

=====
LC01822
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- CORRECTIONAL OFFICERS --
ARBITRATORS

Introduced By: Senators Polisena, and Damiani

Date Introduced: February 11, 2004

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "Labor and Labor Relations" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 9.7

4 CORRECTIONAL OFFICERS ARBITRATION

5 **28-9.7-1. Short title.** -- This chapter may be cited as the "Correctional Officers
6 Arbitration Act."

7 **28-9.7-2. Statement of policy.** -- (a) The protection of the public health, safety and
8 welfare demands that the full-time correctional officers of the state of Rhode Island not be
9 accorded the right to strike or engage in any work stoppage or slowdown. This necessary
10 prohibition does not, however, require the denial to such state employees of other well recognized
11 rights of labor, such as the right to organize, to be represented by an organization of their choice,
12 and the right to bargain collectively concerning wages, rates of pay, and other terms and
13 conditions of employment.

14 (b) It is hereby declared to be the public policy of this state to accord to the full-time
15 correctional officers of the state all of the rights of labor other than the right to strike or engage in
16 any work stoppage or slowdown. To provide for the exercise of these rights, a method of
17 arbitration of disputes is hereby established.

18 (c) The establishment of this method of arbitration shall not, however, in any way

1 whatever, be deemed to be recognized by the state of compulsory arbitration as a superior method
2 of settling labor disputes between employees who possess the right to strike and their employers,
3 but rather shall be deemed to be a recognition solely of the necessity to provide some alternative
4 mode of settling disputes where employees must as a matter of public policy be denied the usual
5 right to strike.

6 **28-9.7-3. Definitions. - -** As used in this chapter, the following terms shall, unless the
7 context requires a different interpretation have the following meanings:

8 (1) "State authorities" shall mean the proper officials of the state whose duty or duties it
9 is to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and
10 conditions of employment of correctional officers;

11 (2) "Correctional officers" shall mean the full-time correctional officer of the state of
12 Rhode Island.

13 **28-9.7-4. Right to organize and bargain collectively. - -** The correctional officers shall
14 have the right to bargain collectively with the state of Rhode Island and to be represented by an
15 organization in the collective bargaining as to wages, rates of pay, hours, working conditions, and
16 all other terms and conditions of employment.

17 **28-9.7-5. Recognition of bargaining agent. - -** The organization selected by the
18 majority of the correctional officers shall be recognized by the state as the sole and exclusive
19 bargaining agent for all of the correctional officers unless and until recognition of the
20 organization is withdrawn by vote of a majority of the correctional officers. The labor
21 organization or state may designate any person or persons to negotiate or bargain on its behalf;
22 provided, however, that the person or persons so designated shall be given authority to enter into
23 and conclude an effective and binding collective bargaining agreement.

24 **28-9.7-6. Obligation to bargain. - -** It shall be the obligation of the state, acting through
25 state authorities, to meet and confer in good faith with the designated representative or
26 representatives of the bargaining agent, including any legal counsel selected by the bargaining
27 agent, within ten (10) days after receipt of written notice from the bargaining agent of the request
28 for a meeting for collective bargaining purposes. This obligation shall include the duty to cause
29 any agreement resulting from the negotiations to be reduced to a written contract, provided that
30 no contract shall exceed the term of three (3) years.

31 **28-9.7-7. Unresolved issues submitted to arbitration. - -** In the event that the
32 bargaining agent and the state authorities are unable within thirty (30) days from and including
33 the date of their first meeting to reach an agreement on a contract, any and all unresolved issues
34 shall be submitted to arbitration.

1 **28-9.7-8. Arbitration board - - Composition.** - - Within five (5) days from the
2 expiration of the thirty (30) day period referred to in section 28-9.7-7, the bargaining agent and
3 the state authorities shall each select and name one (1) arbitrator and shall immediately thereafter
4 notify each other in writing of the name and address of the person so selected. The two (2)
5 arbitrators so selected and named shall, within ten (10) days from and after the expiration of the
6 five (5) day period above agree upon and select and name a third arbitrator. If, on the expiration
7 of the period allowed therefor, the arbitrators are unable to agree upon the selection of a third
8 arbitrator, the chief justice of the Rhode Island supreme court shall select a resident of Rhode
9 Island or a person whose place of business or principal place of employment is in Rhode Island as
10 the third arbitrator upon request in writing from either the bargaining agent or the state
11 authorities. The third arbitrator, whether selected as a result of agreement between the two (2)
12 arbitrators previously selected or selected by the chief justice, shall act as chair of the arbitration
13 board.

14 **28-9.7-9. Hearings.** - - (a) The arbitration board shall, acting through its chair, call a
15 hearing to be held within ten (10) days after the date of appointment of the chairperson, and shall,
16 acting through its chairperson, give at least seven (7) days' notice in writing to each of the other
17 two (2) arbitrators, the bargaining agent, and the state authorities of the time and place of the
18 hearing. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings
19 shall not be binding. Any and all documentary evidence and other data deemed relevant by the
20 arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths
21 and to require by subpoena the attendance and testimony of witnesses, the production of books,
22 records, and other evidence relative or pertinent to the issues presented to them for determination.

23 (b) The hearing conducted by the arbitrators shall be concluded within twenty (20) days
24 of the time of commencement, and within ten (10) days after the conclusion of the hearings, the
25 arbitrators shall make written findings and a written opinion upon the issues presented, a copy of
26 which shall be mailed or otherwise delivered to the bargaining agent or its attorney or otherwise
27 delegated representative and to the state authorities. A majority decision of the arbitrators shall be
28 binding upon both the bargaining agent and the state authorities.

29 **28-9.7-10. Factors to be considered by arbitration board.** - - The arbitrators shall
30 conduct the hearings and render their decision upon the basis of a prompt, peaceful, and just
31 settlement of wage or hour disputes between the correctional officers and the state. The factors
32 among others to be given weight by the arbitrators in arriving at a decision shall include:

33 (1) Comparison of wage rates or hourly conditions of employment of the correctional
34 officers with prevailing wage rates or hourly conditions of employment of skilled employees of

1 the building trades and industry in the state;

2 (2) Comparison of wage rates or hourly conditions of employment of the correctional
3 officers with wage rates or hourly conditions of employment of correctional officers in other
4 states;

5 (3) Interest and welfare of the public;

6 (4) Comparison of peculiarities of employment in regard to other trades or professions,
7 specifically:

8 (i) Hazards of employment;

9 (ii) Physical qualifications;

10 (iii) Educational qualifications;

11 (iv) Mental qualifications;

12 (v) Job training and skills.

13 **28-9.7-11. Fees and expenses of arbitration.** - - Fees and necessary expenses of
14 arbitration shall be borne equally by the bargaining agent and the state. Notwithstanding any
15 other remedies with a court-appointed arbitrator appointed by the chief justice pursuant to section
16 28-9.7-8 may have the arbitrator or a party who has paid its share of the fees and necessary
17 expenses of a court-appointed arbitrator may petition the superior court for sanctions against the
18 party failing to make timely payment of its share of such arbitrator's fees and expenses and the
19 superior court is authorized to enforce the sanctions against the nonpaying party, including, but
20 not limited to, contempt powers pursuant to section 8-6-1.

21 **28-9.7-12. Collective bargaining contract.** - - Any agreements actually negotiated
22 between the bargaining agent and the state authorities either before or within thirty (30) days after
23 arbitration shall constitute the collective bargaining contract governing correctional officers and
24 the state for the period stated therein, provided that the period shall not exceed three (3) years.
25 Any collective bargaining agreement negotiated under the terms and provisions of this chapter
26 shall specifically provide that the correctional officers who are subject to its terms shall have no
27 right to engage in any work stoppage, slowdown or strike, the consideration for the provision
28 being the right to a resolution of disputed questions.

29 **28-9.7-13. Request for collective bargaining.** - - Whenever wages, rates of pay, or any
30 other matter requiring appropriation of money by the state are included as matter of collective
31 bargaining conducted under the provisions of this chapter, it is the obligation of the bargaining
32 agent to serve written notice of request for collective bargaining on the state authorities at least
33 one hundred twenty (120) days before the last day on which money can be appropriated by the
34 state to cover the contract period which is the subject of the collective bargaining procedure.

1 **28-9.7-14. Writ of certiorari to the supreme court.** - - The sole avenue of review of a
2 decision of an arbitration panel issued pursuant to this chapter shall be by petition for writ of
3 certiorari to the supreme court. In the event a decision of the arbitration panel is sought to be
4 reviewed by writ of certiorari to the supreme court, then the matter shall be given priority by the
5 supreme court.

6 **28-9.7-15. Attorneys' fees, costs, and interest.** - - In the event either the bargaining
7 agent or the state authorities shall file a petition for writ of certiorari to the supreme court of the
8 state of Rhode Island for a review or modification of a majority decision of the arbitrators, which
9 by the provisions of section 28-9.7-9 is binding upon both the bargaining agent and the state
10 authorities, the party against whom the decision of the supreme court shall be adverse, if the
11 supreme court finds the appeal or petition to be frivolous shall pay reasonable attorneys' fees and
12 costs to the successful party as determined by the supreme court and the supreme court shall in its
13 final decision affirms and awards the costs and reasonable attorneys' fees; and if the final
14 decision affirms the award of money, the award, if retroactive, shall bear interest at the rate of
15 eight percent (8%) per annum from the effective retroactive date.

16 **28-9.7-16. Severability.** - - If any provision of this chapter, or application thereof to any
17 person or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of
18 this chapter and the application of the provisions to other persons or circumstances, other than
19 those to which it is held invalid, shall not be affected thereby.

20 **28-9.7-17. Affirmative action provisions.** - - The correctional officers shall include
21 proposals for affirmative action provisions as a subject for all collective bargaining negotiations.
22 The proposals shall include, at a minimum, but not limited to, the following personnel actions,
23 recruitment, new hires, promotions, transfers, terminations, training and education, layoffs and
24 return from layoff.

25 SECTION 2. This act shall take effect upon passage.

=====
LC01822
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- CORRECTIONAL OFFICERS --
ARBITRATORS

- 1 This act would create a correctional officers arbitration procedure and would provide for
- 2 an arbitration board and provisions for collective bargaining.
- 3 This act would take effect upon passage.

=====
LC01822
=====

