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S.72

Introduced by Senators Mullin, Balint, Baruth, and Sirotkin

Referred to Committee on

Date:

Subject: Executive; State labor relations; binding arbitration

Statement of purpose of bill as introduced: This bill proposes to permit binding arbitration under the State Employees Labor Relations Act.

An act relating to binding arbitration for State employees

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

Sec. 1. 3 V.S.A. § 926 is amended to read:

§ 926. GRIEVANCES

(a) The ~~board~~ Board shall hear and make a final determination on the grievances of all employees who are eligible to appeal grievances to the ~~board~~ Board. Grievance hearings at the ~~board~~ Board level shall be conducted in accordance with the rules and regulations ~~promulgated~~ adopted by the ~~board~~ Board, unless a collective bargaining agreement provides for specific procedural rules governing the conduct of such proceedings. The right to institute grievance proceedings extends to individual employees, groups of employees, and collective bargaining units.

1 (b) A collective bargaining agreement may provide for binding arbitration
2 as ~~the~~ a final step of a grievance procedure, rather than a hearing by the Board.
3 An agreement that includes a binding arbitration provision shall also include
4 the procedure for ~~conducting the grievance arbitration proceedings and the~~
5 following provisions:selecting an arbitrator.

6 (c) If a collective bargaining agreement provides for binding arbitration as
7 a final step of a grievance procedure, the agreement may also establish:

8 (1) procedural rules for conducting grievance arbitration proceedings;

9 (2) whether grievance arbitration proceedings will be confidential; and

10 (3) whether arbitrated grievance determinations will have precedential
11 value.

12 (1) The parties shall mutually agree on an arbitrator from a list of
13 arbitrators provided by the American Arbitration Association or the Federal
14 Mediation and Conciliation Service.

15 (d) An arbitrator chosen or appointed under this section shall have no
16 authority to add to, subtract from, or modify the collective bargaining
17 agreement.

18 (2e) Any collective bargaining agreement that contains a binding
19 arbitration provision pursuant to this section shall include ~~A~~an
20 acknowledgement of arbitration that provides substantially the following:

21 ACKNOWLEDGEMENT OF ARBITRATION

1 (The parties) understand that this agreement contains an ~~an agreement~~
2 ~~provision that for binding arbitration as a the~~ final step of the grievance process
3 ~~shall be binding arbitration.~~ After the effective date of this agreement, no
4 ~~grievance, submitted to binding arbitration,~~ may be brought to the Vermont
5 ~~Labor Relations Board and no lawsuit concerning any grievance may be~~
6 ~~brought unless it involves a question of constitutional rights, civil rights, or the~~
7 ~~enforcement of an arbitration award.~~

8 (ef) This section shall not apply to labor interest arbitration, which as used
9 in this chapter means the method of concluding labor negotiations by means of
10 a disinterested person to determine the terms of a labor agreement.

11 (eg) A party may apply to the arbitrator for a modification of an award if
12 the application is made within 30 days after delivery of a copy of the award to
13 the applicant. An arbitrator may modify an award only if the arbitrator finds
14 any one of the following:

15 (1) There was an evident miscalculation of figures or an evident mistake
16 in the description of any person, thing, or property referred to in the award.

17 (2) The award was based on a matter not submitted to the arbitrator, and
18 the award may be corrected without affecting the merits of the decision on the
19 issues submitted.

20 (3) The award was imperfect in form and the award may be corrected
21 without affecting the merits of the controversy.

1 ~~(eh)~~ A party may apply to the Civil Division of the Superior Court for
2 review of the award provided the application is made within 30 days after
3 delivery of a copy of the award to the applicant or, in the case of a claim of
4 corruption, fraud, or other undue means, the application is made within 30 days
5 after those grounds are known or should have been known. The Civil Division
6 of the Superior Court shall vacate an arbitration award based on any of the
7 following:

8 (1) The award was procured by corruption, fraud, or other undue means.

9 (2) There was partiality or prejudicial misconduct by the arbitrator.

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

12 ~~(4) There was an absence of substantial evidence on the record as a~~
13 ~~whole to support the award.~~

14 ~~(fi)~~ The ~~board~~ Board shall hear and make a final determination on the
15 grievances of all retired individual employees of the University of Vermont,
16 groups of such retired individuals, and retired collective bargaining unit
17 members of the University of Vermont. Grievances shall be limited to those
18 relating to compensation and benefits that were accrued during active
19 employment but are received after retirement. ~~For the purposes of~~ As used in
20 this subsection, “grievance” means an allegation of a violation of a collective
21 bargaining agreement, employee handbook provision, early retirement plan,

1 individual separation agreement or other documented agreement, or rule or
2 regulation of the University of Vermont.

3 Sec. 2. 3 V.S.A. § 904 is amended as follows:

4 § 904. SUBJECTS FOR BARGAINING

5 (a) All matters relating to the relationship between the employer and
6 employees shall be the subject of collective bargaining except those matters
7 which are prescribed or controlled by statute. Such matters appropriate for
8 collective bargaining to the extent they are not prescribed or controlled by
9 statute include:

10 * * *

11 (7) grievance procedures, including whether an appeal to the Vermont
12 Labor Relations Board or binding arbitration will constitute the final step in a
13 grievance procedure;

14 * * *

15 Sec. 3. 3 V.S.A. § 928 is amended as follows:

16 § 928. RULES AND REGULATIONS

17 * * *

18 (b) Notwithstanding the provisions of subsection (a) of this section, rules
19 and regulations adopted by the ~~board~~ Board as they relate to grievance appeals
20 shall provide:

1 representative's counsel or designated executive staff employees or by any
2 individual the Board may permit at its discretion.

3 * * *

4 Sec. 5. 3 V.S.A. § 975 is amended as follows:

5 § 975. ENFORCEMENT AND PREEMPTION

6 * * *

7 (b) A state State employee who files a claim of retaliation for protected
8 activity with the Vermont ~~labor relations board~~ Labor Relations Board or
9 through binding arbitration under a grievance procedure or similar process
10 available to the employee may not bring such a claim in ~~superior court~~
11 Superior Court.

12 * * *

13 Sec. 6. 3 V.S.A. § 1001 is amended as follows:

14 § 1001. GRIEVANCES; APPLICANTS AND EXCLUDED PERSONNEL

15 * * *

16 (c) Any dispute concerning the amount of a collective bargaining service
17 fee may be grieved as set forth in the collective bargaining agreement through
18 either an appeal to the ~~state labor relations board~~ Vermont Labor Relations
19 Board in accordance with the ~~board's~~ Board's rules concerning grievances and
20 any procedural rules for grievances set forth in the agreement, or through
21 binding arbitration.

1 Sec. 7. 3 V.S.A. § 1002 is amended as follows:

2 § 1002. ENFORCEMENT

3 (a) Orders of the ~~board~~ Board or an arbitrator issued under this chapter may
4 be enforced by any party or by the ~~board~~ Board by filing a petition with the
5 Superior Court in Washington ~~superior-court~~ County or the ~~superior-court~~
6 Superior Court in the county in which the action before the ~~board~~ Board
7 originated. The petition shall be served on the adverse party as provided for
8 service of process under the Vermont Rules of Civil Procedure. If, after
9 hearing, the ~~court~~ Court determines that the ~~board~~ Board or arbitrator had
10 jurisdiction over the matter and that a timely appeal was not filed, or that an
11 appeal was timely filed and a stay of the ~~board~~ Board or arbitrator's order or
12 any part of it was not granted, or that a ~~board~~ Board order was affirmed on
13 appeal in pertinent part by the ~~supreme-court~~ Supreme Court or that an
14 arbitrator's order was affirmed on appeal in pertinent part by the Superior
15 Court, the ~~court~~ Court shall incorporate the order of the ~~board~~ Board or
16 arbitrator as a judgment of the ~~court~~ Court. There is no appeal from that
17 judgment except that a judgment reversing a ~~board~~ decision by the Board or an
18 arbitrator on jurisdiction may be appealed to the ~~supreme-court~~ Supreme Court.

19 * * *

20 Sec. ~~28~~. EFFECTIVE DATE

21 This act shall take effect on passage.