

SENATE No. 1260

The Commonwealth of Massachusetts

PRESENTED BY:

Marc R. Pacheco

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to establishing binding arbitration for Bristol County correction officers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>

SENATE No. 1260

By Mr. Pacheco, a petition (accompanied by bill, Senate, No. 1260) of Marc R. Pacheco, Michael J. Rodrigues, William M. Straus and Antonio F. D. Cabral for legislation relative to establishing binding arbitration for Bristol County correction officers. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to establishing binding arbitration for Bristol County correction officers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 150E of the General Laws, appearing in the 2004 Official edition,
2 is hereby amended by adding the following new section:

3 Section 16. If an employee organization duly recognized as representing employees of
4 the Bristol County Jail and House of Correction of the Bristol County Sheriff’s Department is
5 engaged in successor contract negotiations with the employer which have not resulted in an
6 agreement, then such employee organization shall petition the board to make an investigation.

7 If, after an investigation, the board determines that such negotiations have not resulted in
8 agreement, then the board shall notify the employer and the employee organization that the
9 unresolved issues in such negotiations shall be resolved by an arbitration before an arbitrator
10 selected by the employee organization and the employer pursuant to the voluntary labor
11 arbitration rules and procedures of the American Arbitration Association.

12 The arbitrator so designated shall establish a hearing schedule, shall preside over the
13 hearing, and shall take evidence.

14 The arbitrator shall preside over the hearing and shall take testimony. Any oral or
15 documentary evidence and other data deemed relevant by the arbitrator may be received into
16 evidence. The arbitrator shall have the power to administer oaths and to require by subpoena the
17 attendance and testimony of witnesses, the production of books, records, and other evidence
18 relative to or pertinent to the issues presented to them for determination. If any person refuses to
19 obey a subpoena, or refuses to be sworn or to testify, or if any witness, party, or attorney is guilty
20 of any contempt while in attendance at any hearing, the arbitrator may, or the district attorney if

21 requested, shall invoke the aid of the superior court within the jurisdiction in which the hearing is
22 being held, which court shall issue an appropriate order.

23 A record of the proceedings shall be kept, the arbitrator shall arrange for the necessary
24 recording service. Transcripts may be ordered at the expense of the party ordering them, but the
25 transcripts shall not be necessary for an award by the arbitrator. The hearing may be continued
26 at the discretion of the arbitrator and shall be concluded within forty days from the time of
27 commencement, provided that for good cause shown the arbitrator may extend this deadline.
28 The arbitrator shall resolve any issue before him/her on the basis of the Employer's proposal, the
29 Union's proposal, or some compromise position between the two proposals. The arbitrator's
30 decision shall be final and binding upon the parties and the Employer shall recommend and
31 support funding of such decision by the appropriating authority. Within thirty calendar days of
32 the last and best offer selection and award, the arbitrator, shall issue a written opinion inclusive
33 of an analysis of all statutory factors applicable to the proceedings.

34 At any time before the rendering of an award by the arbitrator, if he is of the opinion that
35 it would be useful or beneficial to do so, he may remand the dispute to the parties for further
36 collective bargaining for the period not to exceed three weeks and notify the board of the
37 remand. If the dispute is remanded for further collective bargaining the time provisions of this
38 act shall be extended for a time period equal to that of the remand.

39 In the event that the representatives of the parties mutually resolve each of the issues in
40 dispute and agree to be bound accordingly, said representatives may, at any time prior to the final
41 decision by the arbitrator, request that the arbitration proceedings be terminated and the arbitrator
42 shall thereupon terminate the proceedings.

43 The factors among others, to be given weight by the arbitrator in arriving at the decision
44 shall include;

45 (1) The financial ability of the Employer to meet the costs.

46 (2) The interests and welfare of the public.

47 (3) The hazards of employment, physical, educational and mental qualifications, job
48 training and skills involved.

49 (4) A comparison of wages, hours and conditions of employment of the employees
50 involved in the arbitration proceedings with the wages, hours and conditions of employment of
51 other employees performing similar services and with other employees generally in public and
52 private employment in comparable districts, communities, or other state or federal jurisdictions.

53 (5) The average consumer prices for goods and services, commonly known as the cost of
54 living.

55 (6) The overall compensation presently received by the employees, including direct
56 wages and fringe benefits.

57 (7) Changes in any of the foregoing circumstances during the pendency of the arbitration
58 proceedings.

59 (8) Such other factors, not confined to the foregoing, which are normally or traditionally
60 taken into consideration in the determination of wages, hours and conditions of employment
61 through voluntary collective bargaining, mediation fact-finding, arbitration or otherwise between
62 parties, in the public service or in private employment.

63 (9) The stipulation of the parties.

64 Any determination or decision of the arbitrator may be enforced at the instance of either
65 party pursuant to G. L, Chapter 150C, provided however, that the scope of arbitration shall
66 include wages, hours, standards of productivity and performance, and any other term and
67 condition of employment.

68 The commencement of a new municipal finance year prior to the final awards by the
69 arbitrator shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or
70 authority of the arbitrator or his award. Any award of the arbitrator may be retroactive to the
71 expiration date of the last contract.

72 If an employer, or an employee organization willfully disobeys a lawful order of
73 enforcement pursuant to this section, or willfully encourages or offers resistance to such order,
74 whether by strike or otherwise, the punishment for each day that such contempt continues may
75 be a fine for each day to be determined at the discretion of said court.

76 The costs of arbitration proceedings under this section shall be divided equally between
77 the parties. Compensation for the arbitrator shall be in accordance with a schedule of payment
78 established by the American Arbitration Association.