

**SUBSTITUTE FOR
SENATE BILL NO. 1072**

A bill to amend 1969 PA 312, entitled

"An act to provide for compulsory arbitration of labor disputes in municipal police and fire departments; to define such public departments; to provide for the selection of members of arbitration panels; to prescribe the procedures and authority thereof; and to provide for the enforcement and review of awards thereof,"

by amending sections 2, 3, 5, 6, 8, and 10 (MCL 423.232, 423.233, 423.235, 423.236, 423.238, and 423.240).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Public police and fire departments means any
2 department of a city, county, village, or township, **OR ANY**
3 **AUTHORITY, DISTRICT, BOARD, OR ANY OTHER ENTITY CREATED IN WHOLE OR**
4 **IN PART BY THE AUTHORIZATION OF 1 OR MORE OF THOSE GOVERNING**
5 **BODIES, WHETHER CREATED BY STATUTE, ORDINANCE, CONTRACT,**
6 **RESOLUTION, DELEGATION, OR ANY OTHER MECHANISM,** having employees

1 engaged as ~~police~~**POLICE OFFICERS**, or in fire fighting or
2 subject to the hazards thereof; ~~emergency~~ emergency medical service
3 personnel employed by a police or fire department; ~~or an~~
4 emergency telephone operator employed by a police or fire
5 department.

6 (2) Emergency medical service personnel for purposes of this
7 act includes a person who provides assistance at dispatched or
8 observed medical emergencies occurring outside a recognized medical
9 facility including instances of heart attack, stroke, injury
10 accidents, electrical accidents, drug overdoses, imminent
11 childbirth, and other instances where there is the possibility of
12 death or further injury; initiates stabilizing treatment or
13 transportation of injured from the emergency site; and notifies
14 police or interested departments of certain situations encountered
15 including criminal matters, poisonings, and the report of
16 contagious diseases. Emergency telephone operator for the purpose
17 of this act includes a person employed by a police or fire
18 department for the purpose of relaying emergency calls to police,
19 fire, or emergency medical service personnel.

20 (3) This act ~~shall~~**DOES** not apply to persons employed by a
21 private emergency medical service company who work under a contract
22 with a governmental unit or personnel working in an emergency
23 service organization whose duties are solely of an administrative
24 or supporting nature and who are not otherwise qualified under
25 subsection (2).

26 Sec. 3. (1) Whenever in the course of mediation of a public
27 police or fire department employee's dispute, except a dispute

1 concerning the interpretation or application of an existing
2 agreement (a "grievance" dispute), the dispute has not been
3 resolved to the agreement of both parties within 30 days of the
4 submission of the dispute to mediation, or within such further
5 additional periods to which the parties may agree, the employees or
6 employer may initiate binding arbitration proceedings by prompt
7 request, ~~therefor,~~ in writing, to the other, with copy to **THE**
8 **MEDIATOR AND** the employment relations commission.

9 (2) UPON RECEIPT OF A WRITTEN REQUEST FOR BINDING ARBITRATION,
10 THE MEDIATOR SHALL, IN CONSULTATION WITH THE PARTIES, CREATE AND
11 TRANSMIT TO BOTH PARTIES A LIST OF EACH OF THE ISSUES IN DISPUTE.
12 WITHIN 30 DAYS AFTER RECEIPT OF THE WRITTEN REQUEST, THE PARTIES
13 SHALL MEET WITH THE MEDIATOR TO PRESENT IN WRITING AND EXPLAIN
14 PROPOSED CONTRACT LANGUAGE TO RESOLVE EACH ISSUE, INCLUDING ANY
15 ISSUES PREVIOUSLY DISCUSSED BY THE PARTIES BUT OMITTED FROM THE
16 MEDIATOR'S LIST, AND TO ENGAGE IN ANY FURTHER DISCUSSION OR
17 NEGOTIATION AS THE PARTIES AGREE. EXCEPT IN CASES IN WHICH THE
18 PARTIES AGREE TO A LONGER PERIOD BECAUSE OF CONTINUING
19 NEGOTIATIONS, THE MEDIATOR SHALL TRANSMIT THE FINAL LIST OF ISSUES
20 IN DISPUTE AND BOTH PARTIES' PROPOSED CONTRACT LANGUAGE TO THE
21 EMPLOYMENT RELATIONS COMMISSION FOR HEARING NO MORE THAN 14 DAYS
22 AFTER RECEIVING THE WRITTEN PROPOSED CONTRACT LANGUAGE. THE PARTIES
23 RETAIN THE RIGHT TO MEET AND NEGOTIATE, WITH OR WITHOUT THE
24 MEDIATOR, TO ATTEMPT TO RESOLVE SOME OR ALL OF THE DISPUTED ISSUES
25 AT ANY TIME BEFORE THE ARBITRATION PANEL ISSUES AN AWARD PURSUANT
26 TO THIS ACT.

27 Sec. 5. (1) Within 7 days of a ~~request from 1 or both parties~~

1 RECEIVING A LIST OF ISSUES IN DISPUTE AND PROPOSED CONTRACT

2 LANGUAGE FROM THE MEDIATOR PURSUANT TO SECTION 3, the employment
3 relations commission shall select from its panel of arbitrators, as
4 provided in subsection (2), 3 persons as nominees for impartial
5 arbitrator or chairman of the arbitration panel. Within 5 days
6 after the selection each party may peremptorily strike the name of
7 1 of the nominees. Within 7 days after this 5-day period, the
8 commission shall designate 1 of the remaining nominees as the
9 impartial arbitrator or chairman of the arbitration panel.

10 (2) The employment relations commission shall establish and
11 appoint a panel of arbitrators, who shall be known as the Michigan
12 employment relations commission panel of arbitrators. The
13 commission shall appoint members for indefinite terms. Members
14 shall be impartial, competent, and reputable citizens of the United
15 States and residents of the state, and shall qualify by taking and
16 subscribing the constitutional oath or affirmation of office. The
17 commission may at any time appoint additional members to the panel
18 of arbitrators, and may remove existing members without cause.

19 (3) **THE EMPLOYMENT RELATIONS COMMISSION SHALL ESTABLISH THE**
20 QUALIFICATIONS AND TRAINING THAT ARE NECESSARY FOR AN INDIVIDUAL TO
21 SERVE AS THE CHAIR OF AN ARBITRATION PANEL UNDER THIS ACT. THE
22 COMMISSION MAY WAIVE THE QUALIFICATIONS AND TRAINING REQUIREMENTS
23 FOR AN INDIVIDUAL WHO HAS SERVED AS A COMMISSION-APPOINTED CHAIR OF
24 AN ARBITRATION PANEL IN AN ARBITRATION PROCEEDING UNDER THIS ACT
25 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
26 SUBSECTION.

27 Sec. 6. Upon the appointment of the arbitrator, he **OR SHE**

1 shall ~~proceed to act as chairman~~ **CHAIR** of the panel of arbitration,
2 call a hearing, to begin within 15 days, and give reasonable notice
3 of the time and place of the hearing. The ~~chairman~~ **CHAIR** shall
4 preside over the hearing and shall take testimony. Upon application
5 and for good cause shown, and upon ~~such~~ terms and conditions ~~as~~
6 **THAT** are just, a person, labor organization, or governmental unit
7 having a substantial interest ~~therein~~ **IN THE MATTER** may be granted
8 leave to intervene by the arbitration panel. Any oral or
9 documentary evidence and other data ~~deemed relevant by the~~
10 arbitration panel **CONSIDERS RELEVANT** may be received in evidence.
11 The proceedings shall be informal. Technical rules of evidence
12 shall not apply and **DO NOT IMPAIR** the competency of the evidence.
13 ~~shall not thereby be deemed impaired.~~ A verbatim record of the
14 proceedings shall be made, and the arbitrator shall arrange for the
15 necessary recording service. Transcripts may be ordered at the
16 expense of the party ordering them, but the transcripts ~~shall~~ **ARE**
17 not ~~be~~ necessary for a decision by the arbitration panel. The
18 expense of the proceedings, including a fee to the ~~chairman~~ **CHAIR**,
19 established in advance by the labor mediation board shall be borne
20 equally by each of the parties to the dispute. ~~and the state.~~ The
21 delegates, if public officers or employees, shall continue on the
22 payroll of the public employer at their usual rate of pay. The
23 hearing conducted by the arbitration panel may be adjourned from
24 time to time, but ~~, unless otherwise agreed by the parties,~~ shall
25 be concluded within 30 days of the time of its commencement. ~~Its~~ **IF**
26 **THE PARTIES AGREE, THE CHAIR MAY EXTEND THE TIME FOR THE CONCLUSION**
27 **OF THE HEARING TO NO MORE THAN 180 DAYS FROM THE TIME THE HEARING**

1 COMMENCES. THE ARBITRATION PANEL'S majority actions and rulings
2 shall constitute the actions and rulings of the arbitration panel.

3 Sec. 8. A HEARING HELD PURSUANT TO SECTION 6 SHALL ARBITRATE
4 THE MERITS OF THE ISSUES IDENTIFIED BY THE MEDIATOR AND SUBMITTED
5 TO THE EMPLOYMENT RELATIONS COMMISSION PURSUANT TO SECTION 3 ONLY.

6 At or before the conclusion of the hearing, ~~held pursuant to~~
7 ~~section 6,~~ the arbitration panel shall identify the economic issues
8 in dispute, and direct each of the parties to submit, within ~~such a~~
9 time limit ~~as the panel shall prescribe~~ **THE CHAIR PRESCRIBES**, to

10 the ~~arbitration panel~~ **CHAIR** and to each other its last offer of
11 settlement on each economic issue. The determination of the
12 arbitration panel ~~as to the issues in dispute and as to which of~~
13 ~~these~~ **THE** issues are economic ~~shall be~~ **IS** conclusive. The

14 ~~arbitration panel, within 30 days after the conclusion of the~~
15 ~~hearing, or such further additional periods to which the parties~~
16 ~~may agree,~~ **WITHIN 30 DAYS OF THE CONCLUSION OF THE HEARING, OR IF**

17 **THE PARTIES AGREE TO AN EXTENSION, WITHIN 90 DAYS OF THE CONCLUSION**
18 **OF THE HEARING, THE ARBITRATION PANEL** shall make written findings
19 of fact and promulgate a written opinion and order upon the issues
20 presented to it and upon the record made before it, and shall mail
21 or otherwise deliver a true copy thereof **OF THE OPINION** to the

22 parties and their representatives and to the employment relations
23 commission. As to each economic issue, the arbitration panel shall
24 adopt the last offer of settlement ~~which~~ **THAT**, in the opinion of
25 the arbitration panel, more nearly complies with the applicable
26 factors prescribed in section 9. The findings, opinions, and order
27 as to all other issues shall be based upon the applicable factors

1 prescribed in section 9. ~~This section as amended shall be~~
2 ~~applicable only to arbitration proceedings initiated under section~~
3 ~~3 on or after January 1, 1973.~~

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