

member of such system during such period. In establishing the amount of such annuity said board shall allow as a prior service credit all service rendered to the commonwealth or to any department, board, commission or division thereof prior to the year nineteen hundred and twelve. The state retirement board is hereby authorized to pay to the said Brown a retirement allowance based upon such service.

*Approved June 28, 1947.*

**Chap. 657** AN ACT AMENDING THE PROVISIONS OF THE STATE LABOR RELATIONS ACT RELATIVE TO UNFAIR LABOR PRACTICES AND CERTAIN INDUSTRIAL DISPUTES.

*Be it enacted, etc., as follows:*

G. L. (Ter. Ed.), 150A, § 4, etc., amended.

SECTION 1. Section 4 of chapter 150A of the General Laws, as appearing in section 2 of chapter 345 of the acts of 1938, is hereby amended by striking out subsection (3) and inserting in place thereof the following subsection:—

Unfair labor practice defined.

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in any labor organization; provided, that nothing in this chapter shall preclude an employer from making and carrying out, except as provided in subsection six hereof, an agreement with a labor organization (not established, maintained or assisted by any action defined in this chapter as an unfair labor practice) to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in subsection (a) of section five in the appropriate collective bargaining unit covered by such agreement when made, but no such agreement shall be deemed to apply to any employee who is not eligible for full membership and voting rights in such labor organization.

G. L. (Ter. Ed.), 150A, § 4, etc., further amended.

SECTION 2. Said section 4, as amended, is hereby further amended by adding at the end the following subsection:—

Same subject.

(6) To discharge or otherwise discriminate against any employee because he is not a member in good standing of a labor organization with whom the employer has made an agreement to require as a condition of employment membership therein, unless

(A) Such labor organization shall have certified to the employer that such employee—

(1) Was denied admission to, or deprived of, membership in good standing as a result of a bona fide occupational disqualification or the administration of discipline; and

(2) Has exhausted the remedies available to him within the labor organization including any right of appeal permitted by its constitution or by-laws; and

(B) Such employee shall have exhausted the remedies available to him under sections six A and six B.

G. L. (Ter. Ed.), 150A, § 4A, etc., amended.

SECTION 3. Said chapter 150A is hereby further amended by striking out section 4A, as so appearing, and inserting in

place thereof the two following sections:— *Section 4A.* It shall be an unfair labor practice for any person or labor organization —

Sit down strike unfair labor practice.

(1) To seize or occupy unlawfully private property as a means of forcing settlement of a labor dispute; or

(2) To authorize or engage in any strike, slowdown, boycott or other concerted cessation of work or withholding of patronage for the purpose of —

(a) Bringing about, directly or indirectly, the commission of any unfair labor practice, or

(b) Injuring or interfering with the trade or business of any person because such person has refused to commit an unfair labor practice; or

(c) Interfering with, restraining or coercing employees in their choice or rejection of representatives for the purpose of collective bargaining after the commission has determined in a proceeding under section five that such employees do not desire to be represented by such labor organization; or

(3) To aid in any concerted activities of the types described in this section by giving direction or guidance in the conduct thereof or by providing funds for the payment of strike, unemployment or other benefits to persons participating therein.

*Section 4B.* It shall be an unfair labor practice for a labor organization to refuse to bargain collectively with any employer who has recognized it as the exclusive representative of employees in a unit appropriate for the purposes of collective bargaining.

Refusal to bargain collectively, unfair labor practice.

SECTION 4. Subsection (c) of section 5 of said chapter 150A, as so appearing, is hereby amended by adding at the end the following:— The commission may establish such rules or regulations as it deems appropriate to effectuate the policies of this chapter for the filing of petitions for investigation and certification by employers or employees or their representatives and shall include therein provision for the filing of a petition by an employer whenever it is alleged —

G. L. (Ter. Ed.), 150A, § 5, etc., amended.

Investigations regulated.

(1) That two or more labor organizations have presented to the employer conflicting claims that each represents a majority of the employees in a bargaining unit or units claimed by them to be appropriate; or

(2) That a labor organization not theretofore recognized as the representative of a majority of the employees in the bargaining unit claimed by it to be appropriate has requested the employer to bargain with it as the exclusive representative of such employees, or without such request is attempting to secure such recognition by strike, slowdown, boycott or other concerted cessation of work or withholding of patronage.

SECTION 5. Subsection (a) of section 6 of said chapter 150A, as so appearing, is hereby amended by striking out the words "section four" in line 3 and inserting in place thereof the words:— sections four, four A and four B, — so as to read as follows:— (a) The commission is empowered, as hereinafter provided, to prevent any person from engaging

G. L. (Ter. Ed.), 150A, § 6, etc., amended.

Commission may prevent unfair labor practice.

in any unfair labor practice listed in sections four, four A and four B affecting industry and trade. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

G. L. (Ter. Ed.), 150A, new §§ 6A, 6B and 6C, added.

Commission may protect employee from unfair practice of labor organization.

SECTION 6. Said chapter 150A is hereby further amended by inserting after section 6, as so appearing, the three following sections:— *Section 6A.* Any employee who is required as a condition of employment to be a member in good standing of a labor organization may file with the commission a charge alleging (1) that, although eligible to membership, he has been unfairly denied admission to, or unfairly suspended or expelled from membership in, such organization for reasons other than malfeasance in office or non-payment of regular initiation fees, dues, or assessments and (2) that such labor organization has requested, or is about to request, his employer to discharge or otherwise discriminate against him because of his failure to maintain membership in good standing in such organization; provided, that such charge shall be filed not more than fifteen days after notice of such request has been given the employee by the labor organization. Upon filing of such charge, the commission shall have power to issue and cause to be served upon the labor organization a complaint stating the charge in that respect and containing a notice of hearing. The notice shall be given and the subsequent proceedings shall be conducted in the manner provided in section six. If upon all the evidence the commission shall determine that the employee was unfairly denied admission to membership in such organization, or that such discipline —

(1) Was imposed by the labor organization in violation of its constitution and by-laws; or

(2) Was imposed without a fair trial, including an adequate hearing and opportunity to defend; or

(3) Was not warranted by the offense, if any, committed by the employee against the labor organization; or

(4) Is not consistent with the established public policy of the commonwealth;

then the commission shall state its determinations and shall issue and cause to be served on the labor organization an order requiring it, in its discretion, either to admit or restore the employee to membership in good standing together with full voting rights, or else to refrain from seeking to bring about any discrimination against him in his employment because he is not a member in good standing, and to return to him such union dues and assessments as may have been collected from him during the period of his suspension or expulsion from the union. If the commission shall not make such a determination after hearing, it shall enter an order dismissing the charge filed by the employee.

Nothing contained in this section or in section four shall be deemed to require a labor organization as a condition of making or enforcing a contract requiring membership therein

as a condition of employment, to accord to non-participants in an insurance plan the right to vote on questions pertaining thereto or to grant local organizations voting rights in a convention proportionate to their membership.

*Section 6B.* Any person aggrieved by a final order of the commission under section six A granting or denying relief, may obtain a review of such order in the manner provided in section six.

Review of order.

*Section 6C.* During any disciplinary proceedings within a labor organization or any proceedings under sections six A and six B, or either of them, the employee shall continue to pay the regular union dues and assessments.

SECTION 7. The first paragraph of section 7 of said chapter 150A, as so appearing, is hereby amended by striking out the words "five and six" in line 4 and inserting in place thereof the words:— five, six, six A and six B, — so as to read as follows:— For the purpose of all hearings and investigations which, in the opinion of the commission, are necessary and proper for the exercise of the powers vested in it by sections five, six, six A and six B —

G. L. (Ter. Ed.), 150A, § 7, etc., amended.

Hearings and investigations.

SECTION 8. Section 9 of said chapter 150A, as so appearing, is hereby amended by inserting after the word "chapter" in line 1 the words:— , except as provided in section four A, — so as to read as follows:— *Section 9.* Nothing in this chapter, except as provided in section four A, shall be construed so as to interfere with or impede or diminish in any way the right to strike.

G. L. (Ter. Ed.), 150A, § 9, etc., amended.

Effect of chapter.

SECTION 9. Section 10 of said chapter 150A, as so appearing, is hereby amended by striking out subsection (b), as amended by chapter 354 of the acts of 1945, and inserting in place thereof the following subsection:—

G. L. (Ter. Ed.), 150A, § 10, etc., amended.

(b) This chapter shall not be deemed applicable to any unfair labor practice involving employees who are subject to and protected by the Federal Railway Labor Act, or to any unfair labor practice governed exclusively by the national labor relations act or other federal statute or regulations issued pursuant thereto, unless the federal agency administering such act, statute or regulation has declined to assert jurisdiction thereof, or except where such federal agency has conceded to the commission jurisdiction over any such case or proceedings.

Limitation of chapter.

*Approved June 28, 1947.*

AN ACT INCREASING THE SALARY OF THE COMMISSIONER OF PUBLIC HEALTH AND OF THE DIRECTOR OF SANITARY ENGINEERING AND CHIEF SANITARY ENGINEER IN THE STATE DEPARTMENT OF PUBLIC HEALTH.

*Chap. 658*

*Be it enacted, etc., as follows:*

SECTION 1. Section 2 of chapter 17 of the General Laws, as most recently amended by section 21 of chapter 591 of the acts of 1946, is hereby further amended by striking out, in line 7, the words "eighty-five hundred" and inserting in

G. L. (Ter. Ed.), 17, § 2, etc., amended.