

# HOUSE . . . . . No. 4765

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, May 9, 1967.

The committee on Public Service, to whom were referred the petition (accompanied by bill, Senate, No. 747) of the Massachusetts State Employees Association, by James M. A. Dolan, president, and John M. Quinlan for legislation relative to collective bargaining for employee organizations of the Commonwealth; and the petition (accompanied by bill, House, No. 2799) of the Massachusetts State Council No. 41 AFSC&ME AFL-CIO that provision be made for collective bargaining for state employees, report the accompanying bill (House, No. 4765).

For the committee,

JOHN R. BUCKLEY.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Seven.

### AN ACT PROVIDING FOR COLLECTIVE BARGAINING FOR EMPLOYEES OF THE COMMONWEALTH.

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

1 Chapter 149 of the General Laws is hereby amended by  
2 striking out section 178F, inserted by chapter 637 of the acts  
3 of 1964, and inserting in place thereof the following sec-  
4 tion:—

5 *Section 178F.* (1) It is hereby declared to be the policy of  
6 the commonwealth, in order to preserve and promote the  
7 interests of the public, the state employe, and the state as an  
8 employer alike, to encourage the practices and procedures of  
9 collective bargaining in state employment subject to the  
10 requirements of the public service and related laws, rules and  
11 regulations governing state employment, and by establishing  
12 standards of fair conduct in state employment relations by  
13 providing convenient, expeditious and impartial procedures  
14 whereby these interests may have their respective rights  
15 determined.

16 (2) The following terms, when used in this act shall have  
17 the following meaning: "Employe", any employe of the  
18 commonwealth and assigned to work in any department or  
19 agency thereof except individuals having privy to confiden-  
20 tial matters affecting the employer-employe relationship or  
21 individuals whose participation or activity in the manage-  
22 ment of employe organizations would be incompatible with  
23 law or with their official duties as employes.

24 "Employer", the Commonwealth of Massachusetts, any  
25 department or agency thereof, including any person acting on  
26 behalf of the state and any of its departments or agencies  
27 within the scope of his authority, express or implied.

28 "Employe organization", any lawfully formed association,

29 organization, federation, council or labor union, the member-  
30 ship of which includes employes of the commonwealth and  
31 the primary purpose of which is the improvement of working  
32 conditions among the employes of the commonwealth.

33 "Commission", the State Labor Relations Commission  
34 existing under section nine O of chapter twenty-three.

35 (3) Employees of the commonwealth shall have, and be  
36 protected in the exercise of the right of self-organization, the  
37 right to form, join or assist any employe organization, to  
38 bargain collectively through representatives of their own  
39 choosing, and to engage in concerted activities for the pur-  
40 pose of collective bargaining and other mutual aid or protec-  
41 tion, free from interference, restraint or coercion; provided,  
42 however, that an employe organization recognized by an  
43 agency head and designated as the representative of the  
44 majority of employes in an employe unit according to proce-  
45 dures hereinafter set forth shall be the exclusive bargaining  
46 agent for all employes of such unit, and shall act, negotiate  
47 agreements and bargain collectively for all employes in the  
48 unit. Such organization shall represent the interests of all  
49 such employees without discrimination and without regard to  
50 employe organization membership.

51 (4) Employe organizations and the appropriate depart-  
52 ment or agency heads may, by mutual agreement, subject to  
53 the approval of the director of personnel and standardization,  
54 establish appropriate collective bargaining units based upon  
55 community of interest, which may include similar working  
56 conditions, common supervision and physical location. Em-  
57 ployes may, in appropriate cases, be given the opportunity to  
58 determine for themselves whether they desire to establish  
59 themselves as an appropriate collective bargaining unit.

60 If no such agreement on an appropriate collective bargain-  
61 ing unit is reached between the employe organization or  
62 organizations and the department or agency head within a  
63 reasonable time, such reasonable time to be determined by  
64 the Director of Personnel and Standardization, but in any  
65 event not longer than sixty days after the initial request for  
66 such discussion, the failure to reach such agreement, unless  
67 such time period is extended by mutual agreement between  
68 the parties involved, shall be held to constitute a dispute.

69 When the failure to reach such an agreement qualifies as a  
70 dispute, the parties involved shall use the services of the state  
71 labor relations commission to resolve such dispute.

72 (5) When an employe organization presents to the depart-  
73 ment or agency head satisfactory and timely written evidence  
74 that more than fifty per cent of the employes in the appro-  
75 priate bargaining unit wish to be represented, for purposes of  
76 collective bargaining, by an employe organization, there shall  
77 be posted by the department or agency head, in a con-  
78 spicuous place, a notice of intent to recognize the petitioning  
79 employe organization. If no claim for recognition from any  
80 other employe organization is presented to the department or  
81 agency head within fifteen days following the posting of such  
82 notice the director of personnel, upon notification, shall issue  
83 forthwith a consent recognition designating that organization  
84 as the exclusive bargaining representative. This recognition  
85 will be binding and shall not be subject to challenge by any  
86 party for at least a period of twelve months thereafter.

87 If a majority determination is not achieved by the fore-  
88 going procedure, a petition may be filed with the state labor  
89 relations commission for an election to determine the appro-  
90 priate collective bargaining representative by procedures set  
91 forth in chapter one hundred and fifty of the General Laws.

92 Decertification of an employe organization as an exclusive  
93 bargaining representative shall be initiated in like manner.

94 (6) In any election where none of the choices on the ballot  
95 receives a majority, a runoff election shall be conducted, the  
96 ballot providing for a selection between the two choices  
97 receiving the largest and the second largest number of valid  
98 votes cast in the election.

99 (7) Following either certification or consent recognition of  
100 the majority designated employe organization, the common-  
101 wealth, through its department or agency heads or their  
102 designated representatives, shall have the duty to bargain  
103 collectively in good faith with such employe organization.

104 For the purposes of collective bargaining, the representa-  
105 tive of the agency head and the representative of the em-  
106 ployes shall meet at reasonable times and shall confer in good  
107 faith with respect to conditions of employment, and shall

108 execute a written contract incorporating any agreement so  
109 reached, but neither party shall be compelled to agree to a  
110 proposal or to make a concession.

111 (8) If, after a reasonable period of negotiation, a dispute  
112 exists between an agency head and an employe organization  
113 over the terms of an agreement, either party or the parties  
114 jointly may petition the director of personnel and standardi-  
115 zation to initiate procedures for fact finding.

116 Upon receipt of such petition, the director of personnel and  
117 standardization shall cause an investigation to be made to  
118 determine the validity of the conditions set forth in such  
119 petition. If the director finds that such alleged conditions do  
120 exist, he shall submit to the parties a list of three qualified  
121 disinterested persons from which list the parties shall select  
122 one person to serve as a fact finder and shall so notify the  
123 director, who shall then appoint such person. If the parties  
124 fail to select the fact finder within five calendar days of  
125 receipt of the list, the director shall appoint a person who  
126 shall serve as fact finder.

127 The person appointed or selected as the fact finder may  
128 establish dates and place of hearings which shall be, where  
129 feasible, in a convenient location to the parties concerned.  
130 Upon completion of the hearings and within forty-five days  
131 from the date of appointment, unless extended by the di-  
132 rector of personnel and standardization for good cause shown,  
133 the fact finder shall make written findings of fact and  
134 recommendations for the resolution of the dispute and shall  
135 cause the same to be served on the agency head and the  
136 employe organization involved.

137 If either party to the dispute, or the parties jointly, reject  
138 the recommendations of the fact finder for the resolution of  
139 the dispute, and where the matter of the dispute lies within  
140 the province of the legislature, a committee consisting of two  
141 members appointed by the president of the senate and three  
142 members appointed by the speaker of the house of represen-  
143 tatives shall constitute a committee to hear such dispute and  
144 shall report its findings to both branches of the legislature,  
145 which shall refer the report to the joint committee appro-  
146 priate for the matter in dispute.

147 (9) Agency or department heads or their designated repre-  
148 sentatives or agents are prohibited from: (i) interfering with,  
149 restraining or coercing, employes in the exercise of their  
150 rights guaranteed them under this section; (ii) dominating or  
151 interfering with the formation or administration of any  
152 employe organization or contributing financial or other  
153 support to it; (iii) encouraging or discouraging membership  
154 in any employe organization by discrimination in regard to  
155 hiring, tenure, or other conditions of employment; (iv)  
156 refusing to bargain collectively in good faith with the repre-  
157 sentative chosen by the majority of employes in the appro-  
158 priate collective bargaining unit; (v) discharging or discrim-  
159 inating against an employe because he has filed charges or  
160 given testimony under this Act; (vi) violating the provisions  
161 of any written agreement already entered into.

162 (10) Employe organizations or their agents are prohibited  
163 from: (i) interfering with, restraining, or coercing employes  
164 in the exercise of their rights guaranteed them under this  
165 section; (ii) restraining, coercing, or interfering with, the  
166 agency head in the selection of the agency's representative or  
167 representatives for the purposes of collective negotiations or  
168 adjustment of grievances; (iii) causing or attempting to  
169 cause an employer to discriminate against an employe for  
170 membership or non-membership in an employe organization;  
171 (iv) refusing to bargain collectively in good faith with the  
172 duly authorized officer or agency of the department or agency  
173 head, provided it is the recognized or certified exclusive  
174 collective bargaining representative of the employes in the  
175 appropriate collective bargaining unit; (v) violating the  
176 provisions of any written agreement already entered into;  
177 (vi) engaging in, inducing or encouraging any state employes  
178 to engage in a strike, or a concerted refusal to work or  
179 performance of their usual duties as employes of the com-  
180 monwealth.

181 (11) Upon a complaint being made to the labor relations  
182 commission alleging that a practice prohibited by sections  
183 nine and ten of this Act has been committed, the commission,  
184 upon investigation, may issue an order dismissing the com-  
185 plaint or may order a further investigation or a hearing

186 thereon. The commission shall set the time and place for such  
187 hearing, which time and place may be changed by the  
188 commission at the request of one of the parties for cause  
189 shown. Any complaint may be amended with the permission  
190 of the commission. The agency head, the employe organiza-  
191 tion or the person so complained of, shall have the right to  
192 file an answer to the original or amended complaint within  
193 five days after the service of such complaint and amendments  
194 thereto, or within such other time as the commission may  
195 determine. Such agency head, such employe organization or  
196 such person shall have the right to appear in person or  
197 otherwise defend against such complaint. In the discretion of  
198 the commission any person may be allowed to intervene in  
199 such proceeding. In any hearing the commission shall not be  
200 bound by the technical rules of evidence. A transcript of the  
201 testimony before the commission shall be filed with the  
202 commission and with the director of personnel and standardi-  
203 zation.

204 If, after such hearing, the commission determines that a  
205 prohibited practice has been committed, it shall state its  
206 findings of fact and shall issue and cause to be served on the  
207 party committing the prohibited practice an order requiring  
208 it or him to cease and desist from such prohibited practice,  
209 and shall take such further affirmative action pursuant to  
210 paragraph (e) of section six of chapter one hundred and fifty  
211 A, as necessary to effect its findings.

212 If, after such hearing, the commission determines that a  
213 prohibited practice has not been or is not being committed, it  
214 shall state its findings of fact and shall issue an order  
215 dismissing the complaint.

216 (12) The director of personnel and standardization, subject  
217 to the approval of the commissioner of administration, shall  
218 make, and from time to time may amend, rules, regulations,  
219 and procedures governing this section.

The first part of the book is devoted to a general history of the world, from the beginning of time to the present day. The author discusses the various civilizations that have flourished on the earth, and the progress of human knowledge and industry. He also touches upon the political and social changes that have shaped the modern world.

The second part of the book is a detailed account of the history of the British Empire, from its early beginnings in the sixteenth century to its greatest extent in the nineteenth century. The author describes the expansion of British power across the globe, and the impact of the Empire on the world.

The third part of the book is a history of the United States, from its founding in 1776 to the present day. The author discusses the political and social development of the young nation, and its role in the world.

The fourth part of the book is a history of the French Revolution and the Napoleonic Wars, from 1789 to 1815. The author describes the rise of Napoleon Bonaparte, and the impact of the wars on Europe and the world.

The fifth part of the book is a history of the Crimean War, from 1853 to 1856. The author discusses the causes of the war, the military actions, and the political consequences.

The sixth part of the book is a history of the American Civil War, from 1861 to 1865. The author discusses the causes of the war, the military actions, and the political consequences.

The seventh part of the book is a history of the Reconstruction era, from 1865 to 1877. The author discusses the political and social changes in the South, and the role of the federal government.

The eighth part of the book is a history of the Gilded Age, from 1870 to 1900. The author discusses the rise of industrial capitalism, and the social and political changes of the era.

The ninth part of the book is a history of the Progressive Era, from 1900 to 1920. The author discusses the political and social reforms of the era, and the role of the federal government.

The tenth part of the book is a history of the World War I era, from 1914 to 1918. The author discusses the causes of the war, the military actions, and the political consequences.

The eleventh part of the book is a history of the interwar period, from 1918 to 1939. The author discusses the political and social changes of the era, and the rise of totalitarianism.

The twelfth part of the book is a history of World War II, from 1939 to 1945. The author discusses the causes of the war, the military actions, and the political consequences.

The thirteenth part of the book is a history of the postwar period, from 1945 to the present day. The author discusses the political and social changes of the era, and the role of the United States in the world.