

Summary of Testimony

S.72, Grievance Arbitration under State Employees Labor Relations Act

Timothy Noonan, Executive Director, Vermont Labor Relations Board

The primary objective of a grievance procedure is to promote an expeditious, just and inexpensive resolution of employee complaints. The American Arbitration Association listed “justice, economy and speed” as the three objectives of labor arbitration.¹ This is consistent with the approach of the Vermont Labor Relations Board. The major goal of the Board is to ensure that cases coming before it are resolved justly and expeditiously, either through informal settlements or Board decisions.

Just Resolution of Disputes

In a just dispute resolution system, a high percentage of grievance decisions are accepted by the parties and remain in effect. Also, it is expected that the number of disputes will decline over time due to effective case precedents reducing the volume of disputes and contributing to the parties resolving many of the disputes which do arise.

- During the last 20 years, the Supreme Court has fully affirmed 55 grievance decisions of the Board and reversed 8 decisions. This constitutes an 87 percent affirmance rate.²
- Meanwhile, the percentage of Board decisions appealed to the Supreme Court has remained at approximately 16 percent over the last 20 years. This contrasts with the early years of the Board – i.e., 46 percent of Board decisions were appealed to the Court during the years 1977 – 1986.³
- An annual average of 39 grievances were filed with the Board between 1995 and 2004. This decreased to an annual average of 22 cases between 2005 and 2014, a 44 percent reduction in filed grievances.⁴
- The Board issued an annual average of 19 grievance decisions between 1995 and 2004. This dropped to an annual average of 7 decisions between 2005 and 2014, a decrease of 63 percent.⁵

¹ Peter Seitz, *Delay: The Asp in the Bosom of Arbitration*, *Arbitration Journal*, Sept. 1981, page 29.

² *Guide to Vermont Labor Relations Statutes*, Digest of Vermont Supreme Court Decisions of Appealed VLRB Decisions, pages 32 -43, Issued by Vermont Labor Relations Board (2014), 2014 Annual Report of VLRB.

³ 1990, 2004 and 2014 Annual Reports of Vermont Relations Board.

⁴ Statistical Appendices to Vermont Labor Relations Board 2004 and 2014 Annual Reports.

⁵ Statistical Appendices to Vermont Labor Relations Board 2004 and 2014 Annual Reports.

- The number of decisions issued by the Supreme Court on Board grievance decisions also has substantially decreased over the last ten years. There were 40 grievance decisions between 1995-2004, and 19 during the 2005 – 2014 period.⁶
- During the last 20 years, the chance of a Board decision remaining in effect and not being reversed has been between 97 and 99 percent.⁷
- Through Board and Court decisions, which are published and indexed, a substantial body of labor relations law has developed to provide guidance to labor and management. In addition, the Board includes within its mission an extensive educational role in labor relations. The Board publishes a treatise and other reference sources on Vermont labor relations law, maintains a comprehensive website, conducts training sessions, and sponsors conferences. These efforts have served to deter labor disputes as they have substantially lessened the number of repetitious issues which come before the Board, and have played a role in increasing the sophistication of the parties in labor relations.

Cost

- Each day of VLRB grievance hearing results in an approximate cost of \$1,500 in VLRB members' per diems and staff salaries. This is for hearing time, study time and decision-writing time.
- The Office of Arbitration Services of the Federal Mediation and Conciliation Service ("FMCS") determined in Fiscal Year 2013 that the average fee paid an arbitrator on the FMCS roster for each case was \$4,516. The average per diem rate charged by arbitrators was \$1,023. The average days charged by arbitrators were: 1.05 days hearing time, .63 days travel time, and 2.39 days study time.⁸

Speed

- During calendar years 2011 through 2014, the average time between the filing of a grievance with the Labor Relations Board and Board decision was 278 days.⁹
- During fiscal year 2013, the average time between parties requesting that the FMCS appoint an arbitrator and an arbitration award being issued was 333 days.¹⁰

⁶ *Guide to Vermont Labor Relations Statutes*, Digest of Vermont Supreme Court Decisions of Appealed VLRB Decisions, pages 32 -43, Issued by Vermont Labor Relations Board (2014); 2014 Annual Report of VLRB.

⁷ 1995 through 2014 Annual Reports of Vermont Labor Relations Board.

⁸ Federal Mediation and Conciliation Service Arbitration Statistics, Fiscal Year 2013.

⁹ Volumes 31, 32 and 33 of Vermont Labor Relations Board Opinions.

¹⁰ Federal Mediation and Conciliation Service Arbitration Statistics, Fiscal Year 2013.