

# ***POLICY BRIEF***

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## **Bills to End Teacher Strikes Introduced in Harrisburg**

“Once more unto the breach, dear friends, once more:” A Shakespearian cry from Henry the Fifth urging soldiers to take advantage of an important military opportunity that could soon be lost. And so it is that Representatives Metcalfe and Rock are proposing a package of bills that would outlaw teacher strikes and impose sizable monetary penalties for teachers who violate the no-strike statute.

Such bills have been proposed before and have yet to come close to becoming law. But now the Republicans have a significant majority in the House and Pennsylvanians have grown weary of the spectacle of teacher strikes, the disruption they create and the imbalance of negotiating leverage strikes and threats of strikes give to the unions. This is perhaps the most favorable opportunity to pass such legislation that has been seen in Pennsylvania and it is an opportunity that could slip away in a short period of time.

As we have reported on several occasions, Pennsylvania led the nation in teacher strikes for the decade ending in 2010. Indeed, during much of that period Pennsylvania accounted for half of all teacher strikes in the country. Only 13 states allow strikes and only three—Pennsylvania, Ohio and Illinois—have had substantial numbers of strikes. From 2000 to 2007, Pennsylvania recorded 82 strikes. Ohio was a distant second with 23. There were only 137 strikes across the nation.

Meanwhile, 37 states plus the District of Columbia do not allow strikes although there are rare occasions when illegal strikes have occurred in a handful of no-strike states; Indiana and Massachusetts for instance each had one. Counted among the states with no-strike laws are all but one of Pennsylvania’s closest neighbors; Delaware, New York, New Jersey, Maryland, and West Virginia. Ohio alone has permitted strikes, but in legislation signed by the Governor in March the right to strike has been eliminated. Undoubtedly, legal challenges to the legislation will be forthcoming.

In New England only Vermont permits teacher strikes. Maine, Massachusetts, New Hampshire, Rhode Island, and Connecticut prohibit teacher strikes. In short, Pennsylvania’s opponents of no-strike laws cannot appeal to the actions of its neighboring states or the generally liberal northeastern states to make a case that strikes are necessary to protect teachers and their compensation.

In declaring their strong opposition to the strike banning legislation, the PSEA (the state's largest teachers union) is quoted as arguing the legislation will; single out teachers, tip the balance in favor of school boards, increase the pay gap between educators and other professionals, and be punitive. And then in the piece de resistance, the PSEA spokesperson said, apparently with a straight face, "Teachers don't like strikes any more than the rest of the community."

Consider these extraordinarily weak arguments in turn.

- 1) *The law singles out teachers.* Correct. That's because it aims to stop teacher strikes. Schools cannot or have not been able to operate when teachers are on the picket line. A walkout by lunch room staff can be dealt with. But, if the teachers are saying "broaden the bill to include all school employees and we can support it", then by all means the language should be extended to cover all school employees. That should not take very long.
- 2) *The law would tip the balance in favor of the school board.* That raises an important question: Who should the balance of power favor? The school board represents the interests of students, taxpayers and employees. Since the taxpayers are paying for the schools should they not have an equal or greater voice and influence in the financial decisions of the schools? Boards must also consider the welfare and educational progress of students. That means they must have ultimate control of curriculum and significant management authority regarding work rules, etc. How is it possible that so many states seem to get along just fine with no threat of strikes hanging over school boards?
- 3) *The pay gap between teachers and other professionals will increase.* That is an assertion and not an established fact. Besides, on an hourly rate basis, Pennsylvania teachers already make more than many white-collar employees. And in any case, professionals who make more than teachers in a market driven economy are the beneficiaries of their own productivity and value as determined by what employers can afford and are willing to pay. Supply and demand in a free competitive market works. On the other hand, in a public school monopoly setting with a union on one side and a school board on the other, compensation is not determined by competitive forces. The union has enormous non-market power because the schools are required by law to provide 180 days of education per school year and school age children are required by statute to attend, with punishments for parents if they do not. With teachers having the legal authority to strike, these statutory education requirements create an intolerable imbalance of negotiating power in favor of the unions.
- 4) *The law is punitive to teachers.* Any law that proscribes an activity and carries penalties for violations of that law by definition has a punitive component. But arguing that the law is punitive in the sense that outlawing strikes will impose a punishment on teachers is fatuous. No-striking would be a condition of employment. Only in a world where one believes the right to strike any

employer, public or private, is a basic right that supersedes all other economic rights of all other citizens is it possible to argue that taking away the right to strike is punitive. Sadly, there are many who live in that world. But it is not a sustainable world—at least not for long periods.

- 5) *Teachers don't like strikes any more than the rest of the community.* This is a prima facie case of self-delusion, assuming the spokesperson actually believes the statement. If teachers disliked strikes as much as the taxpayers who must cough up the money for their pay and benefits or the parents and students who are greatly inconvenienced by the strikes, strikes would never happen, period. Teachers don't dislike strikes. They relish them. It is their way of exercising the power they feel they so richly deserve. Besides, what's not to like from their viewpoint? There is no loss of pay in a strike as is the case in private sector work stoppages. The 180 days have to be made up somehow through cancelling holidays and days off for students or prolonging the school year—so teachers who strike will get paid in full for the school year's contract amount. No downside for them. Little wonder the Commonwealth is the perennial national teacher strike leader. Moreover, just the threat of a strike can do marvelous things to get school board members in an obsequious state of mind come bargaining time.

All things considered, the new legislation from Metcalfe and Rock is thoroughly justified and certainly long overdue for adoption into law by the General Assembly. The legislation's opponents have no credible arguments. They are best described as self-serving and not convincing. To be sure however, the union's political clout in the past has been the determining factor in Pennsylvania's failure to join the overwhelming majority of states in banning teacher strikes. Perhaps a new day is dawning.

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