

# SENATE . . . . . No. 1556

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## The Commonwealth of Massachusetts

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SENATE, May 8, 1978.

The committee on Public Service, to whom was referred the petition (accompanied by bill, House, No. 668) of the petition (accompanied by bill, House, No. 668) of Nicholas J. Buglione and John F. Farland relative to further regulating prohibited practices under the public employee collective bargaining law; the petition (accompanied by bill, House, No. 1251) of Michael C. Creedon and John F. Farland relative to clarifying the due process rights of public employees in impasse situations under the collective bargaining law; the petition (accompanied by bill, House, No. 2086) of the Massachusetts Teachers Association and Charles F. McNally relative to prohibited practices under the public employee collective bargaining law; and the petition (accompanied by bill, House, No. 2991) of the Massachusetts Federation of Teachers, Dennis J. Duffin, George J. Bourque, Gerald M. Cohen, William D. Mullins and Paul E. Means for legislation to compel the parties to a labor dispute to meet and negotiate in good faith, reports the accompanying bill (Senate, No. 1556).

For the Committee,

CHESTER G. ATKINS

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-eight.

### AN ACT PROVIDING FOR CLARIFICATION OF THE DUE PROCESS RIGHTS FOR PUBLIC EMPLOYEES IN IMPASSE SITUATIONS.

*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 9A of Chapter 150E of the General Laws as enacted  
2 by Chapter 1078 of the Acts of 1973 is hereby amended by  
3 striking said section and inserting in place thereof the follow-  
4 ing new section: —

5 *Section 9A.* (a) No public employee or employee organiza-  
6 tion shall engage in a strike, and no public employee or em-  
7 ployee organizations shall induce, encourage or condone any  
8 strike, work stoppage, slowdown or withholding of services  
9 by such public employees.

10 (b) No public employer shall induce or encourage any  
11 strike, work stoppage, slowdown or withholding of services by  
12 employees as described in paragraph (a) of this section.

13 Whenever a strike occurs or is about to occur, the employer  
14 shall petition the commission to make an investigation. If  
15 after investigation, the commission determines that any pro-  
16 visions of paragraph (a) and/or (b) of this section has been  
17 or is about to be violated and/or that the employer has en-  
18 gaged in a prohibited practice under section 10(a) which has  
19 contributed to any violation or a violation which is about to  
20 occur of paragraph (a) of this section, it may immediately set  
21 requirements that must be complied with, including, but not  
22 limited to, instituting appropriate proceedings in the superior  
23 court for the county wherein such violation has occurred or is  
24 about to occur for enforcement of such requirements.

25 Within three (3) days after receiving notice of the require-  
26 ments which are set by the commission, the parties may pe-  
27 tition the superior court for a hearing, de novo, at which time  
28 it shall hear witnesses and determine, whether or not, based  
29 on the evidence, the requirements were justifiable. If the court  
30 finds such requirements were justifiable, the requirements of

31 the commission shall be affirmed; otherwise they shall be re-  
32 versed and the court shall set requirements of its own which  
33 must be complied with.

34 In the event contempt proceedings are held to enforce the  
35 order of the court and fines are imposed as a result thereof,  
36 the amount of said fines shall not exceed the actual monetary  
37 damages incurred by the party injured as a result of noncom-  
38 pliance with the court order, and said fines shall be diminished  
39 in proportion to the amount of fault, for violations of para-  
40 graph (a) and/or (b) of this section, attributed to the party  
41 who suffered damages.

42 The procedures set forth in this section shall be the ex-  
43 clusive method of obtaining judicial relief in labor disputes  
44 which involve violations of the provisions of this section.

1) The committee shall be organized before the 1st of  
 2) and the rest shall be organized by the committee  
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