

HOUSE BILL No. 4082

February 10, 1987, Introduced by Reps. Perry Bullard, DeMars, Ciaramitaro, Gire, Berman, Gilmer and Martin and referred to the Committee on Judiciary.

A bill to amend Act No. 236 of the Public Acts of 1961,
entitled as amended

"Revised judicature act of 1961,"

as amended, being sections 600.101 to 600.9947 of the Michigan
Compiled Laws, by adding chapter 50b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 236 of the Public Acts of 1961, as
2 amended, being sections 600.101 to 600.9947 of the Michigan
3 Compiled Laws, is amended by adding chapter 50b to read as
4 follows:

CHAPTER 50B

6 SEC. 5071. AS USED IN THIS CHAPTER:

7 (A) "COURT" MEANS A CIRCUIT COURT, DISTRICT COURT, PROBATE
8 COURT, OR MUNICIPAL COURT.

1 (B) "FINANCIAL CONTROL UNIT" MEANS A COUNTY, CITY, TOWNSHIP,
2 OR INCORPORATED VILLAGE THAT IS RESPONSIBLE FOR MAINTAINING,
3 FINANCING, AND OPERATING THE CIRCUIT COURT IN A JUDICIAL CIRCUIT,
4 THE DISTRICT COURT IN A JUDICIAL DISTRICT, THE PROBATE COURT IN A
5 COUNTY OR PROBATE COURT DISTRICT, OR THE MUNICIPAL COURT.

6 SEC. 5072. IN THE COURSE OF MEDIATION OF A BUDGET DISPUTE
7 BETWEEN A COURT AND A FINANCIAL CONTROL UNIT, IF THE DISPUTE HAS
8 NOT BEEN RESOLVED TO THE AGREEMENT OF BOTH PARTIES WITHIN 30 DAYS
9 AFTER THE SUBMISSION OF THE DISPUTE TO MEDIATION, OR WITHIN FUR-
10 THER ADDITIONAL PERIODS TO WHICH THE PARTIES MAY AGREE, OR IF
11 THERE IS NO MEDIATION, THE COURT AND THE FINANCIAL CONTROL UNIT,
12 UPON AGREEMENT BETWEEN THEM, MAY INITIATE BINDING ARBITRATION
13 PROCEEDINGS BY REQUESTING, IN WRITING, ARBITRATION THROUGH THE
14 STATE COURT ADMINISTRATIVE OFFICE.

15 SEC. 5073. WITHIN 10 DAYS AFTER THE COURT AND THE FINANCIAL
16 CONTROL UNIT HAVE REQUESTED ARBITRATION UNDER SECTION 5072, EACH
17 PARTY SHALL SELECT A DELEGATE TO THE ARBITRATION PANEL AS PRO-
18 VIDED IN THIS CHAPTER. THE COURT AND THE FINANCIAL CONTROL UNIT
19 SHALL ADVISE EACH OTHER AND THE STATE COURT ADMINISTRATIVE OFFICE
20 OF THEIR SELECTION.

21 SEC. 5074. (1) WITHIN 7 DAYS AFTER RECEIPT OF A REQUEST
22 FROM BOTH PARTIES FOR ARBITRATION UNDER THIS CHAPTER, THE STATE
23 COURT ADMINISTRATIVE OFFICE SHALL SELECT FROM ITS PANEL OF ARBI-
24 TRATORS, AS PROVIDED IN SUBSECTION (2), 3 PERSONS AS NOMINEES FOR
25 IMPARTIAL ARBITRATOR AND CHAIRPERSON OF THE ARBITRATION PANEL.
26 WITHIN 5 DAYS AFTER THE SELECTION OF NOMINEES, EACH PARTY MAY
27 PEREMPTORILY STRIKE THE NAME OF 1 OF THE NOMINEES. WITHIN 7 DAYS

1 AFTER THIS 5-DAY PERIOD, THE STATE COURT ADMINISTRATIVE OFFICE
2 SHALL DESIGNATE 1 OF THE REMAINING NOMINEES AS THE IMPARTIAL
3 ARBITRATOR AND CHAIRPERSON OF THE ARBITRATION PANEL.

4 (2) THE STATE COURT ADMINISTRATIVE OFFICE SHALL ESTABLISH,
5 DETERMINE THE QUALIFICATIONS OF, AND APPOINT A PANEL OF ARBITRA-
6 TORS WHO SHALL BE KNOWN AS THE COURT BUDGET PANEL OF
7 ARBITRATORS. THE MEMBERS OF THE PANEL SHALL BE BE APPOINTED FOR
8 INDEFINITE TERMS. MEMBERS SHALL BE IMPARTIAL, COMPETENT, AND
9 REPUTABLE CITIZENS OF THE UNITED STATES AND RESIDENTS OF THE
10 STATE, AND SHALL QUALIFY BY TAKING AND SUBSCRIBING THE CONSTITU-
11 TIONAL OATH OR AFFIRMATION OF OFFICE. THE STATE COURT ADMINIS-
12 TRATIVE OFFICE MAY AT ANY TIME APPOINT ADDITIONAL MEMBERS TO THIS
13 PANEL OF ARBITRATORS AND MAY REMOVE EXISTING MEMBERS WITHOUT
14 CAUSE.

15 SEC. 5075. THE EXPENSE OF THE ARBITRATION PROCEEDINGS,
16 INCLUDING, BUT NOT LIMITED TO, ATTORNEY FEES, WITNESS FEES, AND
17 THE FEES OF THE ARBITRATION PANEL WHICH SHALL BE ESTABLISHED IN
18 ADVANCE BY THE STATE COURT ADMINISTRATIVE OFFICE, SHALL BE BORNE
19 BY THE FINANCIAL CONTROL UNIT.

20 SEC. 5076. (1) WITHIN 15 DAYS AFTER HIS OR HER APPOINTMENT,
21 THE CHAIRPERSON SHALL CALL A HEARING AND SHALL GIVE REASONABLE
22 NOTICE OF THE TIME AND PLACE OF THE HEARING TO THE COURT AND THE
23 FINANCIAL CONTROL UNIT.

24 (2) THE CHAIRPERSON SHALL PRESIDE OVER THE HEARING AND SHALL
25 TAKE TESTIMONY. THE PROCEEDINGS SHALL BE INFORMAL. THE ARBITRA-
26 TION PANEL MAY CONDUCT THE HEARING IN WHATEVER MANNER IT BELIEVES
27 WILL PERMIT THE FULL AND MOST EXPEDITIOUS PRESENTATION OF THE

1 EVIDENCE AND ARGUMENTS OF THE COURT AND THE FINANCIAL CONTROL
2 UNIT. TECHNICAL RULES OF EVIDENCE SHALL NOT APPLY, AND THE COM-
3 PETENCY OF THE EVIDENCE SHALL NOT BE CONSIDERED TO BE IMPAIRED BY
4 THE INFORMALITY OF THE PROCEEDINGS. THE ARBITRATION PANEL MAY
5 RECEIVE INTO EVIDENCE ANY ORAL OR DOCUMENTARY EVIDENCE OR OTHER
6 DATA THAT IT CONSIDERS TO BE RELEVANT TO THE ISSUES UNDER CONSID-
7 ERATION AT THE HEARING, AND THE PANEL SHALL REQUEST THE SUBMIS-
8 SION OF ANY EVIDENCE THAT IT CONSIDERS TO BE NECESSARY FOR A
9 PROPER UNDERSTANDING AND DETERMINATION OF THE ISSUES IN DISPUTE.

10 (3) THE ARBITRATION PANEL MAY ADMINISTER OATHS AND REQUIRE
11 THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS,
12 CONTRACTS, AGREEMENTS, AND DOCUMENTS THAT IT CONSIDERS TO BE
13 MATERIAL TO A JUST DETERMINATION OF THE ISSUES IN DISPUTE. FOR
14 THIS PURPOSE, THE ARBITRATION PANEL MAY ISSUE SUBPOENAS. IF A
15 PERSON REFUSES TO OBEY A SUBPOENA, OR TO BE SWORN, OR TO TESTIFY,
16 OR IF A WITNESS, PARTY, OR ATTORNEY IS GUILTY OF CONTEMPT WHILE
17 IN ATTENDANCE AT A HEARING, THE ARBITRATION PANEL MAY INVOKE THE
18 AID OF THE CIRCUIT COURT WITHIN THE JURISDICTION IN WHICH THE
19 HEARING IS BEING HELD, OR IF THE CIRCUIT COURT WITHIN THE JURIS-
20 DICTION IS A PARTY TO THE DISPUTE, THE AID OF AN ADJOINING CIR-
21 CUIT COURT. THE COURT SHALL ISSUE AN APPROPRIATE ORDER. THE
22 COURT MAY PUNISH A FAILURE TO OBEY THE ORDER AS CONTEMPT.

23 (4) ATTENDANCE AT THE HEARING IS LIMITED. AUTHORIZED REPRESENTATIVES OF THE COURT AND THE FINANCIAL CONTROL UNIT MAY BE
24 PRESENT AT THE HEARING. IN ADDITION, A PERSON WHO HAS A DIRECT
25 INTEREST IN THE ARBITRATION AWARD MAY ATTEND THE HEARING. THE
26 ARBITRATION PANEL SHALL DETERMINE THE PROPRIETY OF THE ATTENDANCE
27

1 OF OTHER PERSONS AT THE HEARING. THE ARBITRATION PANEL ALSO
2 SHALL HAVE THE POWER TO REQUIRE THE RETIREMENT OF A WITNESS
3 DURING THE TESTIMONY OF ANOTHER WITNESS.

4 (5) THE COURT, THE FINANCIAL CONTROL UNIT, OR BOTH, MAY
5 REQUEST OF THE CHAIRPERSON, BEFORE THE SCHEDULED HEARING DATE,
6 THAT HE OR SHE ARRANGE FOR A VERBATIM RECORD OF THE PROCEEDINGS
7 TO BE MADE. A TRANSCRIPT MAY BE ORDERED, BUT IS NOT NECESSARY,
8 FOR A DECISION BY THE ARBITRATION PANEL. IF A TRANSCRIPT IS
9 MADE, THAT TRANSCRIPT SHALL BE THE OFFICIAL RECORD OF THE
10 PROCEEDING. THE TRANSCRIPT SHALL BE MADE AVAILABLE TO THE CHAIR-
11 PERSON, AND THE CHAIRPERSON SHALL MAKE THE TRANSCRIPT AVAILABLE
12 FOR INSPECTION BY THE DELEGATES TO THE PANEL, THE COURT, AND THE
13 FINANCIAL CONTROL UNIT.

14 (6) THE ARBITRATION PANEL MAY ADJOURN THE HEARING FROM TIME
15 TO TIME, BUT UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING
16 SHALL BE CONCLUDED WITHIN 30 DAYS AFTER THE TIME OF ITS
17 COMMENCEMENT.

18 (7) THE COURT, THE FINANCIAL CONTROL UNIT, OR BOTH, MAY
19 SUBMIT A POSTHEARING BRIEF BEFORE A SPECIFIED DATE AGREED UPON AT
20 THE CLOSE OF THE HEARING BY THE ARBITRATION PANEL, THE COURT, AND
21 THE FINANCIAL CONTROL UNIT.

22 SEC. 5077. WITHIN 30 CALENDAR DAYS AFTER THE CLOSE OF THE
23 HEARING, OR WITHIN FURTHER ADDITIONAL PERIODS TO WHICH THE PAR-
24 TIES MAY AGREE, THE ARBITRATION PANEL, BASED UPON THE ISSUES AND
25 EVIDENCE PRESENTED TO IT AND UPON CONSIDERATION OF THE FACTORS
26 LISTED IN SECTION 5078, SHALL MAKE WRITTEN FINDINGS OF FACT AND
27 ISSUE A WRITTEN OPINION AND ORDER REGARDING THE FINANCING OF A

1 BUDGET THAT IS REASONABLY NECESSARY FOR THE EFFECTIVE FUNDING OF
2 THE COURT AND SHALL MAIL OR OTHERWISE DELIVER A TRUE COPY OF THE
3 FINDINGS OF FACT, OPINION, AND ORDER TO THE PARTIES OR THEIR REP-
4 RESENTATIVES AND TO THE STATE COURT ADMINISTRATIVE OFFICE.

5 SEC. 5078. THE ARBITRATION PANEL SHALL BASE ITS FINDINGS,
6 OPINION, AND ORDER UPON ALL OF THE FOLLOWING FACTORS, AS
7 APPLICABLE:

8 (A) STIPULATIONS OF THE PARTIES.

9 (B) THE EXPENDITURES NECESSARY TO SUPPORT THE COURT IN RELA-
10 TION TO THE EXPENDITURES NECESSARY FOR THE ADMINISTRATION OF ALL
11 OTHER GOVERNMENTAL FUNCTIONS UNDERTAKEN BY THE FINANCIAL CONTROL
12 UNIT.

13 (C) THE ACTUAL OR ESTIMATED OPERATING DEFICIT OR SURPLUS FOR
14 THE COURT FROM PRIOR YEARS.

15 (D) ALL INTEREST AND DEBT REDEMPTION CHARGES.

16 (E) ALL CAPITAL PROJECTS EXPENDITURES.

17 (F) THE TOTAL ESTIMATED AVAILABLE REVENUES FROM ALL SOURCES
18 AVAILABLE FOR FINANCING THE PROPOSED EXPENDITURES.

19 (G) WITH RESPECT TO ANY DETERMINATION INVOLVING COMPENSA-
20 TION, THE OVERALL COMPENSATION PAID TO EMPLOYEES OF SIMILAR
21 COURTS AND EMPLOYEES OF THE FINANCIAL CONTROL UNIT WITH SIMILAR
22 DUTIES, LENGTH OF SERVICE, AND EDUCATIONAL QUALIFICATIONS.
23 COMPENSATION INCLUDES DIRECT WAGE COMPENSATION, VACATIONS, HOLI-
24 DAYS AND OTHER EXCUSED TIME, INSURANCE, PENSIONS, MEDICAL AND
25 HOSPITALIZATION BENEFITS, THE CONTINUITY AND STABILITY OF EMPLOY-
26 MENT, AND OTHER BENEFITS RECEIVED.

1 (H) CHANGES IN ANY OF THE FOREGOING CIRCUMSTANCES DURING THE
2 PENDENCY OF THE ARBITRATION PROCEEDINGS.

3 (I) OTHER FACTORS, NOT CONFINED TO THOSE LISTED IN THIS SEC-
4 TION, THAT NORMALLY OR TRADITIONALLY ARE TAKEN INTO CONSIDERATION
5 IN THE DETERMINATION OF A BUDGET, OR ARE NECESSARY FOR THE FIND-
6 INGS OF FACT, OPINION, AND ORDER OF THE ARBITRATION PANEL.

7 SEC. 5079. A MAJORITY DECISION OF THE ARBITRATION PANEL, IF
8 SUPPORTED BY COMPETENT, MATERIAL, AND SUBSTANTIAL EVIDENCE ON THE
9 WHOLE RECORD, SHALL BE FINAL AND BINDING UPON THE PARTIES, AND
10 MAY BE ENFORCED, AT THE REQUEST OF EITHER PARTY OR OF THE ARBI-
11 TRATION PANEL, IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
12 DISPUTE AROSE, OR IF THAT CIRCUIT COURT IS A PARTY TO THE DIS-
13 PUTE, IN THE CIRCUIT COURT FOR AN ADJOINING JURISDICTION. THE
14 COMMENCEMENT OF A NEW FINANCIAL CONTROL UNIT FISCAL YEAR AFTER
15 THE INITIATION OF ARBITRATION PROCEDURES UNDER THIS CHAPTER, BUT
16 BEFORE THE ISSUANCE OF THE ARBITRATION ORDER, OR ITS ENFORCEMENT,
17 SHALL NOT RENDER A DISPUTE MOOT OR OTHERWISE IMPAIR THE JURISDIC-
18 TION OR AUTHORITY OF THE ARBITRATION PANEL OR ITS ORDER. AT ANY
19 TIME THE PARTIES, BY STIPULATION, MAY AMEND OR MODIFY AN ORDER OF
20 ARBITRATION.

21 SEC. 5080. THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE
22 DISPUTE AROSE, OR IF THAT CIRCUIT COURT IS A PARTY TO THE DIS-
23 PUTE, THE CIRCUIT COURT FOR AN ADJOINING JURISDICTION, MAY REVIEW
24 AN AWARD OF THE ARBITRATION PANEL, BUT ONLY FOR THE REASON THAT
25 THE PANEL WAS WITHOUT OR EXCEEDED ITS JURISDICTION; THE AWARD IS
26 NOT SUPPORTED BY COMPETENT, MATERIAL, AND SUBSTANTIAL EVIDENCE ON
27 THE WHOLE RECORD; OR THE AWARD WAS PROCURED BY FRAUD, COLLUSION,

1 OR OTHER SIMILAR AND UNLAWFUL MEANS. THE PENDENCY OF A
2 PROCEEDING FOR A REVIEW SHALL NOT AUTOMATICALLY STAY THE AWARD OF
3 THE ARBITRATION PANEL.