

1 H.174

2 Introduced by Representatives Casey of Montpelier and Headrick of

3 Burlington

4 Referred to Committee on

5 Date:

6 Subject: Executive; State Employees Labor Relations Act; Labor Relations

7 Board; grievances, unfair labor practices

8 Statement of purpose of bill as introduced: This bill proposes to remove
9 grievances from the Labor Relations Board workload and to require that the
10 final step in the grievance process be binding arbitration. This bill also
11 proposes to set deadlines for the handling of unfair labor practices before the
12 Labor Relations Board.

13 An act relating to the Vermont Labor Relations Board

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

15 * * * Binding Arbitration * * *

16 Sec. 1. 3 V.S.A. § 904 is amended to read:

17 § 904. SUBJECTS FOR BARGAINING

18 (a) All matters relating to the relationship between the employer and
19 employees shall be the subject of collective bargaining except those matters
20 that are prescribed or controlled by statute. The matters appropriate for

1 collective bargaining to the extent they are not prescribed or controlled by
2 statute include:

3 (1) wages, salaries, benefits, and reimbursement practices relating to
4 necessary expenses and the limits of reimbursable expenses;

5 (2) minimum hours per week;

6 (3) working conditions;

7 (4) overtime compensation and related matters;

8 (5) leave compensation and related matters;

9 (6) reduction-in-force procedures;

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

13 * * *

14 Sec. 2. 3 V.S.A. § 926 is amended to read:

15 § 926. GRIEVANCES

16 (a) ~~The Board shall hear and make a final determination on the grievances~~
17 ~~of all employees who are eligible to appeal grievances to the Board. Grievance~~
18 ~~hearings at the Board level shall be conducted in accordance with the rules and~~
19 ~~regulations adopted by the Board. The right to institute grievance proceedings~~
20 extends to individual employees, groups of employees, and collective
21 bargaining units.

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

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

- 9 (1) procedural rules for conducting grievance arbitration proceedings;
- 10 (2) whether grievance arbitration proceedings will be confidential; and
- 11 (3) whether arbitrated grievance determinations will have precedential
12 value.

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

16 (e) ~~Any collective~~ Collective bargaining agreement ~~that contains a binding~~
17 ~~arbitration provision pursuant to this section~~ agreements shall include an
18 acknowledgement of arbitration that provides substantially the following:

19 **ACKNOWLEDGEMENT OF ARBITRATION**

20 (The parties) understand that this agreement contains a provision for binding
21 arbitration as a final step of the grievance process. After the effective date of

1 this agreement, no grievance, ~~submitted to binding arbitration,~~ may be brought
2 to the Vermont Labor Relations Board. ~~An employee who has declined~~
3 ~~representation by the employee organization or whom the employee~~
4 ~~organization has declined to represent or is unable to represent, shall be~~
5 ~~entitled, either by representing himself or herself or with the assistance of~~
6 ~~independent legal counsel, to appeal his or her grievance to the Vermont Labor~~
7 ~~Relations Board as the final step of the grievance process in accordance with~~
8 ~~the rules and regulations adopted by the Board.~~

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

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

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

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

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

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

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

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

12 (3) The arbitrator exceeded ~~his or her~~ the arbitrator's power or rendered
13 an award requiring a person to commit an act or engage in conduct prohibited
14 by law.

15 (i) ~~The Board shall hear and make a final determination on the~~ The
16 grievances of all retired individual employees of the University of Vermont,
17 groups of such retired individuals, and retired collective bargaining unit
18 members of the University of Vermont shall be submitted to binding
19 arbitration for a final determination. Grievances shall be limited to those
20 relating to compensation and benefits that were accrued during active
21 employment but are received after retirement. As used in this subsection,

1 “grievance” means an allegation of a violation of a collective bargaining
2 agreement, employee handbook provision, early retirement plan, individual
3 separation agreement or other documented agreement, or rule or regulation of
4 the University of Vermont.

5 Sec. 3. 3 V.S.A. § 928 is amended to read:

6 § 928. RULES

7 (a) The Board, as necessary to carry out the provisions of this chapter, shall
8 adopt and may amend and rescind rules consistent with this chapter.

9 ~~(b) Notwithstanding the provisions of subsection (a) of this section, rules~~
10 ~~adopted by the Board as they relate to grievance appeals shall provide:~~

11 ~~(1) If a collective bargaining agreement provides that an appeal to the~~
12 ~~Board will constitute the final step in the grievance procedure, all employees~~
13 ~~and other persons authorized by this chapter shall have the right to appeal to~~
14 ~~the Board in accordance with the rules of the Board.~~

15 ~~(2) That a reasonable notice be given to the State agency or officer, and~~
16 ~~State employee, and the representative concerned and to the Commissioner of~~
17 ~~Human Resources.~~

18 ~~(3) That all hearings of the Board shall be public and, unless both parties~~
19 ~~concerned request that it be formal, hearings shall be informal and not subject~~
20 ~~to the rules of pleadings, procedure, and evidence of the courts of the State.~~

1 ~~(4) That all parties in interest to any appeal shall be entitled to be heard~~
2 ~~on any matter at issue.~~

3 ~~(5) That in appeals from the decisions of the Department of Human~~
4 ~~Resources or any State agency or officer, the State agency and officer and the~~
5 ~~State employee shall be parties in interest, and the Commissioner of Human~~
6 ~~Resources or the collective bargaining representative on motion, may intervene~~
7 ~~as a party in interest.~~

8 ~~(6) That the parties at interest shall have the right to present witnesses,~~
9 ~~give evidence, and examine witnesses before the Board.~~

10 ~~(7)(A)(i) That the name of any grievant whom the Board exonerates of~~
11 ~~misconduct for which he or she was disciplined shall be redacted from the~~
12 ~~version of the Board's decision that is posted on the Board's website.~~

13 ~~(ii) Nothing in this subdivision (7)(A) shall be construed to require~~
14 ~~the Board to redact the name of the grievant from any other version of the~~
15 ~~Board's decision or from any other documents related to the grievance.~~

16 ~~(B) Nothing in this subdivision (7) shall be construed to modify an~~
17 ~~individual's right to privacy pursuant to any law, rule, or policy.~~

1 Sec. 4. 3 V.S.A. § 941 is amended to read:

2 § 941. UNIT DETERMINATION, CERTIFICATION, AND
3 REPRESENTATION

4 * * *

5 (i) ~~The Board, by rule, shall prescribe a uniform procedure for the~~
6 ~~resolution of employee grievances submitted through the collective bargaining~~
7 ~~machinery. If the collective bargaining agreement does not provide that~~
8 ~~binding arbitration will be the final step of the negotiated grievance procedure~~
9 ~~pursuant to section 926 of this chapter, the final step of the negotiated~~
10 ~~grievance procedure, if required, shall be a hearing and final determination by~~
11 ~~the Board. Grievance hearings conducted by the Board shall be informal and~~
12 ~~not subject to the rules of pleading procedure, and evidence of the courts of the~~
13 ~~State. Any employee or group of employees included in a duly certified~~
14 ~~bargaining unit may be represented before the Board by its bargaining~~
15 ~~representative's counsel or designated executive staff employees or by any~~
16 ~~individual the Board may permit at its discretion. [Repealed.]~~

17 * * *

18 Sec. 5. 3 V.S.A. § 1001 is amended to read:

19 § 1001. GRIEVANCES; APPLICANTS AND EXCLUDED PERSONNEL

20 * * *

1 (c) Any dispute concerning the amount of a collective bargaining service
2 fee may be grieved as set forth in the collective bargaining agreement through
3 ~~either an appeal to the Vermont Labor Relations Board in accordance with the~~
4 ~~Board's rules concerning grievances, or through~~ binding arbitration.

5 * * * Unfair Labor Practices * * *

6 Sec. 6. 3 V.S.A. § 965 is amended to read:

7 § 965. PREVENTION OF UNFAIR PRACTICES

8 (a) The Board may prevent any person from engaging in any unfair labor
9 practice listed in sections 961–962 of this title. Whenever a charge is made
10 that any person has engaged in or is engaging in any unfair labor practice, the
11 Board may issue and cause to be served upon that person a complaint stating
12 the charges in that respect and containing a notice of hearing before the Board
13 at a place and time ~~therein~~ fixed at least seven business days after the
14 complaint is served. The Board may amend the complaint at any time before it
15 issues an order based ~~thereon~~ on the complaint. No complaint shall issue
16 based on any unfair labor practice occurring more than six months prior to the
17 filing of the charge with the Board and the service of a copy ~~thereof~~ of the
18 charge upon the person against whom such charge is made, unless the ~~person~~
19 ~~aggrieved thereby~~ individual filing the charge was prevented from ~~filing the~~
20 ~~charge~~ doing so by reason of service in the U.S. Armed Forces, in which event

1 the six-month period shall be computed from the day of ~~his or her~~ the
2 individual's discharge.

3 (b) The person complained of shall have the right to file an answer to the
4 original or amended complaint and appear in person or otherwise and present
5 evidence in connection ~~therewith~~ with the complaint at the time and place
6 fixed ~~in the complaint~~ by the Board. In the discretion of the Board, any other
7 person may be permitted to intervene and present evidence in the matter. Any
8 proceeding under this section shall, so far as practicable, be conducted in
9 accordance with Rules of Evidence used in the courts. The Board shall
10 provide for the making of a transcript of the testimony presented at the hearing.

11 * * *

12 (f) No order of the Board shall require the reinstatement of any individual
13 as an employee who has been suspended or discharged or ~~the~~ payment to ~~him~~
14 ~~or her~~ the individual of any back pay, if ~~such~~ the individual was suspended or
15 discharged for cause, except through the grievance procedures.

16 (g) The following timelines shall apply to charges brought under this
17 section:

18 (1) The party against whom an unfair labor practice charge is filed shall
19 file the answer not later than 14 days after receipt of service of the complaint.

20 (2) The Board shall hold a hearing on the unfair labor practice charge
21 not later than 90 days after the date upon which the answer is filed, absent

1 extenuating circumstances. If extenuating circumstances require additional
2 time before a hearing is held, the Board shall promptly notify the parties of the
3 reason for the extension and set a new date and time for the hearing.

4 (3) Post-hearing briefs, if any, shall be filed not later than 14 days after
5 the hearing.

6 (4) The Board shall issue its decision on the unfair labor practice charge
7 not later than 30 days after the hearing or after receipt of the parties' post-
8 hearing briefs, whichever is later.

9 * * * Effective Date * * *

10 Sec. 7. EFFECTIVE DATE

11 This act shall take effect on July 1, 2025.