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## ***The Vermont Legislative Research Shop***

### **Teacher Strikes**

#### **State Policies on Teacher Strikes**

States have taken a variety of approaches to dealing with teacher strikes (see Table 1 below). Twenty-four states prohibit teacher strikes. Twelve states have penalties for parties who participate in a strike including monetary fines, imprisonment and dismissal. Twenty-one states have “Right to work” laws whose prohibition of “closed shops” makes unionizing very difficult and, thus, strikes improbable. As a result, there are currently only nine states in which teachers strikes are permitted.<sup>1</sup>

| <b>Table 1</b>     |   |
|--------------------|---|
| <b>Strikes are</b> | <b>States</b>   |
| Prohibited         | CA, CT, DE, FL, HI, ID, IN, IA, KS, ME, MD, MA, MI, MN, NE, NV, NH, NJ, NY, ND, OK, SD, TN, WA (24 Total) |
| Penalized          | FL, IN, IA, MD, MA, MI, MN, NV, NY, ND, OK, SD (12 Total)   |
| Permitted          | AK, IL, MO, OH, OR, PA, RI, VT, WI (9 Total)  |

Source: Education Commission of the United States. 2002. “State Collective Bargaining Policies for Teachers.”

All of the 24 states which prohibit teachers from striking do allow some form of collective bargaining to settle labor disputes. There are a range of negotiable points which are allowed under these collective bargaining laws. Most states limit the negotiations to wages, hours, health benefits, vacation time and pension plans.

There are a variety of ways that states settle labor disputes with teachers.

- Thirty-one states require a mediation process, in which an impartial third party tries to broker a decision.
- Twenty-eight states use a fact-finding process, in which an impartial panel studies the dispute, reports their findings, and can make recommendations.
- Eighteen states use voluntary arbitration, in which if both sides agree to a formal hearing a panel makes a decision which is final.
- Four states have mandatory arbitration, the result of which is binding.

## **Specific Examples of Other State's Current Laws**

### **Minnesota**

In 2005 Minnesota passed a law that prohibited any contract negotiations during the school year between teachers and school district representatives. The law also penalized school districts that fail to complete their teachers' contracts before the beginning of the school year by withholding state funds from the district.<sup>2</sup>

### **Pennsylvania**

In 2000 Gov. Ridge signed into law Act 46 which said that if teachers strike, the Education Commissioner could suspend the teaching certification of striking teachers. The act also gave the State Education Commissioner the authority to strip the powers of the school board and appoint people to those positions that they feel will do a better job.<sup>3</sup>

### **Massachusetts**

In Boston teachers found a loophole in the states collective bargaining laws which makes it illegal for public employees to strike. The teachers found that in order to be heard they would participate in a work-to-rule tactic that enabled teachers to do their jobs in the classrooms during school hours while refusing to do any extra activities like writing letters of recommendation, participating in after school leadership teams, or supporting students after school.<sup>4</sup>

### **Michigan**

In 1994 the state enacted a law that would fine teachers, board members, and teacher's unions if any teachers participated in a strike. The new law stated that a teacher would be docked one day's pay for every day they were picketing. If teachers are involved in a lockout dispute, the district will be fined \$5,000 a day and each member of the board would be fined \$250 per day. Neither party of a strike would later be allowed to be compensated for the strike fines in any bargaining agreement.<sup>5</sup>

## **Current Vermont Law**

Under subchapter I (General Provisions) of part 3 of Title 16 it is stated that any teacher, principle, assistant principle, and administrator (other then superintendent and assistant superintendent) has the right to join or not join any teachers or administrators organization, respectively. It also states that no one may discriminate against them in any way for doing so. The regulations for recognition of an organization by the employer are outlined under Subchapter II: "Bargaining Agent."

On the subject of strikes the statute states that no restraining order or temporary or permanent injunction may be made by the school or any official thereof in reference to

pending or future negotiations. Except when the findings of a court of appropriate jurisdiction find that the commencement or continuation of “the action poses a clear and present danger to a sound program of school education which in the light of all relevant circumstances it is in the best public interest to prevent.” Further the statutes limits this ability by stating that “Any restraining order or injunction issued by a court as herein provided shall prohibit only a specific act or acts expressly determined in the findings of fact to pose a clear and present danger.”<sup>6</sup>

### **Analysis of the Effectiveness of Anti-Strike Laws**

In an article entitled “Anti-Strike Laws and Their Effects on Work Stoppages by Public School Teachers,” published in the *Journal of Urban Economics*, researchers Hirsch and Green found that state penalties for striking teachers has a significant effect on the number of strikes that occur. States that prohibited strikes or penalized teachers for striking had a lower incidence of teacher strikes. On the other hand, they also found that states that penalized teachers for striking increased the average duration of strikes (on average strikes lasted 10.2 days longer in states with penalties than in states without penalties). The researchers speculated that states with penalties for striking teachers had longer strikes because more negotiations had to take place concerning amnesty from those penalties.<sup>7</sup>

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<sup>1</sup> Education Commission of the United States. 2002. “State Collective Bargaining Policies for Teachers,” Denver, CO, <http://www.ecs.org/html/IssueSection.asp?issueid=146&s=What+States+Are+Doing> , access February 1, 2007.

<sup>2</sup> Pugmire, Tim. “Pawlenty Wants to Prevent Teacher Strikes.” Minnesota Public Radio. May 23, 2005. Session 2005. January 23, 2007 [http://news.minnesota.publicradio.org/features/2005/05/23\\_pugmiret\\_teacherstrikes/](http://news.minnesota.publicradio.org/features/2005/05/23_pugmiret_teacherstrikes/)

<sup>3</sup> Bishop, Tom. “Philadelphia Teachers Authorize Strike Action.” International Committee of the Fourth International (ICFI). September 7, 2000. Workers Struggle. January 23, 2007. <http://www.wsws.org/articles/2000/sep2000/phil-s07.shtml>

<sup>4</sup> DFP Staff. “Teachers not Striking” The Daily Free Press. October 5, 2000. January 23, 2007. <http://media.www.dailyfreepress.com/media/storage/paper87/news/2000/10/05/Opinion/Teachers.Not.Striking4469.shtml?sourcedomain=www.dailyfreepress.com&MIIHost=media.collegepublisher.com>

<sup>5</sup> Reed, W. Lawrence. "A New Day for Michigan Schools." Copyright © 1995 Mackinac Center for Public Policy. Apr. 3, 1995

<sup>6</sup> VSA. Title 15. Chapter 57: Labor Relations for Teachers

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<sup>7</sup> Werner Z. Hirsch and Janet M. Green. 1998. "Anti-Strike Laws and Their Effects on Work Stoppages by Public School Teachers" Journal of Urban Economics Vol. 24, Issue 3, November 1988. Pages 331-351.

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Disclaimer: This report has been compiled by undergraduate students at the University of Vermont under the supervision of Professor Anthony Gierzynski. The material contained in the report does not reflect the official policy of the University of Vermont.