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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - MUNICIPAL EMPLOYEE
ARBITRATION

Introduced By: Representative Donald J. Lally

Date Introduced: February 16, 2012

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-9.4-1, 28-9.4-3, 28-9.4-4, 28-9.4-12 and 28-9.4-13 of the
2 General Laws in Chapter 28-9.4 entitled "Municipal Employees' Arbitration" are hereby amended
3 to read as follows:

4 **28-9.4-1. Declaration of policy -- Purpose.** -- (a) It is declared to be the public policy of
5 this state to accord to municipal employees as hereinafter defined, the right to organize, to be
6 represented, to negotiate, and to bargain on a collective basis with municipal employers, as
7 hereinafter defined ~~covering concerning~~ hours, ~~salary, working conditions~~ wages, rates of pay,
8 and other terms and conditions of employment; provided, that nothing contained in this chapter
9 shall be construed to accord to municipal employees the right to strike.

10 (b) To provide for the exercise of these rights, a method of arbitration of disputes is
11 hereby established. The establishment of this method of arbitration shall not, however, in any
12 way whatsoever, be deemed to be a recognition by the state of compulsory arbitration as a
13 superior method of settling labor disputes between employees who possess the right to strike and
14 their employers, but rather shall be deemed to be a recognition solely of the necessity to provide
15 some alternative mode of settling disputes where employees must, as a matter of public policy, be
16 denied the usual right to strike.

17 **28-9.4-3. Right to organize and bargain collectively.** -- (a) The municipal employees of
18 any municipal employer in any city, town, or regional school district shall have the right to

1 negotiate and to bargain collectively with their respective municipal employers and to be
2 represented by an employee organization in the negotiation or collective bargaining concerning
3 hours, ~~salary, working conditions,~~ wages, rates of pay, and all other terms and conditions of
4 employment.

5 (b) Notwithstanding the provisions of subsection (a), for those municipal employees who
6 are employed by school districts, collective bargaining agreements shall not provide for benefits
7 for health care ("benefit plans") for school district employees unless such benefit plans are
8 authorized in accordance with chapter 27-73. School district employees whose collective
9 bargaining agreements expire on or after September 30, 2011 may, upon expiration of such
10 collective bargaining agreements, receive benefit plans including, but not limited to, those
11 recommended in accordance with chapter 27-73.

12 **28-9.4-4. Recognition of bargaining agent.** -- The employee organization selected by
13 the municipal employees in an appropriate bargaining unit, as determined by the state labor
14 relations board, shall be recognized by the municipal employer or the city, town, or district as the
15 sole and exclusive negotiating or bargaining agent for all of the municipal employees in the
16 appropriate bargaining unit in the city, town, or school district unless and until recognition of the
17 employee organization is withdrawn or changed by vote of the municipal employees in the
18 appropriate bargaining unit after a duly conducted election held pursuant to the provisions of this
19 chapter. An employee organization or the municipal employer may designate any person or
20 persons to negotiate or bargain in its behalf; provided, however, that the person or persons so
21 designated shall be given the authority to enter into and conclude an effective and binding
22 collective bargaining agreement.

23 **28-9.4-12. Hearings.** -- (a) The arbitrators shall call a hearing to be held within ten (10)
24 days after their appointment and shall give at least seven (7) days notice, in writing, to the
25 negotiating or bargaining agent and the municipal employer of the time and place of the hearing.

26 (b) The hearing shall be informal, and the rules of evidence prevailing in judicial
27 proceedings shall not be binding. Any and all documentary evidence and other data deemed
28 relevant by the arbitrators may be received in evidence.

29 (c) The arbitrators shall have the power to administer oaths and to require by subpoena
30 the attendance and testimony of witnesses, and the production of books, records, and other
31 evidence relative or pertinent to the issues presented to them for determination.

32 (d) Both the negotiating or bargaining agent and the municipal employer shall have the
33 right to be represented at any hearing before the arbitrators by counsel ~~of their own choosing.~~

34 (e) The hearing conducted by the arbitrators shall be concluded within twenty (20) days

1 of the time of commencement, and within ten (10) days after the conclusion of the hearings, the
2 arbitrators shall make written findings and a written opinion upon the issues presented, a copy of
3 which shall be mailed or otherwise delivered to the negotiating or bargaining agent or its attorney
4 or other designated representative and the municipal employer. [A majority decision of the](#)
5 [arbitrators shall be final and binding upon both the bargaining agent and the municipal employer.](#)

6 **28-9.4-13. Appeal from decision.** -- (a) The decision of the arbitrators shall be made
7 public and shall be binding upon the municipal employees in the appropriate bargaining unit and
8 their representative and the municipal employer on all matters ~~not involving the expenditure of~~
9 ~~money.~~

10 (b) The decision of the arbitrators shall be final and cannot be appealed except on the
11 ground that the decision was procured by fraud or that it violates the law, in which case appeals
12 shall be to the superior court.

13 (c) The municipal employer shall within three (3) days after it receives the decision send
14 a true copy of the decision by certified or registered mail postage prepaid to the department or
15 agency of the municipal employer responsible for the preparation of the budget and to the agency
16 of the municipal employer which appropriates money for the operation of the particular municipal
17 function or service in the city, town, or regional school district involved, if the decision involves
18 the expenditure of money.

19 SECTION 2. Chapter 28-9.4 of the General Laws entitled "Municipal Employees'
20 Arbitration" is hereby amended by adding thereto the following sections:

21 **28-9.4-10.1. Continuance of contractual provisions.** -- [All contractual provisions](#)
22 [contained in a collective bargaining agreement entered into pursuant to the provisions of this](#)
23 [chapter shall continue in the following collective bargaining agreement unless either the](#)
24 [bargaining agent or the corporate authority shall, in writing, within the thirty \(30\) day period](#)
25 [referred to in section 28-9.4-10, propose a change in any contractual provision. In the event that](#)
26 [at the conclusion of the thirty \(30\) day period referred to in section 28-9.4-10 a successor](#)
27 [collective bargaining agreement has not been agreed to by the parties, then all contractual benefits](#)
28 [in effect in the predecessor agreement shall continue to be in effect and enforceable until such](#)
29 [time as a successor agreement has been reached between the parties or an arbitration award has](#)
30 [been rendered.](#)

31 **28-9.4-12.1. Factors to be considered by arbitration board.** -- (a) [The arbitrators shall](#)
32 [conduct the hearings and render their decision upon the basis of a prompt, peaceful and just](#)
33 [settlement of wages, rates of pay, hours or term and conditions of employment disputes, between](#)
34 [the municipal employees and the municipal employer by which they are employed. The factors](#)

1 among others, to be given weight by the arbitrators in arriving at a decision shall include:

2 (1) Comparison of wage rates or hourly conditions of employment of a municipal
3 employer in question with prevailing wage rates or hourly conditions of employment of skilled
4 employees of the building trades and industry in the local operating area involved;

5 (2) Comparison of wage rates or hourly conditions of employment of the municipal
6 employer in question with wage rates or hourly conditions of employment maintained for the
7 same or similar work of employees exhibiting like or similar skills under the same or similar
8 working conditions in the local operating area involved;

9 (3) Comparison of wage rates or hourly conditions of employment of the municipal
10 employer in question with wage rates or hourly conditions of employment of municipal
11 employers in cities or towns of comparable size;

12 (4) Interest and welfare of the public;

13 (5) Comparison of peculiarities of employment in regards to other trades or professions,
14 specifically:

15 (i) Hazards of employment;

16 (ii) Physical qualifications;

17 (iii) Educational qualifications;

18 (iv) Mental qualifications; and

19 (v) Job training and skills.

20 **28-9.4-13.1. Writ of certiorari to the supreme court.** – In the event a decision of the
21 arbitration panel is sought to be reviewed by writ of certiorari to the supreme court, then said
22 matter shall be given priority by the supreme court.

23 **28-9.4-14.1. Attorneys' fees - costs - interest.** – In the event neither the bargaining agent
24 or the corporate authorities shall appeal or petition to any court, tribunal or forum of competent
25 jurisdiction within the state of Rhode Island for review or modification of a majority decision of
26 the arbitrators, which by the provisions of section 28-9.4-12 is binding upon both the bargaining
27 agent and the corporate authorities, the party against whom the final decision of any such court,
28 tribunal or forum of competent jurisdiction shall be adverse, if such court, tribunal or forum finds
29 such appeal or petition to be frivolous shall pay reasonable attorneys' fees and costs to the
30 successful party as determined by the court, tribunal or forum of competent jurisdiction shall in
31 its final decision or judgment therein award such costs and reasonable attorneys' fees; and if such
32 final decision affirms the award of money, such award, if retroactive, shall bear interest at the rate
33 of eight per centum (8%) per annum from the effective retroactive date.

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would expand the matters that may be decided by a municipal employee interest
2 arbitrator panel. It would require the continuance of the contractual provisions, after the
3 expiration of the collective bargaining agreement. Finally, it establishes factors to be considered
4 by the arbitration board.

5 This act would take effect upon passage.

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