

SENATE BILL No. 1072

January 20, 2010, Introduced by Senators RICHARDVILLE, GEORGE, BISHOP, JANSEN, CROPSEY, CASSIS and JELINEK and referred to the Committee on Reforms and Restructuring.

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, 5, 6, 8, and 10 (MCL 423.232, 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 having employees
3 engaged as ~~policemen~~ **POLICE OFFICERS**, or in fire fighting or
4 subject to the hazards thereof; ~~—~~emergency medical service
5 personnel employed by a police or fire department; ~~—or an~~
6 emergency telephone operator employed by a police or fire

1 department; **OR A FIRE AUTHORITY.**

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

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

22 Sec. 5. (1) Within 7 days of a request from 1 or both parties,
23 the employment relations commission shall select from its panel of
24 arbitrators, as provided in subsection (2), 3 persons as nominees
25 for impartial arbitrator or chairman of the arbitration panel.
26 Within 5 days after the selection each party may peremptorily
27 strike the name of 1 of the nominees. Within 7 days after this 5-

1 day period, the commission shall designate 1 of the remaining
2 nominees as the impartial arbitrator or chairman of the arbitration
3 panel.

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

13 (3) **THE EMPLOYMENT RELATIONS COMMISSION SHALL ESTABLISH THE**
14 **QUALIFICATIONS AND TRAINING THAT ARE NECESSARY FOR AN INDIVIDUAL TO**
15 **SERVE AS AN ARBITRATOR UNDER THIS ACT. THE COMMISSION MAY WAIVE THE**
16 **QUALIFICATIONS AND TRAINING REQUIREMENTS FOR AN INDIVIDUAL WHO HAS**
17 **SERVED AS A COMMISSION-APPOINTED ARBITRATOR IN A LABOR DISPUTE**
18 **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS**
19 **SUBSECTION.**

20 Sec. 6. Upon the appointment of the arbitrator, he **OR SHE**
21 shall ~~proceed to act as chairman~~**-CHAIR** of the panel of arbitration,
22 call a hearing, to begin within 15 days, and give reasonable notice
23 of the time and place of the hearing. **THE CHAIR SHALL DIRECT EACH**
24 **PARTY TO SUBMIT ITS FIRST OFFER OF SETTLEMENT ON EACH KNOWN**
25 **ECONOMIC ISSUE TO THE PANEL NOT LATER THAN THE DATE AND TIME THAT**
26 **THE ARBITRATION HEARING COMMENCES.** The ~~chairman~~**-CHAIR** shall preside
27 over the hearing and shall take testimony. Upon application and for

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

26 Sec. 8. ~~At or before the conclusion of the hearing held~~
27 ~~pursuant to section 6, the arbitration panel shall identify the~~

~~economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue.~~ **THE CHAIR SHALL DIRECT EACH PARTY TO SUBMIT ITS LAST OFFER OF SETTLEMENT ON EACH ECONOMIC ISSUE TO THE PANEL BY 14 DAYS AFTER THE SUBMISSION OF THE FIRST OFFER OF SETTLEMENT UNDER SECTION 6.** The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic ~~shall be~~ **IS** conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or ~~such~~ **ANY** further additional periods to which the parties ~~may~~ agree, shall make written findings of fact and promulgate a written opinion and order upon the issues presented to it and upon the record made before it, and shall mail or otherwise deliver a true copy ~~thereof~~ **OF THE OPINION** to the parties and their representatives and to the employment relations commission. As to each economic issue, the arbitration panel shall adopt the last offer of settlement ~~which~~ **THAT**, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 9. The findings, opinions, and order as to all other issues shall be based upon the applicable factors prescribed in section 9. ~~This section as amended shall be applicable only to arbitration proceedings initiated under section 3 on or after January 1, 1973.~~

Sec. 10. A majority decision of the arbitration panel, if supported by competent, material, and substantial evidence on the whole record, shall be final and binding upon the parties, and may be enforced, at the instance of either party or of the arbitration

1 panel in the circuit court for the county in which the dispute
2 arose or in which a majority of the affected employees reside. The
3 commencement of a new municipal fiscal year after the initiation of
4 arbitration procedures under this act, but before the arbitration
5 decision, or its enforcement, ~~shall not be deemed to~~ **DOES NOT**
6 render a dispute moot ~~, or to~~ otherwise impair the jurisdiction or
7 authority of the arbitration panel or its decision. Increases in
8 rates of compensation or other benefits may be awarded
9 retroactively to the commencement of any ~~period(s)~~ **PERIOD OR**
10 **PERIODS** in dispute, any other statute or charter provisions to the
11 contrary notwithstanding. At any time the parties, by stipulation,
12 may amend or modify an award of arbitration.