COMPULSORY ARBITRATION OF LABOR DISPUTES OF STATE POLICE TROOPERS AND SERGEANTS

Act 17 of 1980

AN ACT to provide for compulsory arbitration of labor disputes of state police troopers and sergeants, pursuant to the 1978 amendment to section 5 of article 11 of the state constitution of 1963; to provide for the selection of members of arbitration panels and for their authority; to prescribe the procedure for hearings; and to provide for the enforcement and review of orders of arbitration panels.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

The People of the State of Michigan enact:

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423.271 Public policy; liberal construction.

Sec. 1.

It is the public policy of this state that it is requisite for the high morale of state police troopers and sergeants, whose right to strike is prohibited by law, and for the efficient operation of the department, to afford an alternate, expeditious, effective, and binding procedure for the resolution of disputes, and to that end, this act, which provides for compulsory arbitration, shall be construed liberally.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.272 Definitions.

Sec. 2.

(1) "Department" means the department of state police.
(2) "Employees" means state police troopers, state police sergeants, or both, as applicable.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.273 Initiation of binding arbitration proceedings; conditions; request.

Sec. 3.

In the course of mediation of a labor agreement dispute of employees, except a grievance dispute concerning the interpretation or application of an existing labor agreement, if the dispute has not been resolved to the agreement of both parties within 30 days after the submission of the dispute to mediation, or within further additional periods to which the parties may agree, the department or the employees may initiate binding arbitration proceedings by making a prompt request for those proceedings in writing to the other party and by furnishing a copy of the request to the employment relations commission.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.274 Selection of delegates to arbitration panel; advising department, employees, and mediation board of selections.

Sec. 4.

Within 10 days after a party has requested arbitration of a dispute, the department shall choose a delegate and the designated or selected exclusive collective bargaining representative of the employees, or if none, their previously designated representative in the prior mediation and fact-finding procedures, shall choose a delegate to an arbitration panel as provided in this act. The department and the employees immediately shall advise each other and the mediation board of their selections.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.275 Selection of nominees for impartial arbitrator or chairperson of arbitration panel; peremptorily striking names; designation of impartial arbitrator.

Sec. 5.

Within 7 days after receipt of a request from 1 or both parties for arbitration of a dispute, the employment relations commission shall select from its panel of arbitrators, as provided in section 5 of Act No. 312 of the Public Acts of 1969, as amended, being section 423.235 of the Michigan Compiled Laws, 3 persons as nominees for impartial arbitrator or chairperson of the arbitration panel. Within 5 days after the selection of nominees, each party peremptorily may strike the name of 1 of the nominees. Within 7 days after this 5-day period, the employment relations commission shall designate 1 of the remaining nominees as the impartial arbitrator.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

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423.276 Impartial arbitrator as chairperson of arbitration panel; hearing; notice; duties of chairperson; intervention; receipt of evidence; informal proceedings; technical rules of evidence inapplicable; record of proceedings; transcripts; adjournment; conclusion of hearing; expense of proceedings; payment of public officers or employees; actions and rulings.

Sec. 6.

(1) The impartial arbitrator designated pursuant to section 5 shall act as chairperson of the arbitration panel. Within 15 days after his or her appointment, the chairperson shall call a hearing and shall give reasonable notice of the time and place of the hearing. The chairperson shall preside over the hearing and shall take testimony.

(2) 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 that has a substantial interest in the hearing. The arbitration panel may receive into evidence any oral or documentary evidence or other data that it considers to be relevant to the issues under consideration at the hearing. The proceedings shall be informal. Technical rules of evidence shall not apply, and the competency of the evidence shall not be considered to be impaired by the informality of the proceedings. A verbatim record of the proceedings shall be made, and the chairperson shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but transcripts shall not be necessary for a decision by the arbitration panel. The arbitration panel may

adjourn the hearing from time to time, but unless the parties agree otherwise, the hearing shall be concluded within 30 days after the time of its commencement.

(3) The expense of the proceedings, including a fee to the chairperson, established in advance by the labor mediation board, shall be borne equally by each of the parties to the dispute and the state. The delegates, if public officers or employees, shall continue on the payroll of the public employer at their usual rate of pay.

(4) The actions and rulings of a majority of the arbitration panel shall constitute the actions and rulings of the arbitration panel.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.277 Oaths; witnesses; production of books and documents; subpoenas; invoking aid of circuit court; order of circuit court; contempt.

Sec. 7.

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

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

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423.278 Remanding dispute for further collective bargaining; extension of time; notice of remand.

Sec. 8.

At any time before the rendering of an order, the chairperson of the arbitration panel, if he or she believes 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 chairperson of the arbitration panel shall notify the employment relations commission of the remand.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.279 Identification of economic issues in dispute; submission of last offer of settlement; determination conclusive; findings of fact; promulgation of opinion and order; copies of findings, opinion, and order; adoption of last offer of settlement; basis of findings, opinion, and order.

Sec. 9.

(1) At or before the conclusion of the hearing held pursuant to section 6, 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, within a time limit that the arbitration panel prescribes,

its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive.

(2) The arbitration panel, within 30 days after the conclusion of the hearing, or within 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 of the findings of fact, opinion, and order to the parties, their representatives, and the employment relations commission. 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 10. The findings, opinion, and order as to all other issues shall be based upon the applicable factors prescribed in section 10.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

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423.280 Factors upon which findings, opinion, and order based; conditions.

Sec. 10.

If there is not a collective bargaining agreement between the parties, or if there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or to an amendment of the existing agreement, and wage rates or other terms and conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinion, and order upon the following factors, as applicable:

(a) The lawful authority of the department.

(b) Stipulations of the parties.

(c) The interests and welfare of the public and the financial ability of this state to meet those costs.

(d) Comparison of the wages, hours, and terms and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and terms and conditions of employment of other employees performing similar services, and with other state police troopers, sergeants, or both, in comparable states.

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

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

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) Other factors, not confined to those listed in this section, that normally or traditionally are taken into consideration in the determination of wages, hours, and terms 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.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.281 Majority decision of arbitration panel as final and binding; enforcement; effect of new state fiscal year awards retroactive; amending or modifying order of arbitration.

Sec. 11.

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 state fiscal year after the initiation of arbitration procedures under this act, but before the issuance of the arbitration order, or its enforcement, shall not be considered to render a dispute moot or to otherwise impair the jurisdiction or authority of the arbitration panel or its order. The arbitration panel may award increases in rates of compensation or other benefits retroactively to the commencement of a period in dispute, other statute provisions to the contrary notwithstanding. At any time the parties, by stipulation, may amend or modify an order of arbitration.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.282 Wilfully disobeying or resisting lawful order of enforcement; contempt; fine.

Sec. 12.

If an employee organization recognized, pursuant to Act No. 336 of the Public Acts of 1947, as amended, being sections 423.201 to 423.216 of the Michigan Compiled Laws, as the bargaining representative of employees subject to this act, wilfully disobeys a lawful order of enforcement by the circuit court pursuant to section 11, or wilfully encourages or offers resistance to the order, whether by a strike or otherwise, the punishment for each day that the contempt persists may be a fine, fixed at the discretion of the court, in an amount not to exceed $250.00 per day. If the department wilfully disobeys a lawful order of enforcement by the circuit court, or wilfully encourages or offers resistance to the order, the punishment for each day that the contempt persists may be a fine, fixed at the discretion of the court, in an amount not to exceed $250.00 per day.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

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423.283 Judicial review; order not stayed by pendency of review proceeding.

Sec. 13.

The circuit court for the county in which a dispute arose or in which a majority of the affected employees reside may review an order of an arbitration panel, but only for reasons that the arbitration panel was without or exceeded its jurisdiction; the order is not supported 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 a proceeding for review shall not stay automatically the order of the arbitration panel.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.284 Changing terms and conditions of employment during pendency of arbitration proceedings.

Sec. 14.

During the pendency of arbitration proceedings, either party shall not change, without the consent of the other party, existing wages, hours, and other terms and conditions of

employment. However, a party may consent to a change without prejudice to his or her rights or position under this act.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.285 Act supplementary to MCL 423.201 et seq.; applicability of fact-finding procedures.

Sec. 15.

This act shall be considered to be supplementary to Act No. 336 of the Public Acts of 1947, as amended, and does not amend or repeal any of its provisions. However, any provisions of Act No. 336 of the Public Acts of 1947, as amended, that require fact-finding procedures shall not be applicable to a dispute subject to arbitration under this act.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.286 Violation; imprisonment prohibited.

Sec. 16.

A person shall not be sentenced to a term of imprisonment for a violation of this act or an order of an arbitration panel.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

423.287 Effective date.

Sec. 17.

This act shall be considered effective as of December 23, 1978.

History: 1980, Act 17, Imd. Eff. Feb. 24, 1980

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