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BILL ANALYSIS

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Senate Bill 397 (as introduced 5-24-11)
Sponsor: Senator Rick Jones
Committee: Government Operations

Date Completed: 6-14-11

CONTENT

The bill would amend Public Act 312 of 1969, which provides for arbitration of labor disputes involving municipal police, fire, and emergency medical service personnel, to do the following:

- **Shift the State share of arbitration costs to the parties.**
- **Limit an arbitration hearing to a list of issues prepared by a mediator in consultation with the parties.**
- **Set limits on the extension of deadlines during the arbitration process.**
- **Allow an arbitration panel to compare wages, hours, and conditions of employment of employees of a unit of government outside of the bargaining unit subject to arbitration.**
- **Expand the entities covered by the Act.**
- **Require the Employment Relations Commission to establish qualifications for individuals to chair an arbitration panel.**

The Act establishes requirements for binding arbitration of labor disputes and applies to police officers, firefighters, and emergency medical service personnel employed by a city, county, village, or township. Under the bill, the Act also would apply to those employees of an authority, district, board, or any other entity created by the authorization of one or more cities, counties, villages, or townships, whether the entity was created by statute, ordinance, contract, delegation, resolution, or other mechanism.

The bill specifies that a police or fire department employee would not include any of the following:

- An employee of a community college.
- An employee of a metropolitan district created under Public Act 147 of 1939 (which governs the Huron-Clinton Metropolitan Authority).
- An emergency telephone operator employed by a 9-1-1 authority or consolidated dispatch center.

Under the Act, when a dispute has not been resolved to the parties' agreement within 30 days after it was submitted to mediation, or after additional periods agreed to by the parties, the employees or the employer may initiate binding arbitration proceedings by written request to the other, with a copy to the Employment Relations Commission. The bill would require a copy of the request to go to the mediator, as well.

Upon receiving the request, in consultation with the parties, the mediator would have to create a list of the issues in dispute and send it to the parties. Within 30 days after receiving the request for arbitration, the parties would have to meet with the mediator to present and explain proposed contract language to resolve each issue, including any previously discussed but not on the mediator's list, and to engage in any further discussion or negotiation as they agreed. Unless the parties agreed to a longer period because of continuing negotiations, the mediator would have to transmit the final list of issues in dispute, including the parties' proposed contract language, to the Employment Relations Commission within 14 days after receiving the proposed language.

At an arbitration hearing, the arbitrator could address the merits of only the issues identified by the mediator and submitted to the Employment Relations Commission.

The parties would retain the right to meet and negotiate, with or without the mediator, to attempt to resolve some or all of the disputed issues at any time before an arbitration panel issued an award.

The Act prescribes procedural requirements for a hearing held by an arbitration panel, and requires the hearing to be concluded within 30 days after it is begun, unless the parties agree otherwise. The bill would retain the 30-day deadline and allow the chair of the panel, if the parties agreed, to extend the time for concluding the hearing to not more than 180 days from the time it began.

The Act requires the arbitration panel to make written findings of fact and issue a written opinion within 30 days after the hearing concludes, or additional periods agreed to by the parties. Under the bill, the panel would have to do so within 30 days after the hearing or, if the parties agreed to an extension, within 90 days after the hearing concluded.

Currently, if the parties do not have a collective bargaining agreement or have begun to negotiate a new agreement or amend an existing agreement, and wage rates or other conditions of employment are in dispute, the arbitration panel must base its findings, opinions, and order upon the factors specified in the Act, if applicable. The factors include a 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 public or private employment in comparable communities. Under the bill, the factors also would include a comparison of the wages, hours, and conditions of employment of other employees of the unit of government outside of the bargaining unit subject to arbitration.

The Act requires the Employment Relations Commission to establish a panel of arbitrators. The bill would require the Commission to establish the qualifications and training necessary for an individual to serve as the chair of an arbitration panel. The Commission could waive the qualification and training requirements for an individual who had served as a Commission-appointed chair of a panel before the bill's effective date.

The Act requires the expense of the arbitration proceedings to be borne equally by each of the parties to the dispute and the State. The bill would require the expense to be borne equally by the parties.

MCL 423.232 et al. Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Public Act (P.A.) 312 is administered by the Michigan Employment Relations Commission (MERC) within the Department of Licensing and Regulatory Affairs (LARA). The statute requires the costs of the arbitration (consisting of the arbitrator's daily rate and travel expenses) to

be divided into three equal shares between the parties to the dispute and the State. Under the bill, the State share of the costs of the arbitration process would be shifted to the parties to the arbitration: a municipality and a union. Based on data provided by the Department, over recent years the State share of these costs has averaged approximately $115,000 per year. The bill would shift half of this amount or approximately $57,500 per year to local governments participating in compulsory arbitration and an equal amount to labor unions. The State costs are currently funded with Securities Fees, which can be used for the operation of the Department, with unused Securities Fee revenue lapsing to the General Fund at end of the fiscal year. These State savings, however, would be offset to an unknown degree by increased State costs due to the expanded role of MERC-provided mediators in the process who would be required to determine and report on the issues eligible for arbitration. This additional role for mediators would increase the time spent on P.A. 312 mediations and would possibly require additional mediators.

According to LARA staff, the current 30-day time limit for arbitration is typically waived by the participants. These amendments would expedite the P.A. 312 hearings from the current 12 to 18 months' average duration, to 180 days, and limit the time for the arbitration panel to prepare the report to 90 days, with the parties' approval of extending the 30-day deadline. The limited timelines and the restriction of issues to those identified by the mediator before the start of the hearing would tend to reduce local government arbitration costs by reducing the amount of time that delegates are assigned to the arbitration proceedings.

The Department currently requires arbitrators to attend training programs. The bill would place this requirement in statute for people serving as chair of an arbitration panel. It would allow a waiver for arbitrators who had served as a Commission-appointed arbitrator in a labor dispute before the bill's effective date. The State does not pay for the training; thus, this requirement would have no fiscal impact.

The bill would expand the list of entities covered by P.A. 312 from cities, counties, villages, and townships, to include other entities such as an authority, district, board, or other entity authorized by one or more of those local governmental units. This change would provide access to P.A. 312 binding arbitration for local government emergency service personnel providing services through a consolidated entity. The bill also would require the arbitration panel to consider an additional factor in making its determinations, adding a comparison of the wages, hours, and conditions of employment of other employees within the governmental unit but outside of the unit under arbitration.

The impact of these changes on local government labor costs would vary based on local circumstances and the determinations of individual arbitration panels.

Fiscal Analyst: Elizabeth Pratt

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