

1 H.821

2 Introduced by Representatives Hooper of Burlington, Anthony of Barre City,
3 Brownell of Pownal, Christensen of Weathersfield, Christie of
4 Hartford, Cina of Burlington, Colston of Winooski, Cordes of
5 Lincoln, Demrow of Corinth, Donovan of Burlington, Gardner
6 of Richmond, Howard of Rutland City, Killacky of South
7 Burlington, Morris of Springfield, Nicoll of Ludlow, Notte of
8 Rutland City, O’Sullivan of Burlington, Palasik of Milton, Patt
9 of Worcester, and Ralph of Hartland

10 Referred to Committee on

11 Date:

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

13 Employees Labor Relations Act; binding arbitration

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

18 An act relating to binding interest arbitration for employees of the Vermont
19 Judiciary and the Vermont State Colleges

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

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

3 § 925. MEDIATION; FACT FINDING

4 * * *

5 (i)(1) In the case of ~~the Vermont State Colleges~~ or the University of
6 Vermont, if the dispute remains unresolved 20 days after transmittal of
7 findings and recommendations to the parties or within a time frame mutually
8 agreed upon by the parties that may be not more than an additional 30 days,
9 each party shall submit as a single package its last best offer on all disputed
10 issues to the Board. Each party's last best offer shall be filed with the Board
11 under seal and shall be unsealed and placed in the public record only when
12 both parties' last best offers are filed with the Board. The Board shall hold one
13 or more hearings. Within 30 days of the certifications, the Board shall select
14 between the last best offers of the parties, considered in their entirety without
15 amendment.

16 (2) In the case of the State of Vermont ~~or~~ the Department of State's
17 Attorneys and Sheriffs, or the Vermont State Colleges, if the dispute remains
18 unresolved 20 days after transmittal of findings and recommendations to the
19 parties or within a time frame mutually agreed upon by the parties that may be
20 not more than an additional 30 days, each party shall submit as a single
21 package its last best offer on all disputed issues to the Board, or upon the

1 request of either party, to an arbitrator mutually agreed upon by the parties. If
2 the parties cannot agree on an arbitrator, the American Arbitration Association
3 shall appoint a neutral third party to act as arbitrator. Each party's last best
4 offer shall be filed with the Board or the arbitrator under seal and shall be
5 unsealed and placed in the public record only when both parties' last best
6 offers are filed with the Board or the arbitrator. The Board or the arbitrator
7 shall hold one or more hearings. Within 30 days of the certifications, the
8 Board or the arbitrator shall select between the last best offers of the parties,
9 considered in their entirety without amendment.

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

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

18 (2) In the case of the State of Vermont ~~or~~ the Department of State's
19 Attorneys and Sheriffs, or the Vermont State Colleges, should the Board or the
20 arbitrator find the last best offers of both parties unreasonable and likely to
21 produce undesirable results, or likely to result in a long-lasting negative impact

1 upon the parties' collective bargaining relationship, then the Board or the
2 arbitrator may select the recommendation of the fact finder under subsection
3 (g) of this section as to those disputed issues submitted to the Board or the
4 arbitrator in the last best offers.

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

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

9 * * *

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

11 § 1018. MEDIATION; FACT-FINDING; LAST BEST OFFER

12 * * *

13 (i)(1) If the dispute remains unresolved ~~45~~ 20 days after transmittal of
14 findings and recommendations or within a period of time mutually agreed upon
15 by the parties that may be not more than an additional 30 days, each party shall
16 submit to the Board or, upon the request of either party, to an arbitrator
17 mutually agreed upon by the parties its last best offer on all disputed issues as a
18 single package. If the parties cannot agree on an arbitrator, the American
19 Arbitration Association shall appoint a neutral third party to act as arbitrator.

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

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

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

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

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

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

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

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

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

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

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

21 § 1019. ~~MEDIATION ARBITRATION~~

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

3 ~~(b) The parties may jointly select a mediator. If they are unable to agree,~~
4 ~~either party may petition the Board to appoint a mediator who shall be a person~~
5 ~~of high standing and in no way actively connected with labor or management.~~
6 ~~The mediator may not be a person who has served as a mediator at an earlier~~
7 ~~stage of the same proceedings.~~

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

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

18 ~~(e) A hearing before an arbitrator shall be informal and the Rules of~~
19 ~~Evidence for judicial proceedings shall not be binding. The arbitrator may~~
20 ~~consider any relevant evidence. The arbitrator may administer oaths and may~~

1 ~~issue subpoenas to persons and documents and other evidence relating to the~~
2 ~~issues presented.~~

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

5 ~~(g) The arbitrator shall submit a report, including its costs, to the parties~~
6 ~~and to the Board no later than 30 days after the termination of the hearing,~~
7 ~~unless the time is extended by agreement of both parties. The determination~~
8 ~~by the arbitrator on all issues shall be final and binding on the parties and shall~~
9 ~~not be appealable to the Board or to any other judicial or administrative quasi-~~
10 ~~judicial challenge, except as follows:~~

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

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

17 ~~(B) The award was based on a matter not submitted and the award~~
18 ~~may be corrected without affecting the merits of the decision upon the issues~~
19 ~~submitted.~~

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

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

4 ~~(A) The award was procured by corruption, fraud, or other undue~~
5 ~~means.~~

6 ~~(B) There was evident partiality or prejudicial misconduct by the~~
7 ~~arbitrator.~~

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

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

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

17 Sec. 4. EFFECTIVE DATE

18 This act shall take effect on July 1, 2020.