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S.241

Introduced by Senator Mullin

Referred to Committee on Government Operations

Date: January 7, 2014

Subject: Executive; Labor Relations; binding arbitration

Statement of purpose of bill as introduced: This bill proposes to allow for binding arbitration in the State Employee 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 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. The right to institute grievance proceedings extends to individual employees, groups of employees, and collective bargaining units.

(b) A collective bargaining agreement may provide for binding arbitration as the final step of a grievance procedure. An agreement that includes a

1 ~~binding arbitration provision shall also include the procedure for conducting~~
2 the grievance arbitration proceedings and the following provisions:

3 (1) The parties shall mutually agree on an arbitrator from a list of
4 arbitrators provided by the American Arbitration Association or the Federal
5 Mediation and Conciliation Services. An arbitrator chosen or appointed under
6 this section shall have no authority to add to, subtract from, or modify the
7 collective bargaining agreement.

8 (2) An acknowledgement of arbitration that provides substantially
9 the following:

10 ACKNOWLEDGEMENT OF ARBITRATION

11 (The parties) understand that this agreement contains an agreement that
12 the final step of the grievance process shall be binding arbitration. After the
13 effective date of this agreement, no grievance may be brought to the Vermont
14 Labor Relations Board and no lawsuit concerning any grievance may be
15 brought, unless it involves a question of constitutional rights, civil rights, or
16 the enforcement of an arbitration award.

17 (c) This section shall not apply to labor interest arbitration, which for the
18 purposes of this chapter means the method of concluding labor negotiations by
19 means of a disinterested person to determine the terms of a labor agreement.

20 (d) A party may apply to the arbitrator for a modification of an award if the
21 application is made within 30 days after delivery of a copy of an award to the

1 ~~applicant. An arbitrator may modify an award only if the arbitrator finds any~~
2 one of the following:

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

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

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

10 (e) A party may apply to the Civil Division of the Superior Court for
11 review of the award provided the application is made within 30 days after
12 delivery of a copy of the award to the applicant or, in case of a claim of
13 corruption, fraud, or other undue means, the application is made within 30 days
14 after those grounds are known or should have been known. The Civil Division
15 of the Superior Court shall vacate an arbitration award based on any of
16 the following:

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

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

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

1 ~~(d) There was an absence of substantial evidence on the record as a~~
2 ~~whole to support the award.~~

3 (f) The ~~board~~ Board shall hear and make final determination on the
4 grievances of all retired individual employees of the University of Vermont,
5 groups of such retired individuals, and retired collective bargaining unit
6 members of the University of Vermont. Grievances shall be limited to those
7 relating to compensation and benefits that were accrued during active
8 employment but are received after retirement. ~~For the purposes of~~ As used in
9 this subsection, "grievance" means an allegation of a violation of a collective
10 bargaining agreement, employee handbook provision, early retirement plan,
11 individual separation agreement or other documented agreement, or rule or
12 regulation of the University of Vermont.

13 Sec. 2. EFFECTIVE DATE

14 ~~This act shall take effect on passage.~~

Sec. 1. GRIEVANCE ARBITRATION; STUDY COMMITTEE; REPORT

(a) Creation. There is created a Grievance Arbitration Study Committee to study the issue of grievance arbitration for employees of the State.

~~*(b) Membership. The Grievance Arbitration Study Committee shall be composed of the following four members:*~~

~~*(1) the Commissioner of Human Resources or designee;*~~

~~*(2) the Executive Director of the Vermont Bar Association or designee;*~~

~~*(3) one member appointed by the Vermont Troopers Association; and*~~

~~*(4) one member appointed by the Vermont State Employees' Association.*~~

(b) Membership. The Grievance Arbitration Study Committee shall be composed of the following members:

- (1) the Commissioner of Human Resources or designee;
- (2) the Executive Director of the Vermont Bar Association or designee;
- (3) one member appointed by the Vermont Troopers Association;
- (4) one member appointed by the Vermont State Employees' Association; and
- (5) the Attorney General or designee.

~~(c) Powers and duties. The Committee shall:~~

- ~~(1) study the issue of grievance arbitration for State employees; and~~
- ~~(2) assess the relative merits of various grievance protocols, including arbitration and use of the Vermont Labor Relations Board, addressing the ability of these protocols to provide resolution of grievances in a manner that is economical, timely, just, and provides for appropriate privacy protections for the parties.~~

(c) Powers and duties. The Committee shall:

- (1) study the issue of grievance arbitration for State employees; and
- (2) assess the relative merits of various grievance protocols, including arbitration and use of the Vermont Labor Relations Board, addressing the ability of these protocols to provide resolution of grievances in a manner that is economical, timely, just, and provides for appropriate privacy protections for the parties.

~~(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office~~

~~(e) (d) Report. On or before January 15, 2015, the Committee shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing and Military Affairs.~~

~~(f) (e) Meetings.~~

- (1) The Commissioner of Human Resources or designee shall be the Chair of the Committee.
- (2) The Committee shall convene on or before September 1, 2014 at the call of the Chair, and the Chair shall call any subsequent meetings.

(3)(A) A majority of the members of the Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of the members physically present and voting.

(4) The Committee shall cease to exist on the date it submits its report under subsection (d) of this section.

~~(g)~~ (f) Reimbursement. Members of the Committee shall not be entitled to per diem compensation or reimbursement of expenses.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.