



**Substitute House Bill No. 6738**

**Public Act No. 05-277**

**AN ACT CONCERNING PROCEDURES FOR STATE EMPLOYEE COLLECTIVE BARGAINING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 5-276a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(a) In the event that either the employer, as defined in subsection (a) of section 5-270, or a designated employee organization, as defined in subsection (d) of said section, may desire negotiations with respect to an original or successor collective bargaining agreement, such party, not more than [one hundred eighty] three hundred thirty days prior to the expiration of the existing collective bargaining agreement nor less than one hundred fifty days prior thereto, shall serve written notice thereof upon the other party. Negotiations shall commence within thirty days of such service. Negotiations as to wage reopeners shall commence within twenty days of receipt by one party of a written notice with respect thereto, served in accordance with the provisions of any such reopener in the affected contract or, if none is stated therein, not more than sixty days nor less than thirty days prior to the effective date of such reopener.

(b) Upon the joint request of the parties, following the

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commencement of good faith negotiations, the State Board of Mediation and Arbitration may designate a mediator to assist the parties in continuing such negotiations and in reaching a settlement of the issues presented in such negotiations. The mediator designated shall be experienced in labor mediation and shall be drawn from lists of such mediators maintained by the board, the American Arbitration Association or the Federal Mediation and Conciliation Service. The mediator so designated may only serve if approved by both parties.

(c) If, after a reasonable period of negotiation, or, in the case of negotiations by the parties to an existing collective bargaining agreement to revise such agreement concerning any matter affecting wages, hours and other conditions of employment, after [ninety] sixty days from the commencement of such negotiations, the parties are unable to reach an agreement, both parties or either of them may initiate arbitration by filing with the State Board of Mediation and Arbitration a list of the issues as to which an impasse has been reached. If such filing is not made jointly, a copy of the filing shall be served on the other party.

(d) Within ten days of a joint filing or within ten days of service on the other party in the case of a single filing, the parties shall jointly select an arbitrator. The person selected shall have substantial, current experience as an impartial arbitrator of labor-management disputes. Persons who serve partisan interests as advocates or consultants for labor or management in labor-management relations or who are associated with or are members of a firm which performs such advocate or consultant work may not be selected. If the parties fail to agree on an arbitrator within the ten-day period, the selection shall be made using the procedures under the voluntary labor arbitration rules of the American Arbitration Association.

(e) (1) The arbitrator selected shall contact the parties to schedule dates and places for hearings which shall commence not later than

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twenty days after the selection of the arbitrator and which shall be, where feasible, in the principal locality of the state board, department, commission or agency or unit thereof involved. At least ten days prior to each such hearing, written notice of the designated time and place of such hearing shall be sent to the state employer and the state employee organization. The arbitrator shall preside over such hearings, shall have the power to take testimony, to administer oaths and to summon, by subpoena, any person whose testimony may be pertinent to the proceedings, together with any records or other documents deemed by the arbitrator to relate to such matters. In the case of contumacy or refusal to obey a subpoena issued to any person, the Superior Court, upon application by the arbitrator or either party, shall have jurisdiction to order such person to appear before the arbitrator to produce subpoenaed records and to give testimony touching the matter under investigation or in question, and any failure to obey such order may be punished by the court as a contempt thereof. The parties may, at any time during the course of the proceeding, jointly request the arbitrator to attempt to mediate any or all of the disputed issues.

(2) The hearings may, at the discretion of the parties or the arbitrator, be continued and shall be concluded within thirty days after their commencement, unless such period is extended by the joint request of the parties or by the arbitrator.

(3) Prior to the commencement of the hearings, each party shall submit to the arbitrator three copies of a list of all resolved and unresolved issues, including the party's proposal on each disputed issue. During the hearing no new issues can be considered unless such addition is mutually agreed to by the parties. Upon receipt of both such lists, the arbitrator shall simultaneously distribute a copy of each to the opposing party. Upon the hearing, each party shall present such testimony and other evidence as it deems appropriate and as the arbitrator finds relevant to the issues presented. Evidence as to each

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disputed issue shall be presented first by the party presenting the demand underlying such issue. At any time prior to the issuance of the award by the arbitrator, the parties may jointly file with the arbitrator stipulations setting forth such disputed issues the parties have agreed are to be withdrawn from arbitration. Within fourteen days after the conclusion of the taking of testimony, the parties may file with the arbitrator three copies of their briefs including their last best offer on each unresolved issue and, where possible, estimates of the costs of resolution of each disputed issue. Immediately upon receipt of both briefs or upon the expiration of the time for filing such briefs, whichever is sooner, the arbitrator shall distribute a copy of each such brief to the opposing party. Within seven days after receipt of the opposing briefs on the disputed issues or within seven days after the expiration of the time for filing such briefs, whichever is sooner, the parties may file with the arbitrator three copies of a reply brief, responding to the briefs on the unresolved issues. Immediately upon receipt of both reply briefs or upon the expiration of the time for filing such briefs, whichever is sooner, the arbitrator shall distribute a copy of each such brief to the opposing party.

(4) Within twenty days after the last day for filing reply briefs, the arbitrator shall file with the secretary of the State Board of Mediation and Arbitration the award on each unresolved issue as well as the issues resolved by the parties during the arbitration proceedings. The arbitrator shall immediately and simultaneously distribute a copy thereof to each party. In making such award, the arbitrator shall select the more reasonable last best offer proposal on each of the disputed issues based on the factors in subdivision (5) of this subsection. The arbitrator (A) shall give a decision as to each disputed issue considered, (B) shall state with particularity the basis for such decision as to each disputed issue and the manner in which the factors enumerated in subdivision (5) of this subsection were considered in arriving at such decision, (C) shall confine the award to the issues

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submitted and shall not make observations or declarations of opinion which are not directly essential in reaching a determination, and (D) shall not affect the rights accorded to either party by law or by any collective bargaining agreement nor in any manner, either by drawing inferences or otherwise, modify, add to, subtract from or alter such provisions of law or agreement. If the day for filing any document under this subsection falls on a day which is not a business day of the State Board of Mediation and Arbitration, then the time for filing shall be extended to the next business day of the board.

(5) The factors to be considered by the arbitrator in arriving at a decision are: The history of negotiations between the parties including those leading to the instant proceeding; the existing conditions of employment of similar groups of employees; the wages, fringe benefits and working conditions prevailing in the labor market; the overall compensation paid to the employees involved in the arbitration proceedings, including direct wages compensation, overtime and premium pay, vacations, holidays and other leave, insurance, pensions, medical and hospitalization benefits, food and apparel furnished and all other benefits received by such employees; the ability of the employer to pay; changes in the cost of living; and the interests and welfare of the employees.

(6) The award of the arbitrator shall be final and binding upon the employer and the designated employee organization unless rejected by the legislature as provided in section 5-278, except that a motion to vacate or modify the arbitrator's decision concerning any issue in such award may be filed in the superior court for the judicial district of Hartford within thirty days following receipt of such award. Such motion to vacate or modify shall identify the specific issue or issues in the award which the court is being asked to vacate or modify. Any decision by the arbitrator on issues that are not subject to a motion to vacate or modify shall be final and binding upon the parties. The court,

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after hearing, may vacate or modify the arbitrator's decision concerning the award or any issue in the award only if the court finds that substantial rights of a party have been prejudiced because such award is: (A) In violation of constitutional provisions; (B) in excess of the statutory authority of the arbitrator; (C) made upon unlawful procedure; (D) affected by other error of law; (E) clearly erroneous in view of the reliable, probative and substantial evidence of the whole record; or (F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(7) The secretary of the State Board of Mediation and Arbitration shall serve as staff to the arbitrator for purposes of all proceedings undertaken pursuant to this subsection.

(f) The arbitrator's fees and itemized expenses, the rental, if any, of the facilities used for the hearing and the cost of the transcript, if any, of the proceedings shall be divided equally between the employer and the designated employee organization.

(g) Any or all of the timing requirements established in this section that are imposed upon the parties may be waived by agreement of the parties or by [request] a ruling of the arbitrator following a timely request by any party. Any or all of the timing requirements established in this section that are imposed upon the arbitrator may be waived by agreement of the parties.

Approved July 13, 2005