

1 S.74

2 Introduced by Senators Sirotkin and Mullin

3 Referred to Committee on

4 Date:

5 Subject: Education; labor relations for teachers and administrators; municipal
6 labor relations; strikes; arbitration

7 Statement of purpose of bill as introduced: This bill proposes to allow the
8 electorate of a school district or municipality to vote on whether employees of
9 the school district or the municipality may strike during a labor dispute. This
10 bill also proposes to make binding arbitration the default mechanism for
11 resolving labor disputes in school districts and municipalities that do not vote
12 to permit strikes.

13 An act relating to binding arbitration for school teachers and administrators
14 and for municipal employees

15 It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 16 V.S.A. § 1981 is amended to read:

2 § 1981. DEFINITIONS

3 As used in this chapter unless the context requires otherwise:

4 * * *

5 (10) “Strike” means conduct by a teacher, administrator, teachers’
6 organization or administrators’ organization, or an agent of a teachers’ or
7 administrators’ organization, that produces, induces, or encourages a work
8 stoppage, slowdown, or withholding of services, including recognizing a picket
9 line or other conduct that interferes with or impedes the orderly functions and
10 services of a school district.

11 Sec. 2. 16 V.S.A. § 2005 is amended to read:

12 § 2005. WRITTEN AGREEMENT

13 The negotiations councils for the school board and the teachers’ or
14 administrators’ organization shall enter into a written agreement or agreements
15 incorporating therein matters agreed to in negotiation and any matters
16 determined through binding arbitration pursuant to the provisions of this
17 chapter.

18 Sec. 3. 16 V.S.A. § 2007 is amended to read:

19 § 2007. FACT-FINDING COMMITTEE

20 (a) If mediation fails to resolve outstanding differences or is not requested
21 and a continuing disagreement persists, either party may, after negotiation on

1 all matters properly before them, request that any or all unresolved issues be
2 submitted to a fact-finding committee by notifying the other party of their
3 intention and setting forth in writing the issues to be submitted to fact-finding.
4 If the electorate of the school district has not voted to permit teachers or
5 administrators to strike pursuant to subsection 2021(b) of this chapter, the
6 parties may agree to proceed directly to binding arbitration under subchapter 4
7 of this chapter without submitting the matters in dispute to fact-finding. The
8 agreement to proceed directly to binding arbitration may be made at any time
9 before the matters in dispute have been submitted to fact-finding.

10 * * *

11 Sec. 4. 16 V.S.A. § 2008 is amended to read:

12 § 2008. FINALITY OF DECISIONS

13 All decisions of the school board of a school district, which has voted to
14 permit teachers or administrators to strike pursuant to subsection 2021(b) of
15 this title, regarding matters in dispute in negotiations shall, after full
16 compliance with this chapter, be final.

17 Sec. 5. 16 V.S.A. § 2009 is amended to read:

18 § 2009. DELEGATION OF AUTHORITY

19 The negotiations councils for school boards and for teachers' and
20 administrators' organizations are empowered to delegate in whole or in part the
21 responsibility for negotiation of the collective agreement to any persons they

1 may choose. However, final ratification of any agreement on behalf of a
2 school board shall remain the sole responsibility of the school board, unless the
3 ~~school board has agreed~~ parties agreed to proceed to binding interest
4 arbitration pursuant to subchapter 4 of this chapter.

5 Sec. 6. 16 V.S.A. § 2010 is amended to read:

6 § 2010. INJUNCTIONS

7 No restraining order or temporary or permanent injunction shall be granted
8 in any case brought with respect to any action taken by a representative
9 organization or an official thereof or by a school board or representative
10 thereof in connection with or relating to pending or future negotiations, except
11 pursuant to subsection 2021(d) of this chapter or on the basis of findings of
12 fact made by a court of competent jurisdiction after due hearing prior to the
13 issuance of the restraining order or injunction that the commencement or
14 continuance of the action poses a clear and present danger to a sound program
15 of school education that in the light of all relevant circumstances it is in the
16 best public interest to prevent. Any restraining order or injunction issued by a
17 court as herein provided shall prohibit only a specific act or acts expressly
18 determined in the findings of fact to pose a clear and present danger.

1 Sec. 7. 16 V.S.A. § 2021 is amended to read:

2 § 2021. ~~NEGOTIATED~~ BINDING INTEREST ARBITRATION

3 (a) Arbitration shall ~~only~~ occur if either of the following exists:

4 (1) The electorate of the school district has not, pursuant to subsection
5 (b) of this section, voted to permit teachers or administrators to strike and an
6 impasse continues for 20 days after a fact-finding report has been made public
7 pursuant to subsection 2007(d) of this chapter.

8 (2) ~~the~~ The recognized organization and one or more of the school
9 boards agree in writing to submit to binding arbitration for one or more issues
10 remaining in dispute. An agreement to accept binding interest arbitration may
11 not be revoked and shall apply only to the parties to the arbitration.

12 (b) ~~The parties may mutually agree to accept binding interest arbitration at~~
13 ~~any time after impasse is reached. If the parties have neither accepted all~~
14 ~~recommendations of a fact finder nor reached an independent agreement on all~~
15 ~~issues in dispute, either the school board or the recognized organization may~~
16 ~~request binding interest arbitration by written notice to the other party. The~~
17 ~~parties shall mutually agree on one of the following limitations on the~~
18 ~~jurisdiction of the arbitrator:~~

19 (1) ~~Arbitration under which the award is confined to a choice between~~
20 ~~one of the following single packages:~~

21 (A) ~~The last best offer of the school board.~~

1 ~~(B) The last best offer of the recognized organization.~~

2 ~~(2) Arbitration under which the award is confined to a choice between~~
3 ~~one of the following on an issue by issue basis:~~

4 ~~(A) The last best offer of the school board.~~

5 ~~(B) The last best offer of the recognized organization.~~

6 (1) A majority of the electorate of a school district may elect to permit
7 the teachers or administrators to strike pursuant to a referendum vote, which
8 shall be in substantially the following form: "The teachers or administrators of
9 this school district shall be permitted to strike, provided that no strike shall
10 commence within 20 days after a fact-finding report is made public and that
11 any strike shall comply with all legal requirements for the conduct of a lawful
12 strike."

13 (2) Nothing in this section shall be construed to prohibit a teacher or
14 administrator employed by a school district from participating in a public
15 debate or campaign related to a referendum vote held in that school district
16 pursuant to this subsection.

17 (c) Unless the parties agree otherwise, the arbitrator shall determine the
18 terms of the agreement with respect to each issue in dispute between the
19 parties.

20 ~~(d)(1) A strike, which shall have the same meaning as provided in 21~~
21 ~~V.S.A. § 1722(16), shall be prohibited in either of the following instances:~~

1 (A) if the electorate of the school district has not voted to permit
2 teachers or administrators to strike pursuant to subsection (b) of this section; or

3 (B) in a school district that has elected to permit teachers or
4 administrators to strike pursuant to subsection (b) of this section, if ~~it~~ the strike
5 occurs after both parties have voluntarily submitted a dispute to final and
6 binding arbitration or after a decision or award has been issued by the
7 arbitrator.

8 (2) A school board may petition for an injunction or other appropriate
9 relief from the Superior Court within the county wherein such strike in
10 violation of this section is occurring or is about to occur.

11 (e) A school board may not invoke the authority granted to it under section
12 2008 of this chapter if the school district has not voted to permit teachers or
13 administrators to strike pursuant to subsection (b) of this section.

14 ~~(d)~~(f) If any provision of this subchapter is inconsistent with any other
15 provision of law governing arbitration, this subchapter shall govern.

16 Sec. 8. 16 V.S.A. § 2023 is amended to read:

17 § 2023. JURISDICTION OF ARBITRATOR

18 (a) The parties may reach partial agreement on some issues or accept a
19 fact-finder's recommendations on some issues. The arbitrator shall have the
20 power to determine all issues remaining in dispute ~~involving wages, hours and~~

1 ~~conditions of employment as defined by this chapter and any other mutually~~
2 ~~agreed upon matters not in conflict with law~~ between the parties.

3 * * *

4 Sec. 9. VOTE TO PERMIT TEACHERS OR ADMINISTRATORS TO
5 STRIKE

6 Prior to July 1, 2016, teachers or administrators shall be prohibited from
7 striking in any school district that has not voted pursuant to 16 V.S.A.
8 § 2021(b).

9 Sec. 10. 21 V.S.A. § 1730 is amended to read:

10 § 1730. RESTRICTIONS ON STRIKES

11 (a) A strike shall ~~not be prohibited unless~~ only be permitted if:

12 (1) It occurs ~~sooner than 30 days after the delivery of a factfinder's~~
13 ~~report to the parties pursuant to subsection 1732(e) of this title;~~ in a
14 municipality that has voted, pursuant to section 1733 of this title, to permit
15 municipal employee bargaining units to strike.

16 (2) It occurs ~~after both parties have voluntarily submitted a dispute to~~
17 ~~final and binding arbitration, or after a decision or award has been issued by~~
18 ~~the arbitrator;~~ or more than 30 days after the delivery of a fact finder's report to
19 the parties pursuant to section 1732 of this title.

20 (3) It will not endanger the health, safety, or welfare of the public. A
21 municipal employer may petition for an injunction or other appropriate relief

1 from the ~~superior court~~ Superior Court within the county ~~wherein such~~ in
2 which a strike in violation of this section subsection is occurring or is about to
3 occur.

4 * * *

5 Sec. 11. 21 V.S.A. § 1733 is amended to read:

6 § 1733. BINDING ARBITRATION

7 (a)(1) Unless a municipality has voted to permit municipal employee
8 bargaining units to strike, the legislative body of the municipal employer and
9 the exclusive bargaining agent shall submit to final and binding arbitration any
10 employment contract impasse that continues after the parties have complied
11 with the requirements of sections 1731 and 1732 of this title. Nothing in this
12 section shall be construed to prevent the electorate of a municipality to permit
13 municipal employees to strike by a referendum vote in the following form:

14 “The employees of the municipality shall have the right to strike, provided
15 that no strike shall commence within 20 days after a fact finder’s report is
16 made public and that any strike shall comply with all legal requirements for the
17 conduct of a lawful strike.”

18 (2) Nothing ~~herein~~ in this section shall prevent the legislative body of a
19 municipal employer, in a municipality that has voted to permit the municipal
20 employee bargaining units to strike, and the exclusive bargaining agent from
21 voluntarily submitting a contract impasse to final and binding arbitration ~~or for~~

1 ~~the municipality by a referendum vote from adopting binding arbitration~~
2 ~~procedures, in the following form:.~~

3 ~~The arbitrator shall have the power to determine all issues in dispute~~
4 ~~involving wages, hours and conditions of employment as defined by this~~
5 ~~chapter.~~

6 (b) Where an impasse continues for 20 days after a fact finder has made a
7 report public under subsection 1732(e) of this title, the parties shall submit the
8 contract impasse to binding arbitration and a three-member arbitration panel
9 shall be formed as follows:

10 Each party to the impasse shall select one member of the panel and state its
11 final offer on all disputed issues on the 20th day following publication of the
12 fact finder's report. The two members ~~so selected~~ shall within five days, select
13 the third member of the panel to serve as chair. If the two members fail to
14 select a third member of the panel within five days, then, within three
15 additional days, they shall request the services of the American Arbitration
16 Association for the appointment of the third member or, upon petition of either
17 party and notice to the other party, the third member of the panel shall be
18 appointed by the Superior Court for the county in which the municipality is
19 situated, ~~upon petition of either party, and notice to the other party.~~ Within 30
20 days of the appointment of the chair, the panel shall decide by majority vote all
21 disputed issues involving wages, hours, and conditions of employment as

1 defined by this chapter, and this award shall become an agreement of the
2 parties.

3 (c) In reaching a decision, the ~~arbitrator~~ arbitration panel shall give weight
4 to the factors listed in subsection 1732(d) of this title.

5 (d) Upon application of a party, a Superior Court shall vacate an award if:

6 * * *

7 (2) there was evident partiality or prejudicial misconduct by the
8 ~~arbitrator~~ arbitration panel;

9 (3) the ~~arbitrator~~ arbitration panel exceeded ~~his or her~~ its power or
10 rendered an award requiring a person to commit an act or engage in conduct
11 prohibited by law;

12 * * *

13 (f) If a municipality has ~~voted to adopt binding arbitration procedures~~ not
14 voted to permit municipal employee bargaining units to strike, the legislative
15 body of the municipal employer and the exclusive bargaining agent may agree
16 to proceed directly from mediation to binding arbitration without submitting
17 the dispute to fact-finding. The decision to proceed directly to binding
18 arbitration may be made at any reasonable time during the mediation process
19 but no less than 30 days after appointment of the mediator under section 1731
20 of this title. The arbitration panel shall be selected as provided in subsection
21 (b) of this section, with each party to the impasse selecting one member of the

1 panel and stating its final offer on the 20th day after the agreement to proceed
2 directly to arbitration is reached, and the two members so selected selecting the
3 third member within five days.

4 * * *

5 Sec. 12. EFFECTIVE DATES

6 (a) This section and Secs. 1 and 9 shall take effect on passage.

7 (b) Sec. 7 shall take effect on passage with respect to 16 V.S.A. § 2021(b)
8 only. The remaining provisions of Sec. 7 shall take effect on July 1, 2016.

9 (c) Sec. 11 shall take effect on passage with respect to 21 V.S.A. § 1733(a)
10 only. The remaining provisions of Sec. 11 shall take effect on July 1, 2016.

11 (d) All other sections shall take effect on July 1, 2016, provided that they
12 shall only apply to negotiations with respect to collective bargaining
13 agreements for fiscal year 2018 and after.