

# SENATE BILL No. 31

January 21, 2003, 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; and to provide for the enforcement and review of awards of those panels.

**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  
3 the efficient operation of county corrections facilities to  
4 afford an alternate, expeditious, effective, and binding  
5 procedure for the resolution of disputes, and to that end the  
6 provisions of this act, providing for compulsory arbitration,  
7 shall be liberally construed.

8       Sec. 2. As used in this act:

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

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

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

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

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

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

10           (2) The employment relations commission shall provide a  
11 panel of arbitrators, from the Michigan employment relations  
12 commission panel of arbitrators created in section 5 of 1969 PA  
13 312, MCL 423.235, to be available to arbitrate labor disputes  
14 under this 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,  
18 and give reasonable notice of the time and place of the hearing.  
19 The 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  
25 determined relevant by the arbitration panel may be received in  
26 evidence. The proceedings shall be informal. Technical rules of  
27 evidence shall not apply, and the competency of the evidence is

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

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

1 failure to obey the order may be punished by the court as  
2 contempt.

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

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

1 which, in the opinion of the arbitration panel, more nearly  
2 complies with the applicable factors prescribed in section 10.  
3 The findings, opinions, and order as to all other issues shall be  
4 based upon the applicable factors prescribed in section 10.

5       Sec. 10. If there is no agreement between the parties, or  
6 if there is an agreement but the parties have begun negotiations  
7 or discussions for a new agreement or amendment of the existing  
8 agreement, and wage rates or other conditions of employment under  
9 the proposed new or amended agreement are in dispute, the  
10 arbitration panel shall base its findings, opinions, and order  
11 upon the following factors, as applicable:

12       (a) The lawful authority of the employer.

13       (b) Stipulations of the parties.

14       (c) The interests and welfare of the public and the  
15 financial ability of the county to meet those costs.

16       (d) Comparison of the wages, hours, and conditions of  
17 employment of the employees involved in the arbitration  
18 proceeding with the wages, hours, and conditions of employment of  
19 other employees performing similar services and with other  
20 employees generally:

21       (i) In public employment in comparable communities.

22       (ii) In private employment in comparable communities.

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

25       (f) The overall compensation presently received by the  
26 employees, including direct wage compensation, vacations,  
27 holidays and other excused time, insurance and pensions, medical

1 and hospitalization benefits, the continuity and stability of  
2 employment, and all other benefits received.

3 (g) Changes in any of the circumstances described in  
4 subdivisions (a) to (f) during the pendency of the arbitration  
5 proceedings.

6 (h) Any other factor, which is normally or traditionally  
7 taken into consideration in the determination of wages, hours,  
8 and conditions of employment through voluntary collective  
9 bargaining, mediation, fact-finding, arbitration, or otherwise  
10 between the parties, in the public service or in private  
11 employment.

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

1           Sec. 12. If an employee organization recognized under 1947  
2 PA 336, MCL 423.201 to 423.217, as the bargaining representative  
3 of employees subject to this act, willfully disobeys a lawful  
4 order of enforcement by a circuit court pursuant to section 11,  
5 or willfully encourages or offers resistance to that order,  
6 whether by a strike or otherwise, the punishment for each day  
7 that the contempt persists may be a fine fixed in the discretion  
8 of the court in an amount not to exceed \$250.00 per day. A  
9 public employer who is subject to 1947 PA 336, MCL 423.201 to  
10 423.217, and who willfully disobeys a lawful order of enforcement  
11 by the circuit court or willfully encourages or offers resistance  
12 to the order is guilty of contempt and may be fined for each day  
13 that the contempt persists an amount, fixed at the discretion of  
14 the court, not to exceed \$250.00 per day to be assessed against  
15 the employer.

16           Sec. 13. (1) Orders of the arbitration panel shall be  
17 reviewable by the circuit court in the county in which the  
18 dispute arose or in which a majority of the affected employees  
19 reside, but only for the following reasons:

20           (a) The arbitration panel was without or exceeded its  
21 jurisdiction.

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

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

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



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

6           Sec. 15. This act is supplementary to 1947 PA 336, MCL  
7 423.201 to 423.217, and does not amend or repeal any of its  
8 provisions, but any provisions of that act requiring fact-finding  
9 procedures shall be inapplicable to disputes subject to  
10 arbitration under this act.

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