

2009 -- H 5232

LC00501

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- CERTIFIED SCHOOL TEACHERS' ARBITRATION

Introduced By: Representatives Gablinske, Brien, and Trillo

Date Introduced: January 28, 2009

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-9.3-1 of the General Laws in Chapter 28-9.3 entitled "Certified
2 School Teachers' Arbitration" is hereby amended to read as follows:

3 **28-9.3-1. Declaration of policy -- Purpose. --** (a) In pursuance of the duty imposed upon
4 it by the constitution to promote public schools and to adopt all means necessary and proper to
5 secure to the people the advantages and opportunities of education, the general assembly declares
6 that it recognizes teaching as a profession which requires special educational qualifications and
7 that to achieve high quality education it is indispensable that good relations exist between
8 teaching personnel and school committees.

9 (b) It is declared to be the public policy of this state to accord to certified public school
10 teachers the right to organize, to be represented, to negotiate professionally, and to bargain on a
11 collective basis with school committees covering hours, salary, working conditions, and other
12 terms of professional employment; provided, that nothing contained in this chapter shall be
13 construed ~~to accord to certified public school teachers the right to strike~~ limit the professional
14 responsibilities of teachers to those items included in a collective bargaining agreement or to
15 diminish the professional responsibility and accountability of teachers to ensure that their
16 professional actions have as their guiding principle the best interests of the students committed to
17 their educational care.

18 (c) Strikes by public school teachers are prohibited. The term "strike" means any strike or

1 other concerted job action commonly referred to as “work to rule,” including, without limitation,
2 any stoppage of work, slowdown, or curtailment of one or more customary teaching practices that
3 are typically provided or performed by teachers in the absence of a strike. Individuals or labor
4 organizations which violate this provision shall be subject to the penalties enumerated in section
5 28-9.3-17. A certified teacher who is absent from work without permission, or who abstains
6 wholly or in part from the full performance of his or her duties in his or her normal manner
7 without permission, on the date or dates when a strike occurs, shall be presumed to have engaged
8 in such strike on such date or dates. Nothing herein shall be construed to abolish Rhode Island’s
9 common law prohibition against public employee strikes.

10 (d) Prohibition against consent to strike. No person exercising on behalf of any public
11 employer any authority, supervision or direction over any public employee shall have the power
12 to authorize, approve, condone or consent to a strike, or the engaging in a strike, by one or more
13 public employees, and such person shall not authorize, approve, condone, or consent to such
14 strike or engagement.

15 SECTION 2. Chapter 28-9.3 of the General Laws entitled "Certified School Teachers'
16 Arbitration" is hereby amended by adding thereto the following sections:

17 **28-9.3-17. Penalties for strikes or other concerted work actions which disrupt the**
18 **operation of the public schools or adversely affect the education of students. – Any certified**
19 **public school teacher who strikes shall forfeit two (2) days pay to the state’s permanent school**
20 **fund for every day that he or she engages in any such strike. Any certified collective association**
21 **or labor organization which orders, calls, promotes, aids, abets, or counsels a strike of its**
22 **members shall lose its authority as a recognized bargaining agent for a period of three (3) years**
23 **and shall not collect any dues during this period of suspension. Nothing herein shall be construed**
24 **to prohibit the dismissal or suspension of a certified teacher who strikes or to prohibit the**
25 **commissioner of education from taking action against the teacher’s teaching certificate for**
26 **engaging in a strike.**

27 **28-9.3-18. Imposition of monetary penalties -- procedure. – (a) When a school**
28 **committee receives affidavits from its superintendent indicating that a strike is occurring or that it**
29 **has taken place, the school committee, on the basis of theses affidavits, or such further**
30 **investigation as it deems necessary, shall determine the dates or dates upon which a strike took**
31 **place and the names of those employees who participated in the strike. Notice of this**
32 **determination shall be sent by mail or by other equally effective means of communication to**
33 **those teachers who have been determined to have engaged in a strike. Such determination shall**
34 **not be deemed to be final until completion of the procedures provided for in this section.**

1 (b) Within fifteen (15) days after notification has been given a teacher may file an
2 affidavit with the superintendent of schools setting forth facts which, if proved, would show that
3 the teacher had not participated in a strike. If such affidavits raise material issues of fact, the
4 superintendent shall schedule a hearing before a hearing officer who shall, after hearing, forward
5 a proposed decision to the school committee and to the teacher concerned. At any such hearing
6 the burden of proof shall be on the teacher to demonstrate that he or she did not participate in a
7 strike. The school committee shall be bound by the record of the hearing, but it may accept or
8 reject the proposed decision of the hearing officer in whole or in part and write its own decision.
9 If the school committee finds that the teacher engaged in a strike it shall forthwith order its chief
10 financial officer to forfeit from the teacher's pay a sum equivalent to double the amount the
11 teacher would have earned for each day the teacher engaged in the strike.

12 (c) The school committee's decision may be appealed to the commissioner of education.
13 The hearing before the commissioner shall be limited to the record compiled before the local
14 school district hearing officer unless the commissioner, for good cause shown, allows additional
15 testimony in the matter.

16 (d) Proceedings against an employee organization under this section shall be commenced
17 by a school committee by the filing of a complaint with the Rhode Island labor board and service
18 of this complaint upon the employee organization. The employee organization shall have eight (8)
19 days within which to serve its written answer to such charges. The board's hearing shall be held
20 promptly thereafter and at such hearing, the parties shall be permitted to be represented by
21 counsel and to summon witnesses in their behalf. Compliance with the technical rules of evidence
22 shall not be required.

23 (e) In determining whether an employee organization has violated subsection 29-9.3-1(c)
24 by striking, the board shall consider, in addition to other relevant evidence: (1) Whether the
25 employee organization called the strike or tried to prevent it; and (2) Whether the employee
26 organization made or was making good faith efforts to terminate the strike.

27 **28-9.3-19. Injunctive relief.** – Notwithstanding the penalties specified in section 28-9.3-
28 17, and in addition thereto, the superior court shall have authority to grant injunctions against
29 strikes or other concerted job actions that disrupt or threaten to disrupt the operation of a public
30 school or that adversely affect or threaten to adversely affect the education of students. In any
31 request for injunctive relief under this provision a prima facie showing for granting such relief
32 shall be established upon proof that a strike has occurred, is occurring, or is likely to occur absent
33 the issuance of the requested injunctive relief. No showing of irreparable injury need be made.

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO LABOR AND LABOR RELATIONS -- CERTIFIED SCHOOL TEACHERS'
ARBITRATION

- 1 This act would prohibit strikes by public school teachers and would provide for penalties
- 2 for those teachers who violate this section.
- 3 This act would take effect upon passage.

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