

SENATE No. 267

To accompany the petition of George E. Roewer for legislation relative to the powers and duties of the State Board of Conciliation and Arbitration. Labor and Industries.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Eight.

AN ACT AMENDING THE LAW PERTAINING TO THE POWERS
AND DUTIES OF THE STATE BOARD OF CONCILIATION AND
ARBITRATION.

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. Section three of chapter one hundred
2 and fifty of the General Laws is hereby amended by
3 striking out, in lines seven, eight, nine and ten, the
4 words "and such employer at that time is employ-
5 ing, or upon the occurrence of the strike or lockout
6 was employing not less than twenty-five persons in
7 the same general line of business in any town in the
8 commonwealth", — so that the whole shall read: —
9 *Section 3.* The mayor of a city or the selectmen of
10 a town, having knowledge that a strike or lockout
11 is seriously threatened or has actually occurred
12 therein, shall at once give notice to the board. Notice
13 may be given by the employer or by the employees
14 concerned in the controversy, strike or lockout.
15 When the board has knowledge that a strike or lock-
16 out, which involves an employer and his present or

17 former employees, is seriously threatened or has
18 actually occurred, the board shall, as soon as may
19 be, communicate with such employer and employees
20 and endeavor by mediation to obtain an amicable
21 settlement, or endeavor to persuade them to submit
22 the controversy to a local board of conciliation and
23 arbitration established under section nine or to the
24 board. If a settlement is not agreed upon and the
25 parties refuse to submit the matter in dispute to
26 arbitration, the board shall investigate the cause of
27 such controversy and ascertain which of the parties
28 thereto is mainly responsible or blameworthy for the
29 existence or continuance of the same, and shall, un-
30 less a settlement of the controversy is reached, make
31 and publish a report finding such cause and assigning
32 such responsibility or blame. The board may employ
33 agents to assist in said investigation. It shall, upon
34 the request of the governor, investigate and report
35 upon a controversy if in his opinion it seriously af-
36 fects or threatens seriously to affect the public wel-
37 fare. The board shall have the same powers for the
38 foregoing purpose as are given to it by sections five
39 to eight, inclusive. The board shall by publication
40 or otherwise inform employers and employees of
41 their duty to give notice to the board before resorting
42 to a strike or lockout and of the provisions of this
43 chapter affecting the rights of employers and em-
44 ployees relative to industrial disputes.

1 SECTION 2. Section five of chapter one hundred
2 and fifty of the General Laws is hereby amended by
3 striking out in lines two, three and four thereof, the
4 words "a person employing not less than twenty-
5 five persons in the same general line of business"

6 and substituting therefor the word: — employer, —
7 and by striking out, in lines seventeen, eighteen,
8 nineteen, twenty and twenty-one thereof, the words
9 “or until the expiration of sixty days after either
10 party has given notice in writing to the other party
11 and to the board of his intention not to be bound
12 thereby. Such notice may be given to said employees
13 by posting it in three conspicuous places in the shop
14 or factory where they work”, — so that the whole
15 section shall read: — *Section 5.* If a controversy
16 not involving questions which may be the subject
17 of an action at law or suit in equity exists between
18 an employer and his employees, the board shall,
19 upon application as provided in the following sec-
20 tion, as soon as practicable visit the place where the
21 controversy exists and make careful inquiry into its
22 cause, and may, with the consent of the governor,
23 conduct such inquiry outside the commonwealth.
24 The board shall hear all persons interested who come
25 before it, advise the respective parties what ought
26 to be done or submitted to by either or both to adjust
27 said controversy, and make a written decision thereof
28 which shall at once be made public, shall be open to
29 public inspection and shall be recorded by the board.
30 A short statement thereof may, in the discretion of
31 the board, be published in the annual report, and the
32 board shall cause a copy thereof to be filed with the
33 clerk of the town in which said business is carried
34 on. Said decision shall for six months be binding
35 upon the parties who join in said application.

1 SECTION 3. There shall be added after section
2 eight and before section nine of chapter one hundred
3 and fifty the following new section: —

4 *Section 8A.* (a) The board shall have power to
5 petition the superior court in any county where the
6 employer resides or transacts business for the en-
7 forcement of any decision made under section five of
8 this act and for appropriate temporary relief or re-
9 straining order, and shall certify and file in the court
10 a transcript of the entire record in the proceeding,
11 including the pleadings and testimony upon which
12 such decision was entered and the findings and order
13 of the board. Upon such filing, the court shall cause
14 notice thereof to be served upon all parties and there-
15 upon shall have jurisdiction of the proceeding and of
16 the question determined therein, and shall have power
17 to grant such temporary relief or restraining order as it
18 deems just and proper, and to make and enter upon
19 the pleadings, testimony, and proceedings set forth
20 in such transcript a decree enforcing, modifying and
21 enforcing as so modified, or setting aside in whole or
22 in part the decision of the board. No objection that
23 has not been urged before the board, its member,
24 agent or agency, shall be considered by the court,
25 unless the failure or neglect to urge such objection
26 shall be excused because of extraordinary circum-
27 stances. The findings of the board as to the facts, if
28 supported by evidence, shall be conclusive. If either
29 party shall apply to the court for leave to adduce ad-
30 ditional evidence and shall show to the satisfaction
31 of the court that such additional evidence is ma-
32 terial and that there were reasonable grounds for
33 the failure to adduce such evidence in the hearing
34 before the board, its member, agent, or agency, the
35 court may order such additional evidence to be
36 taken before the board, its member, agent, or agency,
37 and to be made a part of the transcript. The board

38 may modify its findings as to the facts, or make new
39 findings, by reason of additional evidence so taken
40 and filed, and it shall file such modified or new find-
41 ings, which, if supported by evidence, shall be con-
42 clusive, and shall file its recommendations, if any,
43 for the modification or setting aside of its original
44 decision. The jurisdiction of the court shall be ex-
45 clusive and its judgment and decree shall be final,
46 except that the same shall be subject to review by
47 the supreme judicial court for the commonwealth.

48 (b) The commencement of proceedings under sub-
49 section (a) of this section shall not, unless specifically
50 ordered by the court, operate as a stay of the board's
51 decision.

52 (c) When granting appropriate temporary relief
53 or a restraining order, or making and entering a decree
54 enforcing, modifying, and enforcing as so modified
55 or setting aside in whole or in part a decision of the
56 board as provided in this section, the jurisdiction of
57 courts sitting in equity shall not be limited by General
58 Laws, chapter one hundred and forty-nine, section
59 twenty C; chapter two hundred and fourteen, sec-
60 tions one, nine, and nine A, and chapter two hun-
61 dred and twenty, sections thirteen A and thirteen B.

62 (d) Petitions filed under this act shall be heard
63 expeditiously, and if possible within ten days after
64 they have been docketed.

1 SECTION 4. Section two of chapter twenty-three
2 is hereby amended to substitute, in line seven, for
3 the words "four thousand dollars", the words:—
4 seven thousand dollars, — so that the whole shall
5 read:— *Section 2.* Upon the expiration of the term
6 of office of a commissioner, an assistant commis-

7 sioner or an associate commissioner, his successor
8 shall be appointed for three years by the governor,
9 with the advice and consent of the council. The
10 commissioner shall receive such salary not exceeding
11 seventy-five hundred dollars, and the assistant com-
12 missioner and associate commissioners such salaries,
13 not exceeding seven thousand dollars each, as the
14 governor and council determine.

1 SECTION 5. If any clause, sentence, paragraph
2 or part of this act or the application thereof to any
3 person or circumstance shall for any reason be ad-
4 judged to be invalid or unconstitutional, such judg-
5 ment shall not affect, impair or invalidate the re-
6 mainder of this act.

