) "Public employer" means the Commonwealth of  
22 Pennsylvania, its political subdivisions including school  
23 districts and any officer, board, commission, agency, authority,  
24 or other instrumentality thereof and any nonprofit organization

1 or institution and any charitable, religious, scientific,  
2 literary, recreational, health, educational or welfare  
3 institution receiving grants or appropriations from local, State  
4 or Federal governments but shall not include employers covered  
5 or presently subject to coverage under the act of June 1, 1937  
6 (P.L.1168), as amended, known as the "Pennsylvania Labor  
7 Relations Act," the act of July 5, 1935, Public Law 198, 74th  
8 Congress, as amended, known as the "National Labor Relations  
9 Act."

10 (2) "Public employe" or "employe" means any individual  
11 employed by a public employer but shall not include elected  
12 officials, appointees of the Governor with the advice and  
13 consent of the Senate as required by law, management level  
14 employes, [confidential employes,] clergymen or other persons in  
15 a religious profession, employes or personnel at church offices  
16 or facilities when utilized primarily for religious purposes and  
17 those employes covered under the act of June 24, 1968 (Act  
18 No.111), entitled "An act specifically authorizing collective  
19 bargaining between policemen and firemen and their public  
20 employers; providing for arbitration in order to settle  
21 disputes, and requiring compliance with collective bargaining  
22 agreements and findings of arbitrators."

23 (3) "Employe organization" means an organization of any  
24 kind, or any agency or employe representation committee or plan  
25 in which membership includes public employes, and which exists  
26 for the purpose, in whole or in part, of dealing with employers  
27 concerning grievances, employe-employer disputes, wages, rates  
28 of pay, hours of employment, or conditions of work but shall not  
29 include any organization which practices discrimination in  
30 membership because of race, color, creed, national origin or

1 political affiliation.

2 (4) "Representative" means any individuals acting for public  
3 employers or employes and shall include employe organizations.

4 (5) "Board" means the Pennsylvania Labor Relations Board.

5 (6) "Supervisor" means any individual having authority in  
6 the interests of the employer to hire, transfer, suspend,  
7 layoff, recall, promote, discharge, assign, reward or discipline  
8 other employes or responsibly to direct them or adjust their  
9 grievances; or to a substantial degree effectively recommend  
10 such action, if in connection with the foregoing, the exercise  
11 of such authority is not merely routine or clerical in nature  
12 but calls for the use of independent judgment.

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

21 (8) "Unfair practice" means any practice prohibited by  
22 Article XII of this act.

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

30 (10) "Person" includes an individual, public employer,

1 public employe, authority, commission, legal representative,  
2 labor organization, employe organization, profit or nonprofit  
3 corporation, trustee, board or association.

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

9 (12) "Budget submission date" means the date by which under  
10 the law or practice a public employer's proposed budget, or  
11 budget containing proposed expenditures applicable to such  
12 public employer is submitted to the Legislature or other similar  
13 body for final action. For the purposes of this act, the budget  
14 submission date for the Commonwealth shall be February 1 of each  
15 year and for a nonprofit organization or institution, the last  
16 day of its fiscal year.

17 [(13) "Confidential employe" shall mean any employe who  
18 works: (i) in the personnel offices of a public employer and has  
19 access to information subject to use by the public employer in  
20 collective bargaining; or (ii) in a close continuing  
21 relationship with public officers or representatives associated  
22 with collective bargaining on behalf of the employer.]

23 (14) "Wages" means hourly rates of pay, salaries or other  
24 forms of compensation for services rendered.

25 (15) "Commonwealth employe" means a public employe employed  
26 by the Commonwealth or any board, commission, agency, authority,  
27 or any other instrumentality thereof.

28 (16) "Management level employe" means any individual who is  
29 involved directly in the determination of policy or who  
30 responsibly directs the implementation thereof and shall include

1 all employes above the first level of supervision.

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

8 (18) "Maintenance of membership" means that all employes who  
9 have joined an employe organization or who join the employe  
10 organization in the future must remain members for the duration  
11 of a collective bargaining agreement so providing with the  
12 proviso that any such employe or employes may resign from such  
13 employe organization during a period of fifteen days prior to  
14 the expiration of any such agreement.

15 (19) "First level of supervision" and "first level  
16 supervisor" means the lowest level at which an employe functions  
17 as a supervisor.

18 Section 2. This act shall take effect in 60 days.