COMPULSORY ARBITRATION OF LABOR DISPUTES IN POLICE AND FIRE DEPARTMENTS
Act 312 of 1969

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.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

The People of the State of Michigan enact:

423.231 Compulsory arbitration in police and fire departments; policy.

Sec. 1. It is the public policy of this state that in public police and fire departments, where the right of employees to strike is by law prohibited, it is requisite to the high morale of such employees and the efficient operation of such departments to afford an alternate, expeditious, effective and binding procedure for the resolution of disputes, and to that end the provisions of this act, providing for compulsory arbitration, shall be liberally construed.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This section does not unconstitutionally divest home-rule cities of their constitutional powers, nor does it surrender the power to tax to the arbitrators in violation of the Michigan Constitution. Dearborn Firefighters Union, Local No 412, IAFF v City of Dearborn, 394 Mich 229; 231 NW2d 226 (1975).

Act No. 312 of the Public Acts of 1969, as amended by 1976 PA 84, which provides for compulsory arbitration of disputes concerning contract formation in police and fire departments, is a constitutional delegation of legislative power. City of Detroit v Detroit Police Officers Association, 408 Mich 410; 294 NW2d 68 (1980).

This act, which provides for compulsory arbitration of labor disputes in municipal police and fire departments, is a constitutional delegation of legislative power, providing standards as reasonably precise as the subject matter requires or permits and adequate political accountability. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.232 "Public police or fire department employee,""emergency medical service personnel," and "emergency telephone operator" defined; provisions inapplicable to certain persons.

Sec. 2. (1) As used in this act, "public police or fire department employee" means any employee of a city, county, village, or township, or of any authority, district, board, or any other entity created in whole or in part by the authorization of 1 or more cities, counties, villages, or townships, whether created by statute, ordinance, contract, resolution, delegation, or any other mechanism, who is engaged as a police officer, or in fire fighting or subject to the hazards thereof; emergency medical service personnel employed by a public police or fire department; or an emergency telephone operator, but only if directly employed by a public police or fire department. Public police and fire department employee does not include any of the following:

(a) An employee of a community college.

(b) An employee of a metropolitan district created under 1939 PA 147, MCL 119.51 to 119.62.

(c) An emergency telephone operator employed by a 911 authority or consolidated dispatch center.

(d) An employee of an authority that is in existence on June 1, 2011, unless the employee is represented by a bargaining representative on that date or a contract in effect on that date specifically provides the employee with coverage under this act. An exclusion under this subdivision terminates if the authority composition changes to include an additional governmental unit or portion of a governmental unit. This subdivision does not apply to terminate an exclusion created under subdivisions (a) to (c).

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

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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

History: 1969, Act 312, Eff. Oct. 1, 1969;—Am. 1976, Act 203, Eff. Mar. 31, 1977;—Am. 1977, Act 303, Imd. Eff. Jan. 3, 1978;—Am. 2011, Act 116, Imd. Eff. July 20, 2011.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.233 Initiation of binding arbitration proceedings; request.

Sec. 3. Whenever in the course of mediation of a public police or fire department employee's dispute, except a dispute concerning the interpretation or application of an existing agreement (a “grievance” dispute), the dispute has not been resolved to the agreement of both parties within 30 days of the submission of the dispute to mediation, or within such further additional periods to which the parties may agree, the employees or employer may initiate binding arbitration proceedings by prompt request therefor, in writing, to the other, with copy to the employment relations commission.

History: 1969, Act 312, Eff. Oct. 1, 1969;—Am. 1977, Act 303, Imd. Eff. Jan. 3, 1978.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.234 Delegates; selection; notice.

Sec. 4. Within 10 days thereafter, the employer shall choose a delegate and the employees' designated or selected exclusive collective bargaining representative, or if none, their previously designated representative in the prior mediation and fact-finding procedures, shall choose a delegate to a panel of arbitration as provided in this act. The employer and employees shall forthwith advise the other and the mediation board of their selections.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.235 Selection and designation of impartial arbitrator or chairman of arbitration panel; Michigan employment relations commission panel of arbitrators; appointment, terms, qualifications, and removal of members; qualifications and training for service as chair of arbitration panel.

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

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

(3) The employment relations commission shall establish the qualifications and training that are necessary for an individual to serve as the chair of an arbitration panel under this act. The commission may waive the qualifications and training requirements for an individual who has served as a commission-appointed chair of an arbitration panel in an arbitration proceeding under this act before the effective date of the amendatory act that added this subsection.

History: 1969, Act 312, Eff. Oct. 1, 1969;—Am. 1976, Act 84, Imd. Eff. Apr. 17, 1976;—Am. 2011, Act 116, Imd. Eff. July 20, 2011.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

423.236 Arbitrator; duties; hearing; intervenors; evidence; record; expenses; actions and rulings.

Sec. 6. The arbitrator shall act as chair of the panel of arbitration, call and begin a hearing within 15 days after appointment, and give reasonable notice of the time and place of the hearing. The chair shall preside over the hearing and shall take testimony. Upon application and for good cause shown, and upon terms and conditions that are just, the arbitration panel may grant leave to intervene to a person, labor organization, or governmental unit having a substantial interest in the matter. The arbitration panel may receive into evidence any oral or documentary evidence and other data it considers relevant. The proceedings shall be informal. Technical rules of evidence do not apply and do not impair the competency of the evidence. A verbatim record of the proceedings shall be made, and the arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them but the transcripts are not necessary for a decision by the arbitration panel. The expense of the proceedings, including a fee to the chair, established in advance by the Michigan employment relations commission shall be borne equally by each of the parties to the dispute. The delegates, if public officers or employees, shall continue on the payroll of the public employer at their usual rate of pay. The hearing conducted by the arbitration panel may be adjourned from time to time, but shall be concluded and any posthearing briefs filed within 180 days after it commences. Its majority actions and rulings shall constitute the actions and rulings of the arbitration panel.

History: 1969, Act 312, Eff. Oct. 1, 1969;—Am. 2011, Act 116, Imd. Eff. July 20, 2011.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.237 Oaths; subpoenas; failure to obey, contempt of court.

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

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.237a Remanding dispute for further collective bargaining.

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

History: Add. 1972, Act 127, Imd. Eff. May 4, 1972.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.238 Identification of economic issues in dispute; submission and adoption of settlement offers; findings, opinion, and order.

Sec. 8. The arbitration panel shall identify the economic issues in dispute and direct each of the parties to submit to the arbitration panel and to each other its last offer of settlement on each economic issue before the beginning of the hearing. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic is conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or within up to 60 additional days at the discretion of the chair, shall make written findings of fact and promulgate a written opinion and order. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, 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.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

History: 1969, Act 312, Eff. Oct. 1, 1969;—Am. 1972, Act 127, Imd. Eff. May 4, 1972;—Am. 2011, Act 116, Imd. Eff. July 20, 2011.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.239 Findings, opinions, and orders; factors considered; financial ability of governmental unit to pay.

Sec. 9. (1) If the parties have no collective bargaining agreement or the parties have an agreement and have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions, and order upon the following factors:

(a) The financial ability of the unit of government to pay. All of the following shall apply to the arbitration panel's determination of the ability of the unit of government to pay:

(*i*) The financial impact on the community of any award made by the arbitration panel.

(*ii*) The interests and welfare of the public.

(*iii*) All liabilities, whether or not they appear on the balance sheet of the unit of government.

(*iv*) Any law of this state or any directive issued under the local financial stability and choice act, 2012 PA 436, MCL 141.1541 to 141.1575, that places limitations on a unit of government's expenditures or revenue collection.

(b) The lawful authority of the employer.

(c) Stipulations of the parties.

(d) Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in both of the following:

(*i*) Public employment in comparable communities.

(*ii*) Private employment in comparable communities.

(e) Comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit in question.

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

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

(h) Changes in any of the foregoing circumstances while the arbitration proceedings are pending.

(i) Other factors that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service, or in private employment.

(j) If applicable, a written document with supplementary information relating to the financial position of the local unit of government that is filed with the arbitration panel by a financial review commission as authorized under the Michigan financial review commission act.

(2) The arbitration panel shall give the financial ability of the unit of government to pay the most significance, if the determination is supported by competent, material, and substantial evidence.

History: 1969, Act 312, Eff. Oct. 1, 1969;—Am. 2011, Act 116, Imd. Eff. July 20, 2011;—Am. 2014, Act 189, Imd. Eff. June 20, 2014.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.240 Majority decision of arbitration panel final and binding; enforcement; effect of new municipal fiscal year; awarding increased rates or benefits retroactively; amending or modifying award of arbitration.

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 panel in the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside. The commencement of a new municipal fiscal year after the initiation of arbitration procedures under this act, but before the arbitration decision, or its enforcement, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its decision. Increases in rates of compensation or other benefits may be awarded

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

retroactively to the commencement of any period(s) in dispute, any other statute or charter provisions to the contrary notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.

History: 1969, Act 312, Eff. Oct. 1, 1969;—Am. 1977, Act 303, Imd. Eff. Jan. 3, 1978.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.241 Violation of lawful enforcement order; penalty.

Sec. 11. Where an employee organization recognized pursuant to Act No. 336 of the Public Acts of 1947, as amended, as the bargaining representative of employees subject to this act, willfully disobeys a lawful order of enforcement by a circuit court pursuant to section 10, or willfully encourages or offers resistance to such order, whether by a strike or otherwise, the punishment for each day that such contempt persists, may be a fine fixed in the discretion of the court in an amount not to exceed $250.00 per day. Where an employer, as that term is defined by Act No. 336 of the Public Acts of 1947, as amended, willfully disobeys a lawful order of enforcement by the circuit court or willfully encourages or offers resistance to such order, the punishment for each day that such contempt persists may be a fine, fixed at the discretion of the court, an amount not to exceed $250.00 per day to be assessed against the employer.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.242 Judicial review; scope; stay.

Sec. 12. Orders of the arbitration panel shall be reviewable by the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside, but only for reasons that the arbitration panel was without or exceeded its jurisdiction; the order is unsupported by competent, material and substantial evidence on the whole record; or the order was procured by fraud, collusion or other similar and unlawful means. The pendency of such proceeding for review shall not automatically stay the order of the arbitration panel.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.243 Existing conditions; continuance, change.

Sec. 13. During the pendency of proceedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under this act.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.244 Act supplementary.

Sec. 14. This act shall be deemed as supplementary to Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Compiled Laws of 1948, and does not amend or repeal any of its provisions; but any provisions thereof requiring fact-finding procedures shall be inapplicable to disputes subject to arbitration under this act.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.245 Repealed. 1975, Act 3, Imd. Eff. Mar. 25, 1975.

Compiler's note: The repealed section contained an expiration provision.

Popular name: Act 312

423.246 Violations of act; imprisonment prohibited.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 16. No person shall be sentenced to a term of imprisonment for any violation of the provisions of this act or an order of the arbitration panel.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

423.247 Effective date.

Sec. 17. This act shall become effective on October 1, 1969.

History: 1969, Act 312, Eff. Oct. 1, 1969.

Constitutionality: This act is clearly constitutional. Local 1277, Metropolitan Council No 23, American Federation of State, County and Municipal Employees, AFL-CIO v City of Center Line, 414 Mich 642; 327 NW2d 822 (1982).

Popular name: Act 312

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov