

# SENATE BILL No. 743

September 7, 2005, Introduced by Senator SWITALSKI and referred to the Committee on Commerce and Labor.

A bill to provide for compulsory arbitration of labor disputes between county corrections officers and their employers; to provide for the selection of members of arbitration panels; to prescribe the procedures and authority of arbitration panels; to provide for the enforcement and review of awards of those panels; and to prescribe certain powers and duties of certain state and local officials.

## 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 county corrections officers and the  
3       efficient operation of county corrections 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 act,

1 providing for compulsory arbitration, shall be liberally construed.

2 Sec. 2. As used in this act:

3 (a) "County corrections facility" means any county jail or  
4 other site used to house or detain individuals in the custody of a  
5 county sheriff.

6 (b) "County corrections officer" means an individual employed  
7 by or under the supervision of a county sheriff while engaged in  
8 the management or control of individuals in the custody of that  
9 county sheriff.

10 (c) "Employment relations commission" means the commission  
11 created in section 3 of 1939 PA 176, MCL 423.3.

12 Sec. 3. If in the course of mediation of a county corrections  
13 officer's dispute, except a grievance dispute concerning the  
14 interpretation or application of an existing agreement, the dispute  
15 has not been resolved within 30 days of the submission of the  
16 dispute to mediation, or within additional periods to which the  
17 parties may agree, the employees or the employer may initiate  
18 binding arbitration proceedings by a prompt request, in writing, to  
19 the other, with a copy to the employment relations commission.

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

1       Sec. 5. (1) Within 7 days after a request from 1 or both  
2 parties, the employment relations commission shall select from its  
3 panel of arbitrators, as provided in subsection (2), 3 persons as  
4 nominees for impartial arbitrator or chairperson of the arbitration  
5 panel. Within 5 days after the selection, each party may  
6 peremptorily strike the name of 1 of the nominees. Within 7 days  
7 after this 5-day period, the employment relations commission shall  
8 designate 1 of the remaining nominees as the impartial arbitrator  
9 or chairperson of the arbitration panel.

10       (2) The employment relations commission shall provide a panel  
11 of arbitrators from the Michigan employment relations commission  
12 panel of arbitrators created in section 5 of 1969 PA 312, MCL  
13 423.235, to be available to arbitrate labor disputes under this  
14 act.

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

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

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

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

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

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

3 Sec. 10. If there is no agreement between the parties, or if  
4 there is an agreement but the parties have begun negotiations or  
5 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 upon  
9 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 county to meet those costs.

14 (d) Comparison of the wages, hours, and conditions of  
15 employment of the employees involved in the arbitration proceeding  
16 with the wages, hours, and conditions of employment of other  
17 employees performing similar services and with other employees  
18 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, holidays  
25 and other excused time, insurance and pensions, medical and  
26 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 taken  
5 into consideration in the determination of wages, hours, and  
6 conditions of employment through voluntary collective bargaining,  
7 mediation, fact-finding, arbitration, or otherwise between the  
8 parties, in the public service or in private employment.

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

24 Sec. 12. If an employee organization recognized under 1947 PA  
25 336, MCL 423.201 to 423.217, as the bargaining representative of  
26 employees subject to this act, willfully disobeys a lawful order of  
27 enforcement by a circuit court pursuant to section 11, or willfully

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

11       Sec. 13. (1) Orders of the arbitration panel are reviewable by  
12 the circuit court in the county in which the dispute arose or in  
13 which a majority of the affected employees reside, but only for the  
14 following reasons:

15       (a) The arbitration panel was without or exceeded its  
16 jurisdiction.

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

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

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

23       Sec. 14. During the pendency of proceedings before the  
24 arbitration panel, existing wages, hours, and other conditions of  
25 employment shall not be changed by action of either party without  
26 the consent of the other but a party may consent without prejudice  
27 to his or her rights or position under this act.



1       Sec. 15. This act is supplementary to 1947 PA 336, MCL 423.201  
2 to 423.217, and does not amend or repeal any of its provisions, but  
3 any provisions of that act requiring fact-finding procedures are  
4 inapplicable to disputes subject to arbitration under this act.

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