

SENATE BILL No. 971

February 15, 2012, Introduced by Senator RICHARDVILLE and referred to the Committee on Government Operations.

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; and to prescribe means of enforcement and penalties for the violation of the provisions of this act,"

by amending section 1 (MCL 423.201), as amended by 1999 PA 204.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. (1) As used in this act:

(a) "Bargaining representative" means a labor organization recognized by an employer or certified by the commission as the sole and exclusive bargaining representative of certain employees of the employer.

(b) "Commission" means the employment relations commission created in section 3 of 1939 PA 176, MCL 423.3.

(c) "Intermediate school district" means that term as defined in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

1 (d) "Lockout" means the temporary withholding of work from a
2 group of employees by means of shutting down the operation of the
3 employer in order to bring pressure upon the affected employees or
4 the bargaining representative, or both, to accept the employer's
5 terms of settlement of a labor dispute.

6 (e) "Public employee" means a person holding a position by
7 appointment or employment in the government of this state, in the
8 government of 1 or more of the political subdivisions of this
9 state, in the public school service, in a public or special
10 district, in the service of an authority, commission, or board, or
11 in any other branch of the public service, subject to the following
12 exceptions:

13 (i) Beginning March 31, 1997, a person employed by a private
14 organization or entity that provides services under a time-limited
15 contract with the state or a political subdivision of the state is
16 not an employee of the state or that political subdivision, and is
17 not a public employee.

18 (ii) If, ~~within 30 days after the effective date of the~~
19 ~~amendatory act that added this subparagraph,~~ **BY APRIL 9, 2000,** a
20 public school employer that is the chief executive officer serving
21 in a school district of the first class under part 5A of the
22 revised school code, 1976 PA 451, MCL 380.371 to 380.376, issues an
23 order determining that it is in the best interests of the school
24 district, then a public school administrator employed by a ~~THAT~~
25 ~~school district that is a school district of the first class under~~
26 ~~the revised school code, 1976 PA 451, MCL 380.1 to 380.1852,~~ is not
27 a public employee for purposes of this act. The exception under

Senate Bill No. 971 as amended February 22, 2012

1 this subparagraph applies to public school administrators employed
2 by that school district after the date of the order described in
3 this subparagraph whether or not the chief executive officer
4 remains in place in the school district. This exception does not
5 prohibit the chief executive officer or board of a school district
6 of the first class or its designee from having informal meetings
7 with public school administrators to discuss wages and working
8 conditions.

9 (iii) AN INDIVIDUAL SERVING AS A GRADUATE STUDENT RESEARCH
10 ASSISTANT OR IN AN EQUIVALENT POSITION AND ANY INDIVIDUAL WHOSE
11 POSITION DOES NOT HAVE SUFFICIENT INDICIA OF AN <<EMPLOYER-EMPLOYEE
12 RELATIONSHIP USING THE 20-FACTOR TEST ANNOUNCED BY THE INTERNAL REVENUE
SERVICE OF THE UNITED STATES DEPARTMENT OF TREASURY IN REVENUE RULING
87-41, 1987-1 C.B. 296>> IS NOT A PUBLIC EMPLOYEE ENTITLED TO
REPRESENTATION OR
13 COLLECTIVE BARGAINING RIGHTS UNDER THIS ACT.

14 (f) "Public school academy" means a public school academy or
15 strict discipline academy organized under the revised school code,
16 1976 PA 451, MCL 380.1 to 380.1852.

17 (g) "Public school administrator" means a superintendent,
18 assistant superintendent, chief business official, principal, or
19 assistant principal employed by a school district, intermediate
20 school district, or public school academy.

21 (h) "Public school employer" means a public employer that is
22 the board of a school district, intermediate school district, or
23 public school academy; is the chief executive officer of a school
24 district in which a school reform board is in place under part 5A
25 of the revised school code, 1976 PA 451, MCL 380.371 to 380.376; or
26 is the governing board of a joint endeavor or consortium consisting
27 of any combination of school districts, intermediate school

1 districts, or public school academies.

2 (i) "School district" means that term as defined in section 6
3 of the revised school code, 1976 PA 451, MCL 380.6, or a local act
4 school district as defined in section 5 of the revised school code,
5 1976 PA 451, MCL 380.5.

6 (j) "Strike" means the concerted failure to report for duty,
7 the willful absence from one's position, the stoppage of work, or
8 the abstinence in whole or in part from the full, faithful, and
9 proper performance of the duties of employment for the purpose of
10 inducing, influencing, or coercing a change in employment
11 conditions, compensation, or the rights, privileges, or obligations
12 of employment. For employees of a public school employer, strike
13 also includes an action described in this subdivision that is taken
14 for the purpose of protesting or responding to an act alleged or
15 determined to be an unfair labor practice committed by the public
16 school employer.

17 (2) This act does not limit, impair, or affect the right of a
18 public employee to the expression or communication of a view,
19 grievance, complaint, or opinion on any matter related to the
20 conditions or compensation of public employment or their betterment
21 as long as the expression or communication does not interfere with
22 the full, faithful, and proper performance of the duties of
23 employment.