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**CONSTITUTIONAL LAW:** Regents of University of Michigan, collective bargaining.

**COLLEGES & UNIVERSITIES:** University of Michigan, employees of.  
**LABOR:** Collective bargaining.

Employees of the University of Michigan may be represented by a collective bargaining representative for the purpose of meeting and conferring with respect to wages, hours, and other terms and conditions of employment with the Regents of the University of Michigan.

No. 4481

November 23, 1965.

Hon. Robert E. Dingwell  
State Representative  
Lansing, Michigan

You have requested my opinion on the following question:

"May employees of the University of Michigan be represented by a collective bargaining representative for the purpose of meeting and conferring with respect to wages, hours, and other terms and conditions of employment with the Board of Regents of the University of Michigan under the provisions of Act 336 of the Public Acts of 1947, as last amended by Act 379 of the Public Acts of 1965, and Act 176 of the Public Acts of 1939 as amended by Act 282 of the Public Acts of 1965?"

Act 336, P.A. 1947, being C.L. 1948 § 423.201 et seq.; M.S.A. 1960 Rev. Vol. § 17.455 (1) et seq., prohibits strikes by public employees and declares and protects the rights and privileges of public employees. The act was last amended by Act 379, P.A. 1965, M.S.A. Cur. Mat. § 17.455(1) et seq.

Section 2 of the act provides as follows:

"No person holding a position by appointment or employment in the government of the state of Michigan, or in the government of any 1 or more of the political subdivisions thereof, or in the public school service, or in any public or special district, or in the service of any authority, commission, or board, or in any other branch of the public service, hereinafter called a 'public employee,' shall strike."

Section 9 of the act as added by Act 379, P.A. 1965, provides:

"It shall be lawful for public employees to organize together or to form, join or assist in labor organizations, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, or to negotiate or bargain collectively with their public employers through representatives of their own free choice."

In Section 11 of the act as added by Act 379, P.A. 1965, the legislature has provided:

"Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit appropriate

for such purposes, shall be the exclusive representatives of all the public employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment or other conditions of employment, and shall be so recognized by the public employer: Provided, That any individual employee at any time may present grievances to his employer and have the grievances adjusted, without intervention of the bargaining representative, if the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, provided that the bargaining representative has been given opportunity to be present at such adjustment."

Consideration must also be given to Section 15 of the act as added by Act 379, P.A. 1965, which reads:

"A public employer shall bargain collectively with the representatives of its employees as defined in section 11 and is authorized to make and enter into collective bargaining agreements with such representatives. For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract, ordinance or resolution incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession."

Act 176, P.A. 1939, being C.L. 1948 and C.L.S. 1961 § 423.1 et seq; M.S.A. 1960 Rev. Vol. § 17.454(1) et seq., creates a board for the mediation of labor disputes and prescribes its powers and duties. The act was last amended by Act 282, P.A. 1965, M.S.A. Cur. Mat. § 17.454(10.4) et seq. In Section 1 of the act the legislature has declared the public policy of the state to be that it is in the best interests of the people that labor disputes be prevented or promptly settled. In relation to public employees the labor mediation board has the power to determine the collective bargaining unit in accordance with Section 9e of Act 176, P.A. 1939, as last amended by Act 282, P.A. 1965, and Section 28 of the act as added by Act 282, P.A. 1965, supra. The labor mediation board is also given certain authority in public employee disputes as a fact-finding body in accordance with Section 25 of Act 176, P.A. 1939, as amended, supra.

Act 336, P.A. 1947, supra, was ruled constitutional by the Michigan Supreme Court in *City of Detroit v. Division 26 of the Amalgamated Association of Street, Electric Railway & Motor Coach Employees of America*, 332 Mich. 237 (1952). The court found that the act was designed as a matter of public policy to prevent strikes by public employees.

Act 336, P.A. 1947, supra, does not merely seek to prohibit strikes by public employees. It provides a forum before whom aggrieved public employees may appear and that forum is the labor mediation board. *Gaidamavice v. Newaygo Board of County Road Commissioners*, 341 Mich. 280 (1954). *Labor Mediation Board v. Jackson County Road Commissioners*, 365 Mich. 645 (1962). The statute provides for the mediation of

disputes involving public employees in addition to forbidding strikes by public employees. *Garden City School District v. Labor Mediation Board*, 358 Mich. 258 (1959).

It must be concluded that through the enactment of Act 336, P.A. 1947, as last amended by Act 379, P.A. 1965, supra, the legislature has declared the public policy of the state to be that public agencies are able to render a more efficient public service in furtherance of the right of the public to efficient government when strikes by public employees are prevented with protection afforded by the statute of the constitutional rights of public employees.

The Michigan Supreme Court has held that the provisions of Act 336, P.A. 1947, supra, apply only to "public employees." *City of Detroit v. Division 26 of the Amalgamated Association of Street, Electric Railway & Motor Coach Employees of America*, supra. Section 2 of Act 336, P.A. 1947, supra, prohibits "public employees" from striking and in broad language defines persons holding such positions. Included within the definition are persons holding a position by appointment or employment in the government of the state of Michigan, or in the service of any authority, commission or board, or in any other branch of the public service. It is abundantly clear that employees of the University of Michigan are in the public service and are, therefore, "public employees" under Sec. 2 of Act 336, P.A. 1947, supra.

The employees of the University of Michigan as public employees are authorized by Section 9 of Act 336, P.A. 1947, as added by Act 379, P.A. 1965, supra, to organize in labor organizations to engage in collective bargaining or to negotiate or bargain collectively with their public employers through representatives of their own free choice.

The Attorney General has also ruled in opinion No. 926, O.A.G. 1949-1950, page 218, that the state labor mediation board has authority to conduct negotiations of working conditions between a group of state employees and officer in charge of them under Act 366, P.A. 1947, subject to the powers of the civil service commission.

Section 11 as added by Act 379, P.A. 1965, provides for exclusive bargaining representatives for public employees and safeguards the right of individual employees to present grievances and to have grievances adjusted.

Therefore, it is my opinion that employees of the University of Michigan are public employees under Section 2 of Act 336, P.A. 1947, and may be represented by collective bargaining representatives for the purpose of meeting and conferring with respect to wages, hours, and other terms and conditions of employment with the Regents of the University of Michigan.

Implicit in your question is another question whether the Regents of the University of Michigan is a public employer that is required to bargain collectively with the representatives of its employees, as set forth in Section 15 of Act 336, P.A. 1947, as added by Act 379, P.A. 1965.

The people have entrusted the general supervision of the University of Michigan and control and direction of all expenditures from its funds in

the Regents of the University of Michigan, a body corporate, in accordance with the provisions found in Article VIII, Section 5 of the Michigan Constitution of 1963. This grant of power to the Regents is, in substance, the same as found in Article XI, Section 5 of the Michigan Constitution of 1908.

The Attorney General has ruled in opinion No. 1293, O.A.G. 1951-1952, page 63, that the labor mediation board has authority, upon proper petition or request, to mediate grievances existing between the Regents of the University of Michigan and the employees of the University of Michigan under Act 336, P.A. 1947, supra. The opinion concluded that the employees of the University are state employees and the legislature may under its police power subject the regents of the university to the provisions of Act 336, P.A. 1947, supra, in that the statute aids the regents in their government of the university because it forbids strikes by employees and establishes a peaceable method of settling grievances without striking. The opinion relies upon the decision of the Michigan Supreme Court in *Peters v. Michigan State College*, 320 Mich. 243 (1948). In *Peters*, supra, the court passed upon the question whether the state board of agriculture, a constitutional corporation with powers equal to those of the Regents of the University of Michigan, was subject to the provisions of the workmen's compensation act. The equally divided court affirmed a decision of the compensation commission of the department of labor and industry that the college was subject to the provisions of the workmen's compensation act.

Writing for the court to uphold the decision of the compensation commission of the department of labor and industry, Mr. Justice Reid found the purpose of the workmen's compensation act to be the promotion of the welfare of the people of the state and within the valid exercise of the police power. Thus the college and its funds were subject to the laws enacted by the legislature to promote the general welfare of the people of this state.

Mr. Justice Dethmers, writing for reversal, found that the payment of workmen's compensation from college funds in the event of personal injury of a college employee arising out of and in the course of employment involved an act of direction and control of college funds reserved by the people to the exclusive power of the defendant board so that the legislature was powerless to impose the provisions of the workmen's compensation act upon the college.

Section 15 as added by Act 379, P.A. 1965 to Act 336, P.A. 1947, supra, requires the public employer to bargain collectively in that it is obligated to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, but the act does not impose an obligation upon either the public employer or the representative of the public employees to agree to a proposal or to require the making of a concession. Thus, it is clear that the provisions of Act 336, P.A. 1947, as last amended by Act 379, P.A. 1965, do not intrude within the exclusive jurisdiction of the Regents of the University of Michigan to direct and control expenditures from the funds of the university.

The general welfare of the people of this state is promoted by the legislation that prohibits the employees of the university from striking and affords protection of their constitutional rights. *Gaidamavice v. Newaygo*

*Board of County Road Commissioners, supra.* We find here no action of direction and control of the expenditure from the funds of the university that is within the exclusive authority of the Regents of the University of Michigan.

Therefore, it is the opinion of the Attorney General that the employees of the University of Michigan may avail themselves of the provisions of Act 336, P.A. 1947, as last amended by Act 379, P.A. 1965, and Act 176, P.A. 1939, as last amended by Act 282, P.A. 1965, and may be represented by a collective bargaining representative for the purpose of meeting and conferring with respect to wages, hours and other terms and conditions of employment with the Regents of the University of Michigan. Neither act violates Article VIII, Section 5 of the Michigan Constitution of 1963.

FRANK J. KELLEY,  
*Attorney General.*

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**COUNTIES: Road Commission--Federal Contracts--Flood, Drainage and Beach Erosion Control**

Board of county road commissioners when directed by the county board of supervisors may contract with federal government or an agency thereof for flood control, drainage control or beach erosion control projects under the provisions of Act 278, P.A. 1952, as amended.

No. 4275

November 24, 1965.

Mr. Russell G. Hill  
Executive Secretary  
Soil Conservation Committee  
Wells Hall "E"  
East Lansing, Michigan

Dear Mr. Hill:

You have requested my opinion concerning the authority of a county board of supervisors to contract with the federal government or any of its agencies for flood prevention and control and other water management projects. For purposes of this opinion it is assumed that the projects to which you refer are those authorized under Act 278 of the Public Acts of 1952, as amended.<sup>1</sup>

Section 1 of Act 278 reads as follows:

"The township board of any township, the legislative body of any incorporated city or incorporated village, or the board of county road commissioners of any county when directed by the board of supervisors of the county, pursuant to a resolution adopted by a 2/3 vote of the members thereof, is hereby authorized to acquire any and all interests in lands necessary to any flood control, drainage or beach erosion control project and is hereby authorized to contract with the

<sup>1</sup> C.L.S. 1961 § 281.621; M.S.A. 1958 Rev. Vol. § 13.1821.