

No. 2002-174

AN ACT

HB 2183

Specifically authorizing collective bargaining between first-level supervisors and their public employer; providing for arbitration in order to settle disputes rather than striking; and requiring compliance with collective bargaining agreements and findings of arbitrators.

TABLE OF CONTENTS

Chapter 1. General Provisions

Section 101. Short title.

Section 102. Definitions.

Chapter 2. Selection of Bargaining Representatives

Section 201. Jurisdiction.

Section 202. Exclusion.

Chapter 3. Collective Bargaining

Section 301. Settlement.

Section 302. Origin.

Section 303. Impasse.

Chapter 4. Strikes

Section 401. Prohibition.

Chapter 5. Miscellaneous Provisions

Section 501. Para materia.

Chapter 6. Savings Provision

Section 601. Savings provision.

Chapter 7. Severability

Section 701. Severability.

Chapter 8. Effective Date

Section 801. Effective date.

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

CHAPTER 1
GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the First-Level Supervisor Collective Bargaining Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Employee organization.” An organization of any kind or any agency or employee representation committee or plan in which membership includes public employees and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employee-employer disputes, wages, rates of pay, hours of employment or conditions of work, but shall not include any organization which practices discrimination in membership because of race, color, creed, national origin or political affiliation.

“First-level supervisor.” An employee functioning at the lowest level as a supervisor.

“Public employer.” The Pennsylvania Turnpike Commission.

“Supervisor.” Any individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees or responsibility to direct them or adjust their grievances, or to a substantial degree effectively recommend such action if, in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

CHAPTER 2

SELECTION OF BARGAINING REPRESENTATIVES

Section 201. Jurisdiction.

The Pennsylvania Labor Relations Board shall have jurisdiction over all questions concerning representation with respect to the selection of employee organizations as exclusive bargaining representatives of first-level supervisors.

Section 202. Exclusion.

First-level supervisors shall not be included in any bargaining unit which includes non-first-level supervisors.

CHAPTER 3

COLLECTIVE BARGAINING

Section 301. Settlement.

It shall be the duty of the public employer and employee organizations representing first-level supervisors to settle all disputes by engaging in collective bargaining in good faith and by entering into settlements by way of written agreements and maintaining of the same.

Section 302. Origin.

Collective bargaining shall begin at least six months before the start of the fiscal year of the public employer, and any request for arbitration as provided in this act shall be made at least 110 days before the start of the fiscal year.

Section 303. Impasse.

Impasse in bargaining shall be resolved as follows:

(1) If any case of a dispute between a public employer and an employee organization representing first-level supervisors reaches an impasse in the collective bargaining process, with the result that the public employer and employees are unable to effect a settlement, then either party to the dispute, after written notice to the other party containing specifications of the issue or issues in dispute, may request the appointment of a board of arbitration. For purposes of this section, an impasse shall be deemed to occur in the collective bargaining process if the parties do not reach a settlement of the issue or issues in dispute by way of a written agreement within 30 days after collective bargaining proceedings have been initiated.

(2) The board of arbitration shall be composed of three persons, one appointed by the public employer, one appointed by the employee organization and a third member to be agreed upon by the public employer and employee organization. The members of the board representing the public employer and employee organization shall be named within five days from the date of the request for the appointment of the board. If, after a period of ten days from the date of appointment of the two arbitrators appointed by the public employer and the employee organization, the third arbitrator has not been selected by them, then either arbitrator may request the American Arbitration Association or its successor in function to furnish a list of three members of the association who are residents of this Commonwealth from which the third arbitrator shall be selected. The arbitrator appointed by the public employer shall eliminate one name from the list within five days after the publication of the list, following which the arbitrator appointed by the employee organization shall eliminate one name from the list within five days thereafter. The individual whose name appears on the list shall be the third arbitrator and shall act as chairman of the board of arbitration. The board of arbitration thus established shall commence the arbitration proceedings within ten days after the third arbitrator is selected and shall make its determination within 30 days after the appointment of the third arbitrator.

(3) The determination of the majority of the board of arbitration thus established shall be final on the issue or issues in dispute and shall be binding upon the public employer and the employee organization. The determination shall be in writing, and a copy thereof shall be forwarded to both parties to the dispute. No appeal therefrom shall be allowed to any court. The determination shall constitute a mandate to the public

employer to take the action necessary to carry out the determination of the board of arbitration, provided that determinations of the board which require legislative enactment to be effective shall be considered advisory only.

(4) The compensation of the arbitrator appointed by the employee organization shall be paid by them. The compensation of the other two arbitrators as well as stenographic and other expenses incurred by the arbitration panel in connection with the arbitration proceedings shall be paid by the public employer.

CHAPTER 4 STRIKES

Section 401. Prohibition.

Strikes by first-level supervisors are prohibited at any time. If such a strike occurs, the public employer shall forthwith initiate in the court of common pleas of the jurisdiction where the strike occurs an action for appropriate equitable relief, including, but not limited to, an injunction.

CHAPTER 5 MISCELLANEOUS PROVISIONS

Section 501. Para materia.

This act shall be read in para materia with the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act.

CHAPTER 6 SAVINGS PROVISION

Section 601. Savings provision.

The rights granted to certain public employees by the following acts or parts of acts shall not be repealed or diminished by this act:

Act of November 27, 1967 (P.L.628, No.288), entitled "An act protecting the rights of employes of existing transportation systems which are acquired by cities of the third class or any authority thereof or certain joint authorities; requiring cities of the third class or any authority thereof or any such joint authority to enter into contracts with labor organizations acting for such employes, and providing for arbitration in case of disputes."

Act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

CHAPTER 7 SEVERABILITY

Section 701. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

**CHAPTER 8
EFFECTIVE DATE**

Section 801. Effective date.

This act shall take effect immediately.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER