

1 S.78

2 Introduced by Senator Hooker

3 Referred to Committee on

4 Date:

5 Subject: Executive; Judiciary Employees Labor Relations Act; binding  
6 arbitration

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

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

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

14 Sec. 1. 3 V.S.A. § 1018 is amended to read:

15 § 1018. MEDIATION; FACT-FINDING; LAST BEST OFFER

16 \* \* \*

17 (i)(1) If the dispute remains unresolved ~~15~~ 20 days after transmittal of  
18 findings and recommendations or within a period of time mutually agreed upon  
19 by the parties that may be not more than an additional 30 days, each party shall  
20 submit to the Board or, upon the request of either party, to an arbitrator

1 mutually agreed upon by the parties its last best offer on all disputed issues as a  
2 single package. If the parties cannot agree on an arbitrator, the American  
3 Arbitration Association shall appoint a neutral third party to act as arbitrator.

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

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

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

7 (C) unsealed and placed in the public record only when both parties'  
8 last best offers are filed with the Board or the arbitrator.

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

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

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

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

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

6 Sec. 2. 3 V.S.A. § 1019 is amended to read:

7 § 1019. ~~MEDIATION ARBITRATION~~

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

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

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

19           ~~(d) If the impasse remains unresolved for 15 days after the mediator's~~  
20 ~~certification to the Board, either party may petition the Board to appoint an~~  
21 ~~arbitrator who has been mutually agreed upon by the parties. If the parties fail~~

1 ~~to agree on an arbitrator within five days, the Board shall appoint an arbitrator~~  
2 ~~who shall be a person of high standing and not actively connected with labor or~~  
3 ~~management.~~

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

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

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

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

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

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

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

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

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

14           ~~(B) There was evident partiality or prejudicial misconduct by the~~  
15           ~~arbitrator.~~

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

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

19           ~~(3) An application to the Superior Court for review pursuant to~~  
20           ~~subdivision (2) of this subsection shall be made within 30 days after delivery~~  
21           ~~of a copy of the award to the applicant, except that in case of a claim of~~

1 ~~corruption, fraud or other undue means, in which case the petition shall be~~  
2 ~~made within 30 days after such grounds are known or should have been~~  
3 ~~known. [Repealed.]~~

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on July 1, 2021.