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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- MUNICIPAL EMPLOYEES --
ARBITRATION

Introduced By: Representatives Flaherty, and Bennett

Date Introduced: March 03, 2011

Referred To: House Labor

It is enacted by the General Assembly as follows:

SECTION 1. Sections 28-9.4-1, 28-9.4-3, 28-9.4-4, 28-9.4-12 and 28-9.4-13 of the General Laws in Chapter 28-9.4 entitled "Municipal Employees' Arbitration" are hereby amended to read as follows:

28-9.4-1. Declaration of policy -- Purpose. -- It is declared to be the public policy of this state to accord to municipal employees, as hereinafter defined, the right to organize, to be represented, to negotiate, and to bargain on a collective basis with municipal employers, as hereinafter defined concerning ~~covering~~ hours, wages, rates of pay, ~~salary, working conditions~~ and all other terms and conditions of employment; provided, that nothing contained in this chapter shall be construed to accord to municipal employees the right to strike. To provide for the exercise of these rights, a method of arbitration of disputes is hereby established. The establishment of this method of arbitration shall not, however, in any way whatsoever, be deemed to be a recognition by the state of compulsory arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather it shall be deemed to be a recognition solely of the necessity to provide some alternative mode of settling disputes where employees must, as a matter of public policy, be denied the usual right to strike.

28-9.4-3. Right to organize and bargain collectively. -- The municipal employees of any municipal employer in any city, town, or regional school district shall have the right to negotiate and to bargain collectively with their respective municipal employers and to be

1 represented by an employee organization in the negotiation or collective bargaining concerning
2 hours, ~~salary, working conditions,~~ wages, rates of pay, and all other terms and conditions of
3 employment.

4 (b) Notwithstanding the provisions of subsection (a), for those municipalemmployees who
5 are employed by school districts, collective bargaining agreements shall not provide for benefits
6 for health care ("benefit plans") for school district employees unless such benefit plans are
7 authorized in accordance with chapter 27-73. School district employees whose collective
8 bargaining agreements expire on or after June 30, 2011 shall, upon expiration of such collective
9 bargaining agreements, receive benefit plans authorized in accordance with chapter 27-73.

10 **28-9.4-4. Recognition of bargaining agent.** -- The employee organization selected by
11 the municipal employees in an appropriate bargaining unit, as determined by the state labor
12 relations board, shall be recognized by the municipal employer or the city, town, or district as the
13 sole and exclusive negotiating or bargaining agent for all of the municipal employees in the
14 appropriate bargaining unit in the city, town, or school district unless and until recognition of the
15 employee organization is withdrawn or changed by vote of the municipal employees in the
16 appropriate bargaining unit after a duly conducted election held pursuant to the provisions of this
17 chapter. An employee organization or the municipal employer may designate any person or
18 persons to negotiate or bargain in its behalf; provided, however, that the person or persons so
19 designated shall be given the authority to enter into and conclude an effective and binding
20 collective bargaining agreement.

21 **28-9.4-12. Hearings.** -- (a) The arbitrators shall call a hearing to be held within ten (10)
22 days after their appointment and shall give at least seven (7) days notice, in writing, to the
23 negotiating or bargaining agent and the municipal employer of the time and place of the hearing.

24 (b) The hearing shall be informal, and the rules of evidence prevailing in judicial
25 proceedings shall not be binding. Any and all documentary evidence and other data deemed
26 relevant by the arbitrators may be received in evidence.

27 (c) The arbitrators shall have the power to administer oaths and to require by subpoena
28 the attendance and testimony of witnesses, and the production of books, records, and other
29 evidence relative or pertinent to the issues presented to them for determination.

30 (d) Both the negotiating or bargaining agent and the municipal employer shall have the
31 right to be represented at any hearing before the arbitrators by counsel ~~of their own choosing.~~

32 (e) The hearing conducted by the arbitrators shall be concluded within twenty (20) days
33 of the time of commencement, and within ten (10) days after the conclusion of the hearings, the
34 arbitrators shall make written findings and a written opinion upon the issues presented, a copy of

1 which shall be mailed or otherwise delivered to the negotiating or bargaining agent or its attorney
2 or other designated representative and the municipal employer. A majority decision of the
3 arbitrators shall be final and binding upon both the bargaining agent and the municipal employer.

4 **28-9.4-13. Appeal from decision.** -- (a) The decision of the arbitrators shall be made
5 public and shall be final and binding upon the municipal employees in the appropriate bargaining
6 unit and their representative and the municipal employer on all matters. ~~not involving the~~
7 ~~expenditure of money.~~

8 (b) The decision of the arbitrators shall be final and cannot be appealed except on the
9 ground that the decision was procured by fraud or that it violates the law, in which case appeals
10 shall be to the superior court.

11 (c) The municipal employer shall within three (3) days after it receives the decision send
12 a true copy of the decision by certified or registered mail postage prepaid to the department or
13 agency of the municipal employer responsible for the preparation of the budget and to the agency
14 of the municipal employer which appropriates money for the operation of the particular municipal
15 function or service in the city, town, or regional school district involved, if the decision involves
16 the expenditure of money.

17 SECTION 2. Chapter 28-9.4 of the General Laws entitled "Municipal Employees'
18 Arbitration" is hereby amended by adding thereto the following sections:

19 **28-9.4-10.1. Continuance of contractual provisions.** – All contractual provisions
20 contained in a collective bargaining agreement entered into pursuant to the provisions of this
21 chapter shall continue in the following collective bargaining agreement unless either the
22 bargaining agent or the corporate authority shall, in writing, within the thirty (30) day period
23 referred to in section 28-9.4-10, propose a change in any contractual provision.

24 **28-9.4-12.1. Factors to be considered by arbitration board.** – The arbitrators shall
25 conduct the hearings and render their decision upon the basis of a prompt, peaceful and just
26 settlement of wage, rate of pay, hours or term and conditions of employment disputes, between
27 the municipal employees and the municipal employer by which they are employed. The factors
28 among others, to be given weight by the arbitrators in arriving at a decision shall include:

29 (1) Comparison of wage rates or hourly conditions of employment of a municipal
30 employer in question with prevailing wage rates or hourly conditions of employment of skilled
31 employees of the building trades and industry in the local operating area involved;

32 (2) Comparison of wage rates or hourly conditions of employment of the municipal
33 employer in question with wage rates or hourly conditions of employment maintained for the
34 same or similar work of employees exhibiting like or similar skills under the same or similar

working conditions in the local operating area involved;

(3) Comparison of wage rates or hourly conditions of employment of the municipal employer in question with wage rates or hourly conditions of employment of municipal employers in cities or towns of comparable size;

(4) Interest and welfare of the public;

(5) Comparison of peculiarities of employment in regards to other trades or professions, specifically:

(i) Hazards of employment;

(ii) Physical qualifications;

(iii) Educational qualifications;

(iv) Mental qualifications;

(v) Job training and skills.

28-9.4-13.1. Writ of certiorari to the supreme court. – In the event a decision of the arbitration panel is sought to be reviewed by writ of certiorari to the supreme court, then said matter shall be given priority by the supreme court.

28-9.4-14.1. Attorneys' fees -- Costs - Interest. – In the event neither the bargaining agent nor the corporate authorities shall appeal or petition to any court, tribunal or forum of competent jurisdiction within the State of Rhode Island for review or modification of a majority decision of the arbitrators, which by the provisions of section 28-9.4-12 is binding upon both the bargaining agent and the corporate authorities, the party against whom the final decision of any such court, tribunal or forum of competent jurisdiction shall be adverse, if such court, tribunal or forum finds such appeal or petition to be frivolous shall pay reasonable attorneys' fees and costs to the successful party as determined by the court, tribunal or forum of competent jurisdiction shall in its final decision or judgment therein award such costs and reasonable attorneys' fees; and if such final decision affirms the award of money, such award, if retroactive, shall bear interest at the rate of eight percent (8%) per annum from the effective retroactive date.

SECTION 3. Section 28-9.4-14 of the General Laws in Chapter 28-9.4 entitled "Municipal Employees' Arbitration" is hereby repealed.

~~**28-9.4-14. Fees and expenses of arbitration.** – Fees and necessary expenses of arbitration shall be borne equally by the negotiating or bargaining agent and the municipal employer.~~

SECTION 4. This act shall take effect upon passage.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- MUNICIPAL EMPLOYEES --
ARBITRATION

- 1 This act would make several procedural and substantive changes in municipal employees'
2 grievance and interest in arbitration laws. The act would also establish specific factors to be
3 considered by arbitration boards when deciding an arbitrator's central case.
4 This act would take effect upon passage.

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