

HOUSE BILL No. 5325

September 9, 2009, Introduced by Rep. Haveman and referred to the Committee on Labor.

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 8 and 9 (MCL 423.238 and 423.239).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. At or before the conclusion of the hearing held
2 ~~pursuant to~~ **UNDER** section 6, the arbitration panel shall identify
3 the economic issues in dispute ~~,~~ and direct each of the parties to
4 submit, within ~~such~~ **THE** time limit ~~as the panel shall prescribe~~
5 **PRESCRIBES**, to the arbitration panel and to each other its last
6 offer of settlement on each economic issue. The determination of
7 the arbitration panel as to the issues in dispute and as to which
8 of these issues are economic ~~shall be~~ **IS** conclusive. The

1 arbitration panel, within 30 days after the conclusion of the
2 hearing, or ~~such~~ **ANY** further additional periods to which the
3 parties may agree, shall make written findings of fact and
4 promulgate a written opinion and order upon the issues presented to
5 it and upon the record made before it, and shall mail or otherwise
6 deliver a true copy thereof to the parties and their
7 representatives and to the employment relations commission. As to
8 each economic issue, the arbitration panel shall adopt the last
9 offer of settlement which, in the opinion of the arbitration panel,
10 more nearly complies with ~~the applicable factors prescribed in~~
11 section 9. **ALTERNATIVELY, IF IT PROVIDES NOTICE TO THE ARBITRATION**
12 **PANEL AND THE OTHER PARTY NO FEWER THAN 5 DAYS BEFORE LAST BEST**
13 **OFFERS ARE DUE, A PARTY MAY SUBMIT ITS LAST BEST OFFER ON ECONOMIC**
14 **ISSUES AS AN INDIVISIBLE PACKAGE.** The findings, opinions, and order
15 as to all other issues shall be based upon the applicable factors
16 ~~prescribed in section 9. This section as amended shall be~~
17 ~~applicable only to arbitration proceedings initiated under section~~
18 ~~3 on or after January 1, 1973.~~

19 Sec. 9. (1) ~~Where there is no agreement between the parties,~~
20 ~~or where there is an agreement but the parties~~ **IF THE PARTIES DO**
21 **NOT AGREE OR** have begun negotiations or discussions looking to a
22 new agreement or amendment of the existing agreement ~~—~~and wage
23 rates or other conditions of employment under the proposed new or
24 amended agreement are in dispute, the arbitration panel shall base
25 its findings, opinions, and order upon the following factors, as
26 applicable:

27 **(A) THE INTERESTS AND WELFARE OF THE PUBLIC AND THE FINANCIAL**

1 ABILITY OF THE UNIT OF GOVERNMENT TO PAY. IN DETERMINING THE
2 ABILITY OF THE UNIT OF GOVERNMENT TO PAY, THE ARBITRATION PANEL
3 SHALL NOT CONSIDER UNUSED MILLAGE OR ASSESSMENT CAPACITY BUT SHALL
4 CONSIDER ALL OF THE FOLLOWING:

5 (i) THE FINANCIAL IMPACT ON THE COMMUNITY OF ANY AWARD MADE BY
6 THE ARBITRATION PANEL OVER A MINIMUM OF 5 YEARS FROM THE DATE OF
7 THE AWARD.

8 (ii) ALL LIABILITIES, WHETHER OR NOT THEY APPEAR ON THE BALANCE
9 SHEET OF THE UNIT OF GOVERNMENT.

10 (iii) THE FINANCIAL CLIMATE OF THE REGION, STATE, AND COUNTRY.

11 (iv) THE OBLIGATION OF THE UNIT OF GOVERNMENT TO ADHERE TO THE
12 REQUIREMENT OF OPERATING UNDER A BALANCED BUDGET AND NOT TO ENGAGE
13 IN DEFICIT SPENDING.

14 (B) ~~(a)~~ The lawful authority of the employer.

15 (C) ~~(b)~~ Stipulations of the parties.

16 ~~—— (c) The interests and welfare of the public and the financial~~
17 ~~ability of the unit of government to meet those costs.~~

18 (d) Comparison of the wages, hours, and conditions of
19 employment of the employees involved in the arbitration proceeding
20 with the wages, hours, and conditions of employment of other
21 employees performing similar services and with other employees
22 generally **IN BOTH OF THE FOLLOWING:**

23 (i) ~~In public~~ **PUBLIC** employment in comparable communities.

24 (ii) ~~In private~~ **PRIVATE** employment in comparable communities.

25 (E) **THE PAY AND BENEFITS OF OTHER EMPLOYEES OF THE UNIT OF**
26 **GOVERNMENT OUTSIDE OF THE BARGAINING UNIT IN QUESTION.**

27 (F) ~~(e)~~ The average consumer prices for goods and services,

1 commonly known as the cost of living.

2 (G) ~~(f)~~—The overall compensation presently received by the
3 employees, including direct wage compensation, vacations, holidays
4 and other excused time, insurance and pensions, medical and
5 hospitalization benefits, the continuity and stability of
6 employment, and all other benefits received.

7 (H) ~~(g)~~—Changes in any of the foregoing circumstances ~~during~~
8 ~~the pendency of~~ **WHILE** the arbitration proceedings **ARE PENDING**.

9 (I) ~~(h)~~ ~~Such other factors, not confined to the foregoing,~~
10 ~~which~~ **OTHER FACTORS THAT** are normally or traditionally taken into
11 consideration in the determination of wages, hours, and conditions
12 of employment through voluntary collective bargaining, mediation,
13 fact-finding, arbitration, or otherwise between the parties, in the
14 public service, or in private employment.

15 (2) THE ARBITRATION PANEL SHALL AFFORD WEIGHT TO THE FACTORS
16 LISTED IN SUBSECTION (1), AS FOLLOWS:

17 (A) MOST SIGNIFICANCE SHALL BE GIVE TO A DETERMINATION THAT
18 THE UNIT OF GOVERNMENT DOES NOT HAVE THE FINANCIAL ABILITY TO PAY
19 IF THAT DETERMINATION IS SUPPORTED BY COMPETENT, MATERIAL, AND
20 SUBSTANTIAL EVIDENCE.

21 (B) THE INTERNAL COMPARABLE PAY AND BENEFITS UNDER FACTOR
22 (1) (E) SHALL BE GIVEN MORE SIGNIFICANCE THAN THAT OF THE EXTERNAL
23 COMPARABLES UNDER (1) (D) .

24 (3) THE ARBITRATION PANEL SHALL NOT REQUIRE A UNIT OF
25 GOVERNMENT TO CONSOLIDATE SERVICES OR ENTER INTO AN AUTOMATIC
26 MUTUAL AID PACT AND SHALL NOT IMPOSE OTHER MANAGEMENT DECISIONS
27 CONCERNING OPERATION OF THE UNIT OF GOVERNMENT AS PART OF THE

1 SETTLEMENT OF THE ARBITRATION.