



General Assembly

Amendment

February Session, 2002

LCO No. 5116

HB0549605116SR0

Offered by:

SEN. GENUARIO, 25th Dist.

To: Subst. House Bill No. 5496

File No. 621

Cal. No. 447

**"AN ACT CONCERNING EARLY CHILDHOOD EDUCATION AND
TEACHERS' RETIREMENT."**

1 After the last section, insert the following:

2 "Sec. 13. Subsection (c) of section 10-153f of the general statutes, as
3 amended by section 18 of public act 01-173, is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2002*):

5 (c) (1) On the fourth day next following the end of the mediation
6 session or on the one hundred thirty-fifth day prior to the budget
7 submission date, whichever is sooner, the commissioner shall order the
8 parties to report their settlement of the dispute or, if there is no
9 settlement, to notify the commissioner of either their agreement to
10 submit their dispute to a single arbitrator or the name of the arbitrator
11 selected by each of them. Within five days of providing such notice,
12 the parties shall notify the commissioner of the name of the arbitrator
13 if there is an agreement on a single arbitrator appointed to the panel
14 pursuant to subdivision (3) of subsection (a) of this section or

15 agreement on the third arbitrator appointed to the panel pursuant to
16 said subdivision. The commissioner may order the parties to appear
17 before said commissioner during the arbitration period. If the parties
18 have notified the commissioner of their agreement to submit their
19 dispute to a single arbitrator and they have not agreed on such
20 arbitrator, within five days after such notification, the commissioner
21 shall select such single arbitrator who shall be an impartial
22 representative of the interests of the public in general. If each party has
23 notified the commissioner of the name of the arbitrator it has selected
24 and the parties have not agreed on the third arbitrator, within five
25 days after such notification, the commissioner shall select a third
26 arbitrator, who shall be an impartial representative of the interests of
27 the public in general. If either party fails to notify the commissioner of
28 the name of an arbitrator, the commissioner shall select an arbitrator to
29 serve and the commissioner shall also select a third arbitrator who
30 shall be an impartial representative of the interests of the public in
31 general. Any selection pursuant to this section by the commissioner of
32 an impartial arbitrator shall be made at random from among the
33 members appointed under subdivision (3) of subsection (a) of this
34 section. Arbitrators shall be selected from the panel appointed
35 pursuant to subsection (a) of this section and shall receive a per diem
36 fee determined on the basis of the prevailing rate for such services.
37 Whenever a panel of three arbitrators is selected, the chairperson of
38 such panel shall be the impartial representative of the interests of the
39 public in general.

40 (2) The chairperson of the arbitration panel or the single arbitrator
41 shall set the date, time and place for a hearing to be held in the school
42 district between the fifth and twelfth day, inclusive, after such
43 chairperson or such single arbitrator is selected. At least five days prior
44 to such hearing, a written notice of the date, time and place of the
45 hearing shall be sent to the board of education and the representative
46 organization which are parties to the dispute, and, if a three-member
47 arbitration panel is selected or designated, to the other members of
48 such panel. Such written notice shall also be sent, by registered mail,

49 return receipt requested, to the fiscal authority having budgetary
50 responsibility or charged with making appropriations for the school
51 district, and a representative designated by such body may be heard at
52 the hearing as part of the presentation and participation of the board of
53 education. At the hearing each party shall have full opportunity to
54 submit all relevant evidence, to introduce relevant documents and
55 written material and to argue on behalf of its positions. At the hearing
56 a representative of the fiscal authority having budgetary responsibility
57 or charged with making appropriations for the school district shall be
58 heard regarding the financial capability of the school district, unless
59 such opportunity to be heard is waived by the fiscal authority. The
60 nonappearance of the representative shall constitute a waiver of the
61 opportunity to be heard unless there is a showing that proper notice
62 was not given to the fiscal authority. The chairperson of the arbitration
63 panel or the single arbitrator shall preside over such hearing.

64 (3) The hearing may, at the discretion of the arbitration panel or the
65 single arbitrator, be continued but in any event shall be concluded
66 within twenty-five days after its commencement.

67 (4) After hearing all the issues, the arbitrators or the single arbitrator
68 shall, within twenty days, render a decision in writing, signed by a
69 majority of the arbitrators or the single arbitrator, which states in detail
70 the nature of the decision and the disposition of the issues by the
71 arbitrators or the single arbitrator. The written decision shall include a
72 narrative explaining the evaluation by the arbitrators or the single
73 arbitrator of the evidence presented for each item upon which a
74 decision was rendered by the arbitrators or the single arbitrator and
75 shall state with particularity the basis for the decision as to each
76 disputed issue and the manner in which the factors enumerated in this
77 subdivision were considered in arriving at such decision, including,
78 where applicable, the specific similar groups and conditions of
79 employment presented for comparison and accepted by the arbitrators
80 or the single arbitrator and the reason for such acceptance. The
81 arbitrators or the single arbitrator shall file one copy of the decision
82 with the commissioner, each town clerk in the school district involved

83 and the board of education and organization which are parties to the
84 dispute. The decision of the arbitrators or the single arbitrator shall be
85 final and binding upon the parties to the dispute unless a rejection is
86 filed in accordance with subdivision (7) of this subsection. The decision
87 of the arbitrators or the single arbitrator shall incorporate those items
88 of agreement the parties have reached prior to its issuance. At any time
89 prior to the issuance of a decision by the arbitrators or the single
90 arbitrator, the parties may jointly file with the arbitrators or the single
91 arbitrator, any stipulations setting forth contract provisions which both
92 parties agree to accept. In arriving at a decision, the arbitrators or the
93 single arbitrator shall give priority to the public interest and the
94 financial capability of the town or towns in the school district,
95 including consideration of other demands on the financial capability of
96 the town or towns in the school district. In assessing the financial
97 capability of the town or towns, there shall be an irrebuttable
98 presumption that a budget reserve of five per cent or less is not
99 available for payment of the cost of any item subject to arbitration
100 under this chapter. The arbitrators or the single arbitrator shall further
101 consider, in light of such financial capability, the following factors: (A)
102 The negotiations between the parties prior to arbitration, including the
103 offers and the range of discussion of the issues; (B) the interests and
104 welfare of the employee group; (C) changes in the cost of living
105 averaged over the preceding three years; (D) the existing conditions of
106 employment of the employee group and those of similar groups; and
107 (E) the salaries, fringe benefits, and other conditions of employment
108 prevailing in the state labor market, including the terms of recent
109 contract settlements or awards in collective bargaining for other
110 municipal employee organizations and developments in private sector
111 wages and benefits. The parties shall submit to the arbitrators or the
112 single arbitrator their respective positions on each individual issue in
113 dispute between them in the form of a last best offer. The arbitrators or
114 the single arbitrator shall resolve separately each individual disputed
115 issue by accepting the last best offer thereon of either of the parties or
116 by deciding on an alternative award between such offers, and shall
117 incorporate in a decision each such accepted individual last best offer

118 or alternative award and an explanation of how the total cost of all
119 offers accepted or alternative awards was considered. The award of the
120 arbitrators or the single arbitrator shall not be subject to rejection by
121 referendum. The parties shall each pay the fee of the arbitrator selected
122 by or for them and share equally the fee of the third arbitrator or the
123 single arbitrator and all other costs incidental to the arbitration.

124 (5) The commissioner shall assist the arbitration panel or the single
125 arbitrator as may be required in the course of arbitration pursuant to
126 this section.

127 (6) If the day for filing any document required pursuant to this
128 section falls on Saturday, Sunday or a holiday, the time for such filing
129 shall be extended to the next business day thereafter.

130 (7) The award of the arbitrators or single arbitrator may be rejected
131 by the legislative body of the local school district or, in the case of a
132 regional school district, by the legislative bodies of the participating
133 towns. Such rejection shall be by a two-thirds majority vote of the
134 members of such legislative body or, in the case of a regional school
135 district, the legislative body of each participating town, present at a
136 regular or special meeting called and convened for such purpose
137 within twenty-five days of the receipt of the award. If the legislative
138 body or legislative bodies, as appropriate, reject any such award, they
139 shall notify, within ten days after the vote to reject, the commissioner
140 and the exclusive representative for the teachers' or administrators'
141 unit of such vote and submit to them a written explanation of the
142 reasons for the vote. Within ten days after receipt of such notice, the
143 exclusive representative of the teachers' or administrators' unit shall
144 prepare, and the board of education may prepare, a written response
145 to such rejection and shall submit it to such legislative body or
146 legislative bodies, as appropriate, and the commissioner. Within ten
147 days after the commissioner has been notified of the vote to reject, (A)
148 the commissioner shall select a review panel of three arbitrators or, if
149 the parties agree, a single arbitrator, who are residents of Connecticut
150 and labor relations arbitrators approved by the American Arbitration

151 Association and not members of the panel who issued the rejected
152 award, and (B) such arbitrators or single arbitrator shall review the
153 decision on each rejected issue. The review conducted pursuant to this
154 subdivision shall be limited to the record and briefs of the hearing
155 pursuant to subdivision (2) of this subsection, the written explanation
156 of the reasons for the vote and a written response by either party. In
157 conducting such review, the arbitrators or single arbitrator shall be
158 limited to consideration of the criteria set forth in subdivision (4) of
159 this subsection. Such review shall be completed within twenty days of
160 the appointment of the arbitrators or single arbitrator. The arbitrators
161 or single arbitrator shall accept the last best offer of either of the
162 parties. Within five days after the completion of such review, the
163 arbitrators or single arbitrator shall render a final and binding award
164 with respect to each rejected issue. The decision of the arbitrators or
165 single arbitrator shall be in writing and shall include the specific
166 reasons and standards used by each arbitrator in making his decision
167 on each issue. The decision shall be filed with the parties. The
168 reasonable costs of the arbitrators or single arbitrator and the cost of
169 the transcript shall be paid by the legislative body or legislative bodies,
170 as appropriate. Where the legislative body of the school district is the
171 town meeting, the board of selectmen shall have all of the authority
172 and responsibilities required of and granted to the legislative body
173 under this subdivision.

174 (8) The decision of the arbitrators or a single arbitrator shall be
175 subject to judicial review upon the filing by a party to the arbitration,
176 within thirty days following receipt of a final decision pursuant to
177 subdivision (4) or (7), as appropriate, of a motion to vacate or modify
178 such decision in the superior court for the judicial district wherein the
179 school district involved is located. The superior court, after hearing,
180 may vacate or modify the decision if substantial rights of a party have
181 been prejudiced because such decision is: (A) In violation of
182 constitutional or statutory provisions; (B) in excess of the statutory
183 authority of the panel; (C) made upon unlawful procedure; (D)
184 affected by other error of law; (E) clearly erroneous in view of the

185 reliable, probative and substantial evidence on the whole record; or (F)
186 arbitrary or capricious or characterized by abuse of discretion or
187 clearly unwarranted exercise of discretion. In any action brought
188 pursuant to this subdivision to vacate or modify the decision of the
189 arbitrators or single arbitrator, reasonable attorney's fees, costs and
190 legal interest on salary withheld as the result of an appeal of said
191 decision may be awarded in accordance with the following: Where the
192 board of education moves to vacate or modify the decision and the
193 decision is not vacated or modified, the court may award to the
194 organization which is the exclusive representative reasonable
195 attorney's fees, costs and legal interest on salary withheld as the result
196 of an appeal; or, where the organization which is the exclusive
197 representative moves to vacate or modify the decision and the decision
198 is not vacated or modified, the court may award to the board of
199 education reasonable attorney's fees, costs and legal interest on salary
200 withheld as the result of an appeal."