

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," in employee rights, providing
14 for right to participate in elections or referendums, for
15 right to assemble with members of employee organizations, for
16 rate of dues or initiation fees, for right to initiate legal
17 actions, for disciplinary measures imposed on members of
18 employee organizations, for election officers in employee
19 organizations, for remedial measures for invalid elections,
20 for duties of members and agents of employee organizations,
21 for constitution and bylaws and reports and for penalties.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. The act of July 23, 1970 (P.L.563, No.195), known
25 as the Public Employe Relations Act, is amended by adding
26 sections to read:

27 Section 402. In accordance with the rules of an employe

1 organization's constitution or bylaws, a member of an employe
2 organization shall have equal rights and privileges within the
3 employe organization to:

4 (1) Nominate candidates in an election of the employe
5 organization.

6 (2) Vote in elections or referendums of the employe
7 organization.

8 (3) Attend membership meetings and participate in the
9 deliberations and voting upon the business of the membership
10 meetings.

11 Section 403. (a) A member of an employe organization may
12 meet and assemble freely with other members of the employe
13 organization and may express views, arguments or opinions on any
14 of the following:

15 (1) Candidates in an election of the employe organization.

16 (2) Business properly before the membership meeting in
17 accordance with the employe organization's rules pertaining to
18 the conduct of membership meetings.

19 (b) Nothing in this section shall be construed to impair the
20 right of an employe organization to adopt and enforce reasonable
21 rules of conduct for the employe organization to prohibit a
22 member from interfering with the employe organization's
23 performance or legal or contractual obligations.

24 Section 404. (a) The rate of dues or initiation fees
25 payable by members of a local employe organization shall not be
26 increased and a general or special assessment shall not be
27 imposed on the members except by any of the following:

28 (1) A majority vote by secret ballot of the members in good
29 standing at a general or special membership meeting after
30 reasonable notice of the intention to vote upon the question.

1 (2) A majority vote by secret ballot of the members in good
2 standing voting in a membership referendum.

3 (b) The rate of dues or initiation fees payable by members
4 of a Statewide employe organization shall not be increased and a
5 general or special assessment shall not be imposed on the
6 members except by a majority vote by secret ballot of the
7 members in good standing of the Statewide employe organization
8 voting in a membership referendum.

9 Section 405. (a) An employe organization shall not prevent
10 or limit the right of a member of the employe organization to
11 institute an action in court or a proceeding before an
12 administrative agency, regardless of whether or not the employe
13 organization or the employe organization's officers are named as
14 defendants or respondents in the action or proceeding. An
15 employe organization may require that a member of the employe
16 organization use reasonable hearing procedures within the
17 employe organization before instituting an action in court or a
18 proceeding before an administrative agency. The reasonable
19 hearing procedures under this subsection shall not exceed a
20 four-month period.

21 (b) An employe organization shall not prevent or limit the
22 right of a member of an employe organization to appear as a
23 witness in any judicial, administrative or legislative
24 proceeding or to petition the General Assembly or communicate
25 with a member of the General Assembly.

26 (c) Except as a party, an interested public employer shall
27 not directly or indirectly finance, encourage or participate in
28 any judicial, administrative or legislative proceeding.

29 Section 406. Except for the nonpayment of dues to an employe
30 organization, a member of an employe organization shall not be

1 fined, suspended, expelled or otherwise disciplined by the
2 employe organization unless the employe organization provides
3 the member with all of the following:

4 (1) Specific written charges.

5 (2) A reasonable time for the member to prepare the member's
6 defense.

7 (3) A full and fair hearing.

8 Section 407. (a) A Statewide employe organization shall
9 elect the Statewide employe organization's officers not less
10 often than once every five years by secret ballot among the
11 members of the Statewide employe organization in good standing
12 or at a convention of delegates selected by secret ballot.

13 (b) A local employe organization shall elect the local
14 employe organization's officers not less often than once every
15 three years by secret ballot among the members of the local
16 employe organization in good standing.

17 (c) As enforceable by a suit filed by a candidate for an
18 office in an employe organization in the court of common pleas
19 of the jurisdiction where the employe organization maintains the
20 employe organization's principal office, the employe
21 organization and the employe organization's officers shall
22 comply with all of the following:

23 (1) A reasonable request by a candidate to distribute
24 campaign literature by mail or other means at the candidate's
25 expense in aid of the candidate's campaign to all members of the
26 employe organization in good standing.

27 (2) Refrain from discrimination in favor of or against a
28 candidate regarding the use of lists of members of the employe
29 organization or the distribution of campaign literature by mail
30 or other means to members of the employe organization on behalf

1 of a candidate, including the cost of the distribution.

2 (3) Within thirty days before an election for an office in
3 the employe organization, authorize a candidate to conduct no
4 more than one inspection of a list containing the names and last
5 known addresses of all the members of the employe organization
6 who are subject to a collective bargaining agreement requiring
7 membership in the employe organization as a condition of
8 employment. The list shall be maintained and kept at the employe
9 organization's principal office by a designated official of the
10 employe organization.

11 (4) Adequate safeguards to ensure a fair election for an
12 office of the employe organization, including the right of a
13 candidate to have an observer at the polls and during the
14 counting of the ballots.

15 (d) An officer of a intermediate body, including a general
16 committee, system board, joint board or joint council, shall be
17 elected not less than once every four years by secret ballot
18 among the members of the employe organization in good standing
19 or by officers of the employe organization elected by secret
20 ballot who represent the members.

21 (e) For an election by secret ballot as required by this
22 section, the following apply:

23 (1) An employe organization shall provide a reasonable
24 opportunity for the nomination of candidates.

25 (2) A member of the employe organization in good standing
26 shall be eligible to be a candidate, hold office and vote for or
27 otherwise support a candidate without being subject to penalty,
28 discipline or improper interference or reprisal of any kind by
29 the employe organization or another member.

30 (3) Not less than fifteen days before an election for office

1 in an employe organization, the employe organization shall
2 provide notice of the election via registered mail to a member
3 of the employe organization at the member's last known home
4 address. A member of the employe organization in good standing
5 shall be entitled to one vote.

6 (4) If a member of an employe organization has the member's
7 dues withheld by the member's employer for payment to the
8 employe organization pursuant to the member's voluntary
9 authorization as provided in a collective bargaining agreement,
10 the member shall not be declared ineligible to vote or be a
11 candidate for office in the employe organization by reason of an
12 alleged delay or default in the payment of dues.

13 (5) Votes cast by members of a local employe organization in
14 an election shall be separately counted and published. The
15 election official designated in the constitution and bylaws, or
16 the secretary of the board if no election official is
17 designated, shall preserve the ballots and other records
18 pertaining to the election for not less than one year. The
19 election shall be conducted in accordance with the constitution
20 and bylaws of the local employe organization insofar as the
21 constitution and bylaws are not inconsistent with the provisions
22 of this section.

23 (f) If officers are elected to an office of a Statewide
24 employe organization by a convention of delegates elected by
25 secret ballot, the convention shall be conducted in accordance
26 with the constitution and bylaws of the employe organization
27 insofar as the constitution and bylaws are not inconsistent with
28 the provisions of this section. The officials designated in the
29 constitution and bylaws, or the secretary of the board if no
30 official is designated, shall preserve for the credentials of

1 the delegate, minutes and other records of the convention
2 pertaining to the election for no less than one year.

3 (g) Funds received by an employe organization by way of
4 dues, assessments or other levies and funds of a public employer
5 shall not be contributed or applied to promote a candidate in an
6 election for an office in the employe organization. Funds of an
7 employe organization may be utilized for notices, factual
8 statements of issues not involving a candidate and other
9 expenses necessary for the holding of an election for an office
10 in the employe organization.

11 (h) If the board, upon application of a member of a local
12 employe organization, finds after a hearing that the
13 constitution and bylaws of the local employe organization do not
14 provide an adequate procedure for the removal of an elected
15 officer guilty of serious misconduct, the officer may be removed
16 in accordance with the following:

17 (1) The local employe organization shall provide notice and
18 a hearing for the official regarding the allegation of
19 misconduct.

20 (2) The members of the local employe organization in good
21 standing shall vote on the removal of the officer by secret
22 ballot conducted in accordance with the local employe
23 organization's constitution and bylaws insofar as the
24 constitution and bylaws are not inconsistent with the provisions
25 of this act.

26 (i) The board shall promulgate regulations prescribing the
27 minimum standards and procedures for determining the adequacy of
28 the removal procedures under subsection (h).

29 (j) Except as other provided under this act, an employe
30 organization shall not be required to conduct the elections of

1 officers with greater frequency or in a different manner than is
2 required by the employe organization's constitution and bylaws,
3 except as otherwise provided by this title. Nothing in this act
4 shall be construed to affect the existing rights and remedies to
5 enforce the constitution and bylaws of the employe organization
6 with respect to the election of officers.

7 Section 408. (a) A member of an employe organization who
8 has exhausted the remedies available under the constitution and
9 bylaws of the employe organization or invoked the remedies
10 without obtaining a final decision within ninety days after the
11 invocation may file a complaint with the board alleging a
12 violation of section 407. The member of the employe organization
13 must file a complaint with the board within thirty days after
14 exhausting the remedies available under the constitution and
15 bylaws of the employe organization or ninety days has expired
16 since failing to obtain a final decision. An election challenged
17 under this section shall be presumed valid pending a final
18 decision on the election. The affairs of the employe
19 organization shall be conducted by the officers elected or as
20 prescribed by the employe organization's constitution and bylaws
21 during the board's investigation of the complaint.

22 (b) The board shall investigate a complaint under subsection
23 (a). If the board finds probable cause to believe that a
24 violation of this act has occurred and has not been remedied,
25 the board shall, within one hundred twenty days after the filing
26 of the complaint under subsection (a), bring a civil action
27 against the employe organization in the court of competent
28 jurisdiction where the employe organization maintains the
29 employe organization's principal office to invalidate the
30 election, direct the conduct of a new election or hearing or

1 require a vote upon the removal of officers under the
2 supervision of the board in accordance with this act. The court
3 shall have power to take such action as the court deems proper
4 to preserve the assets of the employe organization.

5 (c) If a court finds, by a preponderance of the evidence,
6 that an election has not been held within the time prescribed by
7 section 407 or a violation of section 407 may have affected the
8 outcome of an election, the court shall order the election void
9 and direct the conduct of a new election under supervision of
10 the board in conformity with the constitution and bylaws of the
11 employe organization as practicable. After the new election is
12 conducted, the secretary of the board shall promptly certify to
13 the court the names of the individuals elected and the court
14 shall enter a decree declaring the individuals to be officers of
15 the employe organization. If the court orders the removal of an
16 officer guilty of serious misconduct under section 407(h), the
17 secretary of the board shall certify the results of the vote and
18 the court shall enter a decree declaring whether the officer has
19 been removed from the employe organization.

20 (d) A court order directing an election, dismissing a
21 complaint, or designating officers of an employe organization
22 under subsection (c) shall be appealable in the same manner as
23 the final judgment in a civil action. An order directing an
24 election under subsection (c) shall not be stayed pending
25 appeal. The rights and remedies for challenging an election
26 already conducted shall be exclusive to the court of competent
27 jurisdiction.

28 Section 409. (a) An employe organization shall adopt a
29 constitution and bylaws. The employe organization shall file a
30 copy of the constitution and bylaws with the board and a report

1 signed by the employe organization's president and secretary or
2 corresponding principal officers. The report shall contain all
3 of the following information:

4 (1) The name of the employe organization.

5 (2) The employe organization's mailing address and any other
6 address where the employe organization maintains the employe
7 organization's principal office or keeps records required under
8 this act.

9 (3) The name and title of the employe organization's
10 officers.

11 (4) Initiation fees required from a new or transferred
12 member of the employe organization.

13 (5) Regular dues or fees or other periodic payments required
14 to remain a member of the employe organization.

15 (6) Detailed statements or references which specify the
16 employe organization's procedures regarding all of the
17 following:

18 (i) The qualifications for membership in the employe
19 organization or restrictions on membership in the employe
20 organization.

21 (ii) Levy of assessments by the employe organization.

22 (iii) Participation in insurance or other benefit plans.

23 (iv) Disbursements of the employe organization's funds.

24 (v) Audits of the employe organization.

25 (vi) Regular and special meetings conducted by the employe
26 organization.

27 (vii) Election, appointment or selection of the employe
28 organization's officers or other organizations comprised of the
29 employe organization's officers, including how officers are
30 elected, appointed or selected.

1 (viii) Discipline or removal of the employe organization's
2 members, agents and officers for breach of trust.

3 (ix) Imposition of fines, suspensions and expulsions of the
4 employe organization's members, agents or officers, including
5 the grounds for the disciplinary actions, notice of disciplinary
6 actions, hearings on disciplinary actions, evidence standards
7 and appeal mechanisms.

8 (x) Bargaining demands and strikes.

9 (xi) Ratification of contract terms.

10 (b) If the information provided in the report under
11 subsection (a) changes before the employe organization files the
12 annual financial report under subsection (c), the change shall
13 be reported to the board at the time the employe organization
14 files the annual financial report under subsection (c).

15 (c) An employe organization shall file an annual financial
16 report with the board signed by the employe organization's
17 president and treasurer or corresponding principal officers. The
18 annual financial report shall contain the necessary information
19 to accurately disclose the employe organization's financial
20 condition and operations for the preceding fiscal year,
21 including all of the following information:

22 (1) The assets and liabilities of the employe organization
23 at the beginning and end of the preceding fiscal year.

24 (2) The receipts of the employe organization and the sources
25 of the receipts.

26 (3) The salary, allowances and other direct or indirect
27 disbursements of the employe organization's funds, including
28 reimbursed expenses, for all of the following:

29 (i) The employe organization's officers.

30 (ii) The employe organization's employes who received more

1 than one thousand dollars (\$1,000) during the preceding fiscal
2 year in the aggregate from the employe organization or any other
3 labor organization affiliated with the employe organization or
4 affiliated with the same national or Statewide employe
5 organization as the employe organization.

6 (iii) Direct and indirect loans made to the employe
7 organization's members, agents or officers who received more
8 than ten thousand dollars (\$10,000) in the aggregate during the
9 fiscal year and the statement of the purpose of the loans,
10 security for the loans and arrangements for repayment of loans.

11 (iv) Direct and indirect loans to business enterprises, the
12 statement of the purpose of the loans, security for the loans
13 and arrangements for the repayment of the loans.

14 (v) Other disbursements of funds made by the employe
15 organization and the purpose of the disbursements which impact
16 the employe organization's financial condition as the Secretary
17 of the Department of Labor and Industry may prescribe by
18 regulation.

19 (d) An employe organization shall make available the
20 information specified in a report required under this section to
21 the employe organization's members. If reasonable cause is shown
22 by an employe organization's member, the employe organization
23 and the employe organization's officers shall permit the member
24 to examine books, records and accounts necessary to verify the
25 information in a report required under this section. If the
26 employe organization fails to meet the requirements under this
27 subsection, a member of the employe organization may initiate an
28 action for appropriate equitable relief in the court of common
29 pleas where the employe organization's principal office is
30 located. In addition to a judgment awarded to a plaintiff in an

1 action under this subsection, the court may award reasonable
2 attorney fees and the costs of the litigation to the plaintiff.

3 (e) The board shall make available the information specified
4 in a report required under this section on the Department of
5 Labor and Industry's publicly accessible Internet website.

6 Section 410. (a) An employe organization's members and
7 agents shall have the following duties:

8 (1) Use, manage, invest and expend assets in possession of
9 the employe organization solely for the benefit of the employe
10 organization and the employe organization's members in
11 accordance with the employe organization's constitution and
12 bylaws.

13 (2) Refrain from holding or acquiring any pecuniary or
14 personal interest which conflicts with the interests of the
15 employe organization.

16 (3) Deposit any funds in connection with transactions
17 conducted by an employe organization on behalf of the employe
18 organization.

19 (b) A general exculpatory provision in the constitution and
20 bylaws of an employe organization that contradicts the duties
21 required under subsection (a) shall be void.

22 (c) If an employe organization's member or agent is alleged
23 to have violated the duties under subsection (a) and the employe
24 organization refuses or fails to file suit to recover damages or
25 other appropriate relief within a reasonable time after being
26 requested to file suit by a member of the employe organization,
27 the member may sue the alleged violator in a court of competent
28 jurisdiction to recover damages or other appropriate relief for
29 the benefit of the employe organization. No action may be
30 brought under this subsection unless the plaintiff obtains leave

1 of the court from a verified application and for good cause
2 shown. The verified application may be made ex parte. The court
3 may allocate a reasonable part of the recovery in an action
4 under this subsection to pay the fees of the plaintiff's counsel
5 or compensate the plaintiff's expenses incurred in connection
6 with the suit.

7 (d) In addition to any other penalties provided by law, upon
8 conviction of a member or agent of an employe organization for
9 an offense involving the theft or other misappropriation of
10 assets, the penalties shall be as follows:

11 (1) Disqualification from membership in any employe
12 organization.

13 (2) If conviction is graded as a felony, termination from
14 current employment in a public office and disqualification from
15 employment in a public office in the future.

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