

HOUSE BILL No. 5058

September 20, 2001, Introduced by Rep. Switalski and referred to the Committee on Employment Relations, Training and Safety.

A bill to provide for compulsory arbitration of labor disputes between university police 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 university police officers and
3 the efficient operation of university facilities to afford an
4 alternate, expeditious, effective, and binding procedure for the
5 resolution of disputes, and to that end the provisions of this
6 act, providing for compulsory arbitration, shall be liberally
7 construed.

1 Sec. 2. As used in this act:

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

4 (b) "University police officer" means a public safety offi-
5 cer of a university who is authorized by the governing board of
6 that university to enforce state law and the rules and ordinances
7 of that university.

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

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

26 Sec. 5. (1) Within 7 days after a request from 1 or both
27 parties, the employment relations commission shall select from

1 its panel of arbitrators, as provided in subsection (2), 3
2 persons as nominees for impartial arbitrator or chairperson of
3 the arbitration panel. Within 5 days after the selection, each
4 party may peremptorily strike the name of 1 of the nominees.
5 Within 7 days after this 5-day period, the commission shall des-
6 ignate 1 of the remaining nominees as the impartial arbitrator or
7 chairperson of the arbitration panel.

8 (2) The employment relations commission shall provide a
9 panel of arbitrators, from the Michigan employment relations com-
10 mission panel of arbitrators created in section 5 of 1969 PA 312,
11 MCL 423.235, to be available to arbitrate labor disputes under
12 this act.

13 Sec. 6. Upon the appointment of the arbitrator, he or she
14 shall proceed to act as chairperson of the panel of arbitration,
15 call a hearing, to begin within 15 days after the appointment,
16 and give reasonable notice of the time and place of the hearing.
17 The chairperson shall preside over the hearing and shall take
18 testimony. Upon application and for good cause shown, and upon
19 such terms and conditions as are just, a person, labor organiza-
20 tion, or governmental unit having a substantial interest in the
21 arbitration may be granted leave to intervene by the arbitration
22 panel. Any oral or documentary evidence and other data deter-
23 mined relevant by the arbitration panel may be received in
24 evidence. The proceedings shall be informal. Technical rules of
25 evidence shall not apply, and the competency of the evidence is
26 not impaired by a violation of a technical rule of evidence. A
27 verbatim record of the proceedings shall be made, and the

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

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

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

10 Sec. 9. At or before the conclusion of the hearing held
11 pursuant to section 6, the arbitration panel shall identify the
12 economic issues in dispute, if any, and direct each of the par-
13 ties to submit, within the time limit as the panel shall pre-
14 scribe, to the arbitration panel and to each other its last offer
15 of settlement on each economic issue. The determination of the
16 arbitration panel as to the issues in dispute and as to which of
17 these issues are economic shall be conclusive. The arbitration
18 panel, within 30 days after the conclusion of the hearing, or
19 further additional periods to which the parties may agree, shall
20 make written findings of fact and issue a written opinion and
21 order upon the issues presented to it and upon the record made
22 before it, and shall mail or otherwise deliver a true copy of
23 those writings to the parties and their representatives and to
24 the employment relations commission. As to each economic issue,
25 the arbitration panel shall adopt the last offer of settlement
26 which, in the opinion of the arbitration panel, more nearly
27 complies with the applicable factors prescribed in section 10.

1 The findings, opinions, and order as to all other issues shall be
2 based upon the applicable factors prescribed in section 10.

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

10 (a) The lawful authority of the employer.

11 (b) Stipulations of the parties.

12 (c) The interests and welfare of the public and the finan-
13 cial ability of the university to meet those costs.

14 (d) Comparison of the wages, hours, and conditions of
15 employment of the university police officer or officers involved
16 in the arbitration proceeding with the wages, hours, and condi-
17 tions of employment of other university police officers perform-
18 ing similar services and with other employees generally:

19 (i) In public employment in comparable communities.

20 (ii) In private employment in comparable communities.

21 (e) The average consumer prices for goods and services, com-
22 monly known as the cost of living.

23 (f) The overall compensation presently received by the
24 employees, including direct wage compensation, vacations, holi-
25 days and other excused time, insurance and pensions, medical and
26 hospitalization benefits, the continuity and stability of
27 employment, and all other benefits received.

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

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

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

26 Sec. 12. If an employee organization recognized under 1947
27 PA 336, MCL 423.201 to 423.217, as the bargaining representative

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

14 Sec. 13. (1) Orders of the arbitration panel shall be
15 reviewable by the circuit court in the county in which the dis-
16 pute arose or in which a majority of the affected university
17 police officers reside, but only for the following reasons:

18 (a) The arbitration panel was without or exceeded its
19 jurisdiction.

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

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

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

26 Sec. 14. During the pendency of proceedings before the
27 arbitration panel, existing wages, hours, and other conditions of

1 employment shall not be changed by action of either party without
2 the consent of the other but a party may consent without preju-
3 dice to his or her rights or position under this act.

4 Sec. 15. This act is supplementary to 1947 PA 336, MCL
5 423.201 to 423.217, and does not amend or repeal any of its pro-
6 visions, but any provisions of that act requiring fact-finding
7 procedures shall be inapplicable to disputes subject to arbitra-
8 tion under this act.

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