

1 S.307

2 Introduced by Senators Hooker and Pollina

3 Referred to Committee on Government Operations

4 Date: January 16, 2020

5 Subject: Executive; State Employees Labor Relations Act; Judiciary

6 Employees Labor Relations Act; binding arbitration

7 Statement of purpose of bill as introduced: This bill proposes to provide that a
8 bargaining impasse between the Vermont Judiciary or the Vermont State
9 Colleges and the representative of a collective bargaining unit may be resolved
10 through binding arbitration upon the request of either party.

11 ~~An act relating to binding interest arbitration for employees of the Vermont~~
12 ~~Judiciary and the Vermont State Colleges)~~

*An act relating to binding interest arbitration for employees of the Vermont
Judiciary*

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

14 ~~Sec. 1. 3 V.S.A. § 925 is amended to read:~~

15 § 925. MEDIATION; FACT FINDING

16 * * *

17 (i)(1) In the case of the Vermont State Colleges or the University of

18 Vermont, if the dispute remains unresolved 20 days after transmittal of

19 findings and recommendations to the parties or within a time frame mutually

20 ~~agreed upon by the parties that may be not more than an additional 30 days,~~

1 ~~each party shall submit as a single package its last best offer on all disputed~~
2 issues to the Board. Each party's last best offer shall be filed with the Board
3 under seal and shall be unsealed and placed in the public record only when
4 both parties' last best offers are filed with the Board. The Board shall hold
5 one or more hearings. Within 30 days of the certifications, the Board shall
6 select between the last best offers of the parties, considered in their entirety
7 without amendment.

8 (2) In the case of the State of Vermont ~~or~~, the Department of State's
9 Attorneys and Sheriffs, or the Vermont State Colleges, if the dispute remains
10 unresolved 20 days after transmittal of findings and recommendations to the
11 parties or within a time frame mutually agreed upon by the parties that may be
12 not more than an additional 30 days, each party shall submit as a single
13 package its last best offer on all disputed issues to the Board, or upon the
14 request of either party, to an arbitrator mutually agreed upon by the parties. If
15 the parties cannot agree on an arbitrator, the American Arbitration Association
16 shall appoint a neutral third party to act as arbitrator. Each party's last best
17 offer shall be filed with the Board or the arbitrator under seal and shall be
18 unsealed and placed in the public record only when both parties' last best
19 offers are filed with the Board or the arbitrator. The Board or the arbitrator
20 ~~shall hold one or more hearings. Within 30 days of the certifications, the~~

1 ~~Board, the arbitrator shall select the last best offers of the parties,~~

2 considered in their entirety without amendment.

3 (j) Notwithstanding the provisions of subsection (i) of this section:

4 (1) In the case of the ~~Vermont State Colleges~~ or the University of
5 Vermont, should the Board find the last best offers of both parties
6 unreasonable and likely to produce undesirable results, or likely to result in a
7 long-lasting negative impact upon the parties' collective bargaining
8 relationship, then the Board may select the recommendation of the fact finder
9 under subsection (g) of this section as to those disputed issues submitted to the
10 Board in the last best offers.

11 (2) In the case of the State of Vermont ~~or~~, the Department of State's
12 Attorneys and Sheriffs, or the Vermont State Colleges, should the Board or the
13 arbitrator find the last best offers of both parties unreasonable and likely to
14 produce undesirable results, or likely to result in a long-lasting negative impact
15 upon the parties' collective bargaining relationship, then the Board or the
16 arbitrator may select the recommendation of the fact finder under subsection
17 (g) of this section as to those disputed issues submitted to the Board or the
18 arbitrator in the last best offers.

19 (k)(1)(A) In the case of the University of Vermont ~~or the Vermont State~~
20 ~~Colleges, the decision of the Board shall be final and binding on each party.~~

1 ~~(B) In the case of the Vermont State Colleges, the decision of the~~
2 Board or the arbitrator shall be final and binding on each party.

3 ~~_____~~
Sec. 1. [Deleted.]

4 Sec. 2. 3 V.S.A. § 1018 is amended to read:

5 § 1018. MEDIATION; FACT-FINDING; LAST BEST OFFER

6 * * *

7 (i)(1) If the dispute remains unresolved ~~15~~ 20 days after transmittal of
8 findings and recommendations or within a period of time mutually agreed
9 upon by the parties that may be not more than an additional 30 days, each
10 party shall submit to the Board or, upon the request of either party, to an
11 arbitrator mutually agreed upon by the parties its last best offer on all disputed
12 issues as a single package. If the parties cannot agree on an arbitrator, the
13 American Arbitration Association shall appoint a neutral third party to act as
14 arbitrator.

15 (2) Each party's last best offer shall be:

16 (A) filed with the Board or the arbitrator under seal;

17 (B) certified to the Board or the arbitrator by the fact finder; and

18 (C) unsealed and placed in the public record only when both parties'

19 last best offers are filed with the Board or the arbitrator.

20 (3) The Board ~~may~~ or the arbitrator shall hold one or more hearings and
21 consider the recommendations of the fact finder.

1 (4)(A) Within 30 days of the certifications, the Board or the arbitrator
2 shall select between the last best offers of the parties, considered in their
3 entirety without amendment, and shall determine its cost.

4 (B) If the Board or the arbitrator finds that the last best offers of both
5 parties are unreasonable and likely to produce undesirable results or likely to
6 result in a long-lasting negative impact upon the parties' collective bargaining
7 relationship, then the Board or the arbitrator may select the recommendation of
8 the fact finder under subsection (g) of this section as to those disputed issues
9 submitted to the Board or the arbitrator in the last best offers.

10 (5) The Board or the arbitrator shall not issue an order under this
11 subsection that is in conflict with any law or rule or that relates to an issue that
12 is not bargainable.

13 (6) The decision of the Board or the arbitrator shall be final and binding
14 on the parties.

15 Sec. 3. 3 V.S.A. § 1019 is amended to read:

16 § 1019. ~~MEDIATION-ARBITRATION~~

17 ~~(a) Notwithstanding section 1018 of this title or any other law, the parties~~
18 ~~may agree in advance to a mediation and arbitration procedure.~~

19 ~~(b) The parties may jointly select a mediator. If they are unable to agree,~~
20 ~~either party may petition the Board to appoint a mediator who shall be a~~
21 ~~person of high standing and in no way actively connected with labor or~~

1 ~~management. The mediator may not be a person who has served as a mediator~~
2 ~~at an earlier stage of the same proceedings.~~

3 ~~(c) The mediator shall encourage the parties to reach a voluntary settlement~~
4 ~~of the dispute, but may, after a reasonable period of mediation, as determined~~
5 ~~by the mediator, certify to the Board that the impasse continues and end~~
6 ~~mediation efforts.~~

7 ~~(d) If the impasse remains unresolved for 15 days after the mediator's~~
8 ~~certification to the Board, either party may petition the Board to appoint an~~
9 ~~arbitrator who has been mutually agreed upon by the parties. If the parties fail~~
10 ~~to agree on an arbitrator within five days, the Board shall appoint an arbitrator~~
11 ~~who shall be a person of high standing and not actively connected with labor~~
12 ~~or management.~~

13 ~~(e) A hearing before an arbitrator shall be informal and the Rules of~~
14 ~~Evidence for judicial proceedings shall not be binding. The arbitrator may~~
15 ~~consider any relevant evidence. The arbitrator may administer oaths and may~~
16 ~~issue subpoenas to persons and documents and other evidence relating to the~~
17 ~~issues presented.~~

18 ~~(f) In reaching a decision, the arbitrator shall consider the factors in~~
19 ~~subsection 1018(f) of this title.~~

20 ~~(g) The arbitrator shall submit a report, including its costs, to the parties~~
21 ~~and to the Board no later than 30 days after the termination of the hearing,~~

1 unless the time is extended by agreement of both parties. The determination
2 by the arbitrator on all issues shall be final and binding on the parties and shall
3 not be appealable to the Board or to any other judicial or administrative quasi-
4 judicial challenge, except as follows:

5 (1) A party may request the arbitrator to modify an award if the request
6 is made within 30 days after delivery of the award to the applicant. An
7 arbitrator may modify an award if the arbitrator finds one of the following:

8 (A) There was an evident miscalculation of figures or an evident
9 mistake in the description of any person, thing or property referred to in the
10 award.

11 (B) The award was based on a matter not submitted and the award
12 may be corrected without affecting the merits of the decision upon the issues
13 submitted.

14 (C) The award is imperfect in a matter of form that does not affect
15 the merits of the controversy.

16 (2) Notwithstanding any law to the contrary, upon application of a party,
17 a Superior Court shall vacate an arbitration award based on one of the
18 following:

19 (A) The award was procured by corruption, fraud, or other undue
20 means.

1 ~~(B) There was evident partiality or prejudicial misconduct by the~~
2 ~~arbitrator.~~

3 ~~(C) The arbitrator exceeded his or her power or rendered an award~~
4 ~~requiring a person to commit an act or engage in conduct prohibited by law.~~

5 ~~(D) There is insufficient evidence on the record to support the award.~~

6 ~~(3) An application to the Superior Court for review pursuant to~~
7 ~~subdivision (2) of this subsection shall be made within 30 days after delivery~~
8 ~~of a copy of the award to the applicant, except that in case of a claim of~~
9 ~~corruption, fraud or other undue means, in which case the petition shall be~~
10 ~~made within 30 days after such grounds are known or should have been~~
11 ~~known. [Repealed.]~~

12 Sec. 4. EFFECTIVE DATE

13 This act shall take effect on July 1, ~~2020~~ 2021.