

SENATE . . . . . No. 1980

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The Commonwealth of Massachusetts

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SENATE, MAY 9, 1983.

The committee on Public Service, to whom was referred the petition (accompanied by bill, House, No. 4451) of the Massachusetts Teachers Association and Thomas R. Lussier for legislation to provide for a board of regents employees joint labor-management council to resolve impasses in collective bargaining; the petition (accompanied by bill, House, No. 4452) of the Massachusetts Association and Thomas R. Lussier for legislation to provide for a school committee employees joint-management council to resolve impasses in collective bargaining; and the petition (accompanied by bill, House, No. 4453) of the Massachusetts Teachers Association, Thomas R. Lussier, John A. Businger and Steven Angelo relative to governing the implementation of school committee proposals during impasse, fact-finding and arbitration, reports the accompanying bill (Senate, No. 1980).

For the Committee,

ROYAL L. BOLLING, JR.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-three.

AN ACT TO PROVIDE A SCHOOL COMMITTEE EMPLOYEES' JOINT  
LABOR-MANAGEMENT COMMITTEE TO RESOLVE IMPASSES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 6A section 17E of the General Laws is  
2 hereby amended by inserting after the second paragraph and  
3 before the third paragraph the following: —

4 The joint labor-management committee for education, is  
5 hereby declared to be within the executive office of labor,  
6 but in no respect subject to the jurisdiction thereof.

1 SECTION 2. Chapter 150E of the General Laws is hereby  
2 amended by adding after section 9A the following new sec-  
3 tion: —

4 *Section 9B.* There shall be in the Executive Office of Labor,  
5 but in no respect subject to the jurisdiction thereof, a com-  
6 mittee to be known as the Joint Labor-Management Com-  
7 mittee for Education, in this section referred to as the com-  
8 mittee. The committee shall be composed of fourteen mem-  
9 bers, including a chairman and vice chairman. Twelve mem-  
10 bers shall be appointed by the Governor for a term of one  
11 years as follows: Management shall be represented by com-  
12 mittee members nominated by the Massachusetts School  
13 Committees' Association and the local government advisory  
14 committee, one nomination submitted by the Massachusetts  
15 School Committees' Association; five from nominations sub-  
16 mitted by the local government advisory committee estab-  
17 lished pursuant to executive order 123 dated January 13,  
18 1976; Labor shall be represented by committee members  
19 nominated by the American Federation of Teachers and the  
20 Massachusetts Teachers Association, two nominations sub-  
21 mitted by the American Federation of Teachers (hereinafter  
22 referred to as AFT) and four nominations submitted by the  
23 Massachusetts Teachers' Association (hereinafter referred to  
24 as MTA).

25 In matters pertaining exclusively to bargaining units repre-  
26 sented by the AFT, committee members represented by the  
27 MTA shall not vote. In matters pertaining exclusively to bar-  
28 gaining units represented by the MTA, committee members  
29 represented by the AFT shall not vote. The number of com-  
30 mittee members representing management and labor entitled  
31 to vote on any matter coming before the committee shall be  
32 equal. All committee members shall be eligible to vote on  
33 matters of common and general interest.

34 In matters involving professional employees in bargaining  
35 units that do not have a representative on the committee,  
36 the provisions of section 9 of Chapter 150E of the general  
37 laws shall apply, unless the exclusive representative of the  
38 bargaining unit consents to submit a negotiations dispute to  
39 the committee, in which case the committee may exercise  
40 jurisdiction.

41 The Chairperson may cast the deciding vote on any mat-  
42 ter relating to a dispute concerning negotiations over the  
43 terms and provisions of a collective bargaining agreement, in-  
44 cluding any decision to take jurisdiction over a dispute. Any  
45 member of the committee may be removed by the Governor  
46 for neglect of duty, malfeasance in office, or upon the request  
47 of the nominating body. The Chairperson and Vice-Chair-  
48 person shall be nominated by the committee and appointed  
49 by the Governor for a term of one year. The Chairperson  
50 shall be the chief administrative officer of the committee.  
51 The Vice-Chairperson shall assist the Chairperson and may  
52 be authorized by the Chairperson to act for him/her in his  
53 or her absence and shall have the full powers of the Chair-  
54 person when so authorized and shall vote only in the absence  
55 of the Chairperson. Members of the committee shall serve  
56 without compensation, but shall be entitled to reimbursement,  
57 out of any funds available for the purposes, of reasonable  
58 travel or other expenses actually incurred in the perform-  
59 ance of their duties. The Chairperson and Vice-Chairperson  
60 shall be compensated for time spent on committee business  
61 on a per diem basis at a rate to be determined by the Secre-  
62 tary of Administration and Finance. The committee may pur-  
63 chase such supplies and equipment and may employ such

64 clerical staff, and other personnel, who shall not be subject  
65 to the provisions of Section 9A of Chapter 30 or Chapter 31  
66 of the General Laws, as they deem necessary to the conduct  
67 of committee business out of any funds available for the pur-  
68 pose. Members of the committee employed by the Common-  
69 wealth shall be granted leave, if on duty, by the Common-  
70 wealth employer for those regularly scheduled work hours  
71 spent in the performance of committee business. Members of  
72 the committee employed by a municipality shall be granted  
73 leave, if on duty, by the municipal employer for those regu-  
74 larly scheduled work hours spent in the performance of com-  
75 mittee business.

76 The committee shall have oversight responsibility for all  
77 collective bargaining negotiations involving professional em-  
78 ployees of school committees, regional school districts, this  
79 shall include but not limited to, those bargaining units which  
80 are made up of one, or a combination of the following groups:  
81 teachers, teaching specialists, teaching aides, guidance coun-  
82 selors, coaches, nurses, special education, administrators,  
83 principals, assistant principals, department heads, and direc-  
84 tors. Disputes regarding collective bargaining negotiations  
85 relative to whether a particular employer or bargaining unit  
86 is under the jurisdiction of the committee shall be decided  
87 by the committee.

88 The committee may exercise jurisdiction over collective  
89 bargaining negotiations involving other employees of school  
90 committees if the exclusive bargaining representative and the  
91 school committee involved agree to submit the dispute to the  
92 committee.

93 After notification by the committee, the parties involved  
94 in a negotiations dispute under the jurisdiction of the com-  
95 mittee, shall provide the committee in such time as the com-  
96 mittee requires:

- 97 (1) copies of all requests to bargain and of the bargaining  
98 agendas
- 99 (2) notification of any pending unfair labor practice pro-  
100 ceedings between the parties
- 101 (3) copies of any collective bargaining agreements between  
102 the parties

103 (4) such other information as the committee may reason-  
104 ably require.

105 Notwithstanding the provisions of the first paragraph of  
106 section nine of Chapter 150E of the General Laws, either  
107 party, or the parties acting jointly, may petition the com-  
108 mittee for assistance in resolving a negotiations dispute which  
109 exists between the parties.

110 The committee shall forthwith review the petition and  
111 shall make a determination within thirty days whether to  
112 exercise jurisdiction over the dispute. If the committee de-  
113 clines to exercise jurisdiction over the dispute, or fails to act  
114 within thirty days of receipt of the petition on jurisdiction,  
115 the petition shall be automatically referred to the board of  
116 arbitration and conciliation hereinafter referred to as the  
117 board, for disposition in accordance with the provisions of  
118 section nine of chapter one hundred and fifty E of the Gen-  
119 eral Laws.

120 The petition to the committee shall identify the issues in  
121 dispute, the parties, the efforts of the parties to resolve the  
122 dispute and such other information as may be prescribed in  
123 the rules of the committee.

124 Said board shall not accept any petition, under section nine  
125 of chapter one hundred and fifty E of the General Laws, from  
126 a party to negotiations disputes in the committee's jurisdic-  
127 tion, if the petition has not been first reviewed in accord-  
128 ance with the provisions of this section by the committee.

129 The committee or its representative or mediators appointed  
130 by it may meet with the parties to a dispute, conduct formal  
131 or informal conferences, and take other steps including media-  
132 tion to encourage the parties to agree on the terms of a col-  
133 lective bargaining agreement or the procedures to resolve  
134 the dispute. The committee shall make every effort to encour-  
135 age the parties to engage in good faith negotiations to reach  
136 settlement through negotiations or mediation.

137 The committee after consultation with the board of arbitra-  
138 tion and conciliation may remove at any time from the jurisdic-  
139 tion of the board any dispute in which the board has

140 exercised jurisdiction, and the board shall then take no fur-  
141 ther action in such dispute. The committee may, at any time,  
142 remand to the board any dispute which the committee has  
143 exercised jurisdiction. The board shall assist and cooperate  
144 with the committee in its performance of the committee's  
145 duties. Disputes over which the committee does not exercise  
146 jurisdiction shall be governed by all other applicable pro-  
147 visions of law.

148 The staff of the board, and the joint labor-management  
149 committee for municipal police and fire, may be assigned at  
150 the discretion of the chairman of the board, and the chairman  
151 of said committee, to assist, if the committee requests assist-  
152 ance, in helping to resolve a particular dispute under the  
153 jurisdiction of the committee.

154 The committee shall promulgate rules and regulations  
155 necessary for the performance and enforcement of the re-  
156 sponsibilities and powers set forth herein in this act; pro-  
157 vided, however, that said committee file a copy of any regu-  
158 lations or amendments thereto with clerks of the senate and  
159 the house of representatives who, with the approval of the  
160 president of the senate and speaker of the house of repre-  
161 sentatives, shall refer such regulations to an appropriate com-  
162 mittee of the general court. Within thirty days after such  
163 filing, the appropriate committee of the general court shall  
164 hold a hearing on such regulations and shall issue a report  
165 and file a copy with the joint labor-management committee.  
166 Said joint labor-management committee shall consider such  
167 report and make revisions in the regulations as it deems  
168 appropriate in view of such report and shall forthwith file a  
169 copy of the final regulations with the chairman of the com-  
170 mittee of the general court to which the regulations were  
171 referred.

172 The provisions of chapter thirty A of the General Laws,  
173 unless otherwise provided, shall apply to the committee.

174 The committee shall have the power to administer oaths  
175 and to require by subpoena the attendance and testimony of  
176 witnesses, the production of books, records, and other evi-

177 dence relative to or pertinent to the issues presented to the  
178 committee.

179 It is hereby declared that the provisions of this act are  
180 severable, and if any provision of this act shall be declared  
181 unconstitutional by the valid judgment or decree of any court  
182 of competent jurisdiction, such unconstitutionality shall not  
183 affect any of the remaining provisions of this act.

