

# SENATE BILL No. 33

January 21, 2003, Introduced by Senator SWITALSKI and referred to the Committee on Commerce and Labor.

A bill to provide for compulsory arbitration of labor disputes between university police officers and their employers; to provide for the selection of members of arbitration panels; to prescribe the procedures and authority of arbitration panels; and to provide for the enforcement and review of awards of those panels.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. It is the public policy of this state that it is  
2       requisite to the high morale of university police officers and  
3       the efficient operation of university facilities to afford an  
4       alternate, expeditious, effective, and binding procedure for the  
5       resolution of disputes, and to that end the provisions of this  
6       act, providing for compulsory arbitration, shall be liberally  
7       construed.

8       Sec. 2. As used in this act:

1 (a) "Employment relations commission" means the commission  
2 created in section 3 of 1939 PA 176, MCL 423.3.

3 (b) "University police officer" means a public safety officer  
4 of a university who is authorized by the governing board of that  
5 university to enforce state law and the rules and ordinances of  
6 that university.

7 Sec. 3. If in the course of mediation of a university  
8 police officer's dispute, except a grievance dispute concerning  
9 the interpretation or application of an existing agreement, the  
10 dispute has not been resolved within 30 days of the submission of  
11 the dispute to mediation, or within additional periods to which  
12 the parties may agree, the university police officer or his or  
13 her employer may initiate binding arbitration proceedings by a  
14 prompt request, in writing, to the other, with a copy to the  
15 employment relations commission.

16 Sec. 4. Within 10 days after the written request described  
17 in section 3 is made, the employer shall choose a delegate and  
18 the university police officer's designated or selected exclusive  
19 collective bargaining representative, or if none, the university  
20 police officer's previously designated representative in the  
21 mediation and fact-finding procedures, shall choose a delegate to  
22 a panel of arbitration as provided in this act. The employer and  
23 the university police officer shall immediately notify the other  
24 and the mediation board of their selections.

25 Sec. 5. (1) Within 7 days after a request from 1 or both  
26 parties, the employment relations commission shall select from  
27 its panel of arbitrators, as provided in subsection (2), 3

1 persons as nominees for impartial arbitrator or chairperson of  
2 the arbitration panel. Within 5 days after the selection, each  
3 party may peremptorily strike the name of 1 of the nominees.  
4 Within 7 days after this 5-day period, the employment relations  
5 commission shall designate 1 of the remaining nominees as the  
6 impartial arbitrator or chairperson of the arbitration panel.

7 (2) The employment relations commission shall provide a panel  
8 of arbitrators, from the Michigan employment relations commission  
9 panel of arbitrators created in section 5 of 1969 PA 312, MCL  
10 423.235, to be available to arbitrate labor disputes under this  
11 act.

12 Sec. 6. Upon the appointment of the arbitrator, he or she  
13 shall proceed to act as chairperson of the panel of arbitration,  
14 call a hearing, to begin within 15 days after the appointment,  
15 and give reasonable notice of the time and place of the hearing.  
16 The chairperson shall preside over the hearing and shall take  
17 testimony. Upon application and for good cause shown, and upon  
18 terms and conditions that are just, a person, labor organization,  
19 or governmental unit having a substantial interest in the  
20 arbitration may be granted leave to intervene by the arbitration  
21 panel. Any oral or documentary evidence and other data  
22 determined relevant by the arbitration panel may be received in  
23 evidence. The proceedings shall be informal. Technical rules of  
24 evidence shall not apply, and the competency of the evidence is  
25 not impaired by a violation of a technical rule of evidence. A  
26 verbatim record of the proceedings shall be made, and the  
27 arbitrator shall arrange for the necessary recording service.

1 Transcripts may be ordered at the expense of the party ordering  
2 them, but the transcripts shall not be necessary for a decision  
3 by the arbitration panel. The expense of the proceedings,  
4 including a fee to the chairperson, established in advance by the  
5 labor mediation board shall be borne equally by each of the  
6 parties to the dispute. The delegates, if public officers or  
7 employees, shall continue on the payroll of the public employer  
8 at their usual rate of pay. The hearing conducted by the  
9 arbitration panel may be adjourned from time to time, but, unless  
10 otherwise agreed by the parties, shall be concluded within 30  
11 days after the time of its commencement. The majority actions  
12 and rulings of the arbitration panel shall constitute the actions  
13 and rulings of the arbitration panel.

14       Sec. 7. The arbitration panel may administer oaths, require  
15 the attendance of witnesses, and the production of books, papers,  
16 contracts, agreements, and documents as the panel determines  
17 material to a just determination of the issues in dispute, and  
18 for purpose may issue subpoenas. If any person refuses to obey a  
19 subpoena, or refuses to be sworn or to testify, or if any  
20 witness, party, or attorney is guilty of any contempt while in  
21 attendance at any hearing, the arbitration panel may, or the  
22 attorney general if requested shall, invoke the aid of any  
23 circuit court within the jurisdiction in which the hearing is  
24 being held, which court shall issue an appropriate order. Any  
25 failure to obey the order may be punished by the court as  
26 contempt.

27       Sec. 8. At any time before the rendering of an award, the

1 chairperson of the arbitration panel, if he or she is of the  
2 opinion that it would be useful or beneficial to do so, may  
3 remand the dispute to the parties for further collective  
4 bargaining for a period not to exceed 3 weeks. If the dispute is  
5 remanded for further collective bargaining, the time provisions  
6 of this act shall be extended for a time period equal to that of  
7 the remand. The chairperson of the panel of arbitration shall  
8 notify the employment relations commission of the remand.

9       Sec. 9. At or before the conclusion of the hearing held  
10 pursuant to section 6, the arbitration panel shall identify the  
11 economic issues in dispute, if any, and direct each of the  
12 parties to submit, within the time limit as the panel shall  
13 prescribe, to the arbitration panel and to each other its last  
14 offer of settlement on each economic issue. The determination of  
15 the arbitration panel as to the issues in dispute and as to which  
16 of these issues are economic shall be conclusive. The  
17 arbitration panel, within 30 days after the conclusion of the  
18 hearing, or further additional periods to which the parties may  
19 agree, shall make written findings of fact and issue a written  
20 opinion and order upon the issues presented to it and upon the  
21 record made before it, and shall mail or otherwise deliver a true  
22 copy of those writings to the parties and their representatives  
23 and to the employment relations commission. As to each economic  
24 issue, the arbitration panel shall adopt the last offer of  
25 settlement which, in the opinion of the arbitration panel, more  
26 nearly complies with the applicable factors prescribed in section  
27 10. The findings, opinions, and order as to all other issues

1 shall be based upon the applicable factors prescribed in section  
2 10.

3       Sec. 10. If there is no agreement between the parties, or  
4 if there is an agreement but the parties have begun negotiations  
5 or discussions for a new agreement or amendment of the existing  
6 agreement, and wage rates or other conditions of employment under  
7 the proposed new or amended agreement are in dispute, the  
8 arbitration panel shall base its findings, opinions, and order  
9 upon the following factors, as applicable:

10       (a) The lawful authority of the employer.

11       (b) Stipulations of the parties.

12       (c) The interests and welfare of the public and the financial  
13 ability of the university to meet those costs.

14       (d) Comparison of the wages, hours, and conditions of  
15 employment of the university police officer or officers involved  
16 in the arbitration proceeding with the wages, hours, and  
17 conditions of employment of other university police officers  
18 performing similar services and with other employees generally:

19       (i) In public employment in comparable communities.

20       (ii) In private employment in comparable communities.

21       (e) The average consumer prices for goods and services,  
22 commonly known as the cost of living.

23       (f) The overall compensation presently received by the  
24 employees, including direct wage compensation, vacations,  
25 holidays and other excused time, insurance and pensions, medical  
26 and hospitalization benefits, the continuity and stability of  
27 employment, and all other benefits received.

1 (g) Changes in any of the circumstances described in  
2 subdivisions (a) to (f) during the pendency of the arbitration  
3 proceedings.

4 (h) Any other factor, which is normally or traditionally  
5 taken into consideration in the determination of wages, hours,  
6 and conditions of employment through voluntary collective  
7 bargaining, mediation, fact-finding, arbitration, or otherwise  
8 between the parties, in the public service or in private  
9 employment.

10 Sec. 11. A majority decision of the arbitration panel, if  
11 supported by competent, material, and substantial evidence on the  
12 whole record, shall be final and binding upon the parties, and  
13 may be enforced, at the instance of either party or of the  
14 arbitration panel in the circuit court in the county in which the  
15 dispute arose or in which a majority of the affected university  
16 police officers reside. The commencement of a new municipal  
17 fiscal year after the initiation of arbitration procedures under  
18 this act, but before the arbitration decision, or its  
19 enforcement, does not render a dispute moot, or otherwise impair  
20 the jurisdiction or authority of the arbitration panel or its  
21 decision. Increases in rates of compensation or other benefits  
22 may be awarded retroactively to the commencement of any period in  
23 dispute, any other statute to the contrary notwithstanding. At  
24 any time the parties, by stipulation, may amend or modify an  
25 award of arbitration.

26 Sec. 12. If an employee organization recognized under 1947  
27 PA 336, MCL 423.201 to 423.217, as the bargaining representative

1 of university police officers subject to this act, willfully  
2 disobeys a lawful order of enforcement by a circuit court  
3 pursuant to section 11, or willfully encourages or offers  
4 resistance to that order, whether by a strike or otherwise, the  
5 punishment for each day that the contempt persists may be a fine  
6 fixed in the discretion of the court in an amount not to exceed  
7 \$250.00 per day. A public employer who is subject to 1947 PA  
8 336, MCL 423.201 to 423.217, and who willfully disobeys a lawful  
9 order of enforcement by the circuit court or willfully encourages  
10 or offers resistance to the order is guilty of contempt and may  
11 be fined for each day that the contempt persists an amount, fixed  
12 at the discretion of the court, not to exceed \$250.00 per day to  
13 be assessed against the employer.

14 Sec. 13. (1) Orders of the arbitration panel shall be  
15 reviewable by the circuit court in the county in which the  
16 dispute arose or in which a majority of the affected university  
17 police officers reside, but only for the following reasons:

18 (a) The arbitration panel was without or exceeded its  
19 jurisdiction.

20 (b) The order is unsupported by competent, material, and  
21 substantial evidence on the whole record.

22 (c) The order was procured by fraud, collusion, or other  
23 similar and unlawful means.

24 (2) The pendency of the proceeding for review shall not  
25 automatically stay the order of the arbitration panel.

26 Sec. 14. During the pendency of proceedings before the  
27 arbitration panel, existing wages, hours, and other conditions of



1 employment shall not be changed by action of either party without  
2 the consent of the other but a party may consent without  
3 prejudice to his or her rights or position under this act.

4       Sec. 15. This act is supplementary to 1947 PA 336, MCL  
5 423.201 to 423.217, and does not amend or repeal any of its  
6 provisions, but any provisions of that act requiring fact-finding  
7 procedures shall be inapplicable to disputes subject to  
8 arbitration under this act.

9       Sec. 16. A person shall not be sentenced to a term of  
10 imprisonment for any violation of this act or an order of the  
11 arbitration panel.