



General Assembly

Amendment

February Session, 2008

LCO No. 5249

HB0553605249SRO

Offered by:
SEN. FASANO, 34th Dist.

To: Subst. House Bill No. 5536 File No. 731 Cal. No. 480

(As Amended by House Amendment Schedules "A" and "B")

"AN ACT ESTABLISHING THE CONNECTICUT HEALTHCARE PARTNERSHIP."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (d) of section 7-473c of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *October 1, 2008*):

6 (d) (1) The hearing may, at the discretion of the panel, be continued
7 and shall be concluded [within] not later than twenty days after its
8 commencement. Not less than two days prior to the commencement of
9 the hearing, each party shall file with the chairperson of the panel, and
10 deliver to the other party, a proposed collective bargaining agreement,
11 in numbered paragraphs, which such party is willing to execute and
12 cost data for all provisions of such proposed agreement. At the
13 commencement of the hearing each party shall file with the panel a

14 reply setting forth (A) those paragraphs of the proposed agreement of
15 the other party which it is willing to accept, and (B) those paragraphs
16 of the proposed agreement of the other party which it is unwilling to
17 accept, together with any alternative contract language which such
18 party would accept in lieu of those paragraphs of the proposed
19 agreement of the other party which it is unwilling to accept. At any
20 time prior to the issuance of a decision by the panel, the parties may
21 jointly file with the panel stipulations setting forth the agreement
22 provisions which both parties have agreed to accept.

23 (2) [Within] Not later than five days after the conclusion of the
24 taking of testimony, the panel shall forward to each party an
25 arbitration statement, approved by a majority vote of the panel, setting
26 forth all agreement provisions agreed upon by both parties in the
27 proposed agreements and the replies, and in the stipulations, and
28 stating, in numbered paragraphs, those issues which are unresolved.

29 (3) [Within] Not later than ten days after the conclusion of the
30 taking of testimony, the parties shall file with the secretary of the State
31 Board of Mediation and Arbitration five copies of their statements of
32 last best offer setting forth, in numbered paragraphs corresponding to
33 the statement of unresolved issues contained in the arbitration
34 statement, the final agreement provisions proposed by such party.
35 Immediately upon receipt of both statement of last best offer or upon
36 the expiration of the time for filing such statements of last best offer,
37 whichever is sooner, said secretary shall distribute a copy of each such
38 statement of last best offer to the opposing party.

39 (4) [Within] Not later than seven days after the distribution of the
40 statements of last best offer or [within] not later than seven days [of]
41 after the expiration of the time for filing the statements of last best
42 offer, whichever is sooner, the parties may file with the secretary of the
43 State Board of Mediation and Arbitration five copies of their briefs on
44 the unresolved issues. Immediately upon receipt of both briefs or upon
45 the expiration of the time for filing such briefs, whichever is sooner,
46 said secretary shall distribute a copy of each such brief to the opposing

47 party.

48 (5) [Within] Not later than five days after the distribution of the
49 briefs on the unresolved issues or [within] not later than five days after
50 the last day for filing such briefs, whichever is sooner, each party may
51 file with said secretary five copies of a reply brief, responding to the
52 briefs on the unresolved issues. Immediately upon receipt of the reply
53 briefs or upon the expiration of the time for filing such reply briefs,
54 whichever is sooner, said secretary shall simultaneously distribute a
55 copy of each such reply brief to the opposing party.

56 (6) [Within] Not later than twenty days after the last day for filing
57 such reply briefs, the panel shall issue, upon majority vote, and file
58 with the State Board of Mediation and Arbitration its decision on all
59 unresolved issues set forth in the arbitration statement, and said
60 secretary shall immediately and simultaneously distribute a copy
61 thereof to each party. The panel shall treat each unresolved issue set
62 forth in the arbitration statement as a separate question to be decided
63 by it. In deciding each such question, the panel agreement shall accept
64 the final provision relating to such unresolved issue as contained in the
65 statement of last best offer of one party or the other. As part of the
66 arbitration decision, each member shall state the specific reasons and
67 standards used in making a choice on each unresolved issue.

68 (7) The parties may jointly file with the panel stipulations
69 modifying, deferring or waiving any or all provisions of this
70 subsection.

71 (8) If the day for filing any document required or permitted to be
72 filed under this subsection falls on a day which is not a business day of
73 the State Board of Mediation and Arbitration then the time for such
74 filing shall be extended to the next business day of such board.

75 (9) In arriving at a decision, the arbitration panel shall give priority
76 to the public interest and the financial capability of the municipal
77 employer, including consideration of other demands on the financial
78 capability of the municipal employer. The panel shall further consider

79 the following factors in light of such financial capability: (A) The
80 negotiations between the parties prior to arbitration; (B) the interests
81 and welfare of the employee group; (C) changes in the cost of living;
82 (D) the existing conditions of employment of the employee group and
83 those of similar groups; and (E) the wages, salaries, fringe benefits, and
84 other conditions of employment prevailing in the labor market,
85 including developments in private sector wages and benefits. In
86 determining the financial capability of the municipality, it shall be an
87 irrebuttable presumption that six per cent of the general operating
88 budget of the municipality is needed to maintain the fiscal solvency of
89 such municipality.

90 (10) The decision of the panel and the resolved issues shall be final
91 and binding upon the municipal employer and the municipal
92 employee organization except as provided in subdivision (12) of this
93 subsection and, if such award is not rejected by the legislative body
94 pursuant to said subdivision, except that a motion to vacate or modify
95 such decision may be made in accordance with sections 52-418 and
96 52-419.

97 (11) In regard to all proceedings undertaken pursuant to this
98 subsection the secretary of the State Board of Mediation and
99 Arbitration shall serve as staff to the arbitration panel.

100 (12) [Within] Not later than twenty-five days of the receipt of an
101 arbitration award issued pursuant to this section, the legislative body
102 of the municipal employer may reject the award of the arbitrators or
103 single arbitrator by a two-thirds majority vote of the members of such
104 legislative body present at a regular or special meeting called and
105 convened for such purpose.

106 (13) [Within] Not later than ten days after such rejection, the
107 legislative body or its authorized representative shall be required to
108 state, in writing, the reasons for such vote and shall submit such
109 written statement to the State Board of Mediation and Arbitration and
110 the municipal employee organization. Within ten days after receipt of

111 such notice, the municipal employee organization shall prepare a
112 written response to such rejection and shall submit it to the legislative
113 body and the State Board of Mediation and Arbitration.

114 (14) [Within] Not later than ten days after receipt of such rejection
115 notice, the State Board of Mediation and Arbitration shall select a
116 review panel of three arbitrators or, if the parties agree, a single
117 arbitrator who are residents of Connecticut and labor relations
118 arbitrators approved by the American Arbitration Association and not
119 members of the panel who issued the rejected award. Such arbitrators
120 or single arbitrator shall review the decision on each such rejected
121 issue. The review conducted pursuant to this subdivision shall be
122 limited to the record and briefs of the hearing pursuant to subsection
123 (c) of this section, the written explanation of the reasons for the vote
124 and a written response by either party. In conducting such review, the
125 arbitrators or single arbitrator shall be limited to consideration of the
126 criteria set forth in subdivision (9) of this subsection. Such review shall
127 be completed within twenty days of the appointment of the arbitrators
128 or single arbitrator. The arbitrators or single arbitrator shall accept the
129 last best offer of either of the parties.

130 (15) [Within] Not later than five days after the completion of such
131 review the arbitrators or single arbitrator shall render a decision with
132 respect to each rejected issue which shall be final and binding upon the
133 municipal employer and the employee organization except that a
134 motion to vacate or modify such award may be made in accordance
135 with sections 52-418 and 52-419. The decision of the arbitrators or
136 single arbitrator shall be in writing and shall include specific reasons
137 and standards used by each arbitrator in making a decision on each
138 issue. The decision shall be filed with the parties. The reasonable costs
139 of the arbitrators or single arbitrator and the cost of the transcript shall
140 be paid by the legislative body. Where the legislative body of a
141 municipal employer is the town meeting, the board of selectmen shall
142 perform all of the duties and shall have all of the authority and
143 responsibilities required of and granted to the legislative body under
144 this subsection.

145 Sec. 502. Subsection (c) of section 10-153f of the general statutes is
146 repealed and the following is substituted in lieu thereof (*Effective*
147 *October 1, 2008*):

148 (c) (1) On the fourth day next following the end of the mediation
149 session or on the one hundred thirty-fifth day prior to the budget
150 submission date, whichever is sooner, the commissioner shall order the
151 parties to report their settlement of the dispute or, if there is no
152 settlement, to notify the commissioner of either their agreement to
153 submit their dispute to a single arbitrator or the name of the arbitrator
154 selected by each of them. Within five days of providing such notice,
155 the parties shall notify the commissioner of the name of the arbitrator
156 if there is an agreement on a single arbitrator appointed to the panel
157 pursuant to subdivision (3) of subsection (a) of this section or
158 agreement on the third arbitrator appointed to the panel pursuant to
159 said subdivision. The commissioner may order the parties to appear
160 before said commissioner during the arbitration period. If the parties
161 have notified the commissioner of their agreement to submit their
162 dispute to a single arbitrator and they have not agreed on such
163 arbitrator, within five days after such notification, the commissioner
164 shall select such single arbitrator who shall be an impartial
165 representative of the interests of the public in general. If each party has
166 notified the commissioner of the name of the arbitrator it has selected
167 and the parties have not agreed on the third arbitrator, within five
168 days after such notification, the commissioner shall select a third
169 arbitrator, who shall be an impartial representative of the interests of
170 the public in general. If either party fails to notify the commissioner of
171 the name of an arbitrator, the commissioner shall select an arbitrator to
172 serve and the commissioner shall also select a third arbitrator who
173 shall be an impartial representative of the interests of the public in
174 general. Any selection pursuant to this section by the commissioner of
175 an impartial arbitrator shall be made at random from among the
176 members appointed under subdivision (3) of subsection (a) of this
177 section. Arbitrators shall be selected from the panel appointed
178 pursuant to subsection (a) of this section and shall receive a per diem

179 fee determined on the basis of the prevailing rate for such services.
180 Whenever a panel of three arbitrators is selected, the chairperson of
181 such panel shall be the impartial representative of the interests of the
182 public in general.

183 (2) The chairperson of the arbitration panel or the single arbitrator
184 shall set the date, time and place for a hearing to be held in the school
185 district between the fifth and twelfth day, inclusive, after such
186 chairperson or such single arbitrator is selected. At least five days prior
187 to such hearing, a written notice of the date, time and place of the
188 hearing shall be sent to the board of education and the representative
189 organization which are parties to the dispute, and, if a three-member
190 arbitration panel is selected or designated, to the other members of
191 such panel. Such written notice shall also be sent, by registered mail,
192 return receipt requested, to the fiscal authority having budgetary
193 responsibility or charged with making appropriations for the school
194 district, and a representative designated by such body may be heard at
195 the hearing as part of the presentation and participation of the board of
196 education. At the hearing each party shall have full opportunity to
197 submit all relevant evidence, to introduce relevant documents and
198 written material and to argue on behalf of its positions. At the hearing
199 a representative of the fiscal authority having budgetary responsibility
200 or charged with making appropriations for the school district shall be
201 heard regarding the financial capability of the school district, unless
202 such opportunity to be heard is waived by the fiscal authority. The
203 nonappearance of the representative shall constitute a waiver of the
204 opportunity to be heard unless there is a showing that proper notice
205 was not given to the fiscal authority. The chairperson of the arbitration
206 panel or the single arbitrator shall preside over such hearing.

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

210 (4) After hearing all the issues, the arbitrators or the single arbitrator
211 shall, within twenty days, render a decision in writing, signed by a

212 majority of the arbitrators or the single arbitrator, which states in detail
213 the nature of the decision and the disposition of the issues by the
214 arbitrators or the single arbitrator. The written decision shall include a
215 narrative explaining the evaluation by the arbitrators or the single
216 arbitrator of the evidence presented for each item upon which a
217 decision was rendered by the arbitrators or the single arbitrator and
218 shall state with particularity the basis for the decision as to each
219 disputed issue and the manner in which the factors enumerated in this
220 subdivision were considered in arriving at such decision, including,
221 where applicable, the specific similar groups and conditions of
222 employment presented for comparison and accepted by the arbitrators
223 or the single arbitrator and the reason for such acceptance. The
224 arbitrators or the single arbitrator shall file one copy of the decision
225 with the commissioner, each town clerk in the school district involved
226 and the board of education and organization which are parties to the
227 dispute. The decision of the arbitrators or the single arbitrator shall be
228 final and binding upon the parties to the dispute unless a rejection is
229 filed in accordance with subdivision (7) of this subsection. The decision
230 of the arbitrators or the single arbitrator shall incorporate those items
231 of agreement the parties have reached prior to its issuance. At any time
232 prior to the issuance of a decision by the arbitrators or the single
233 arbitrator, the parties may jointly file with the arbitrators or the single
234 arbitrator, any stipulations setting forth contract provisions which both
235 parties agree to accept. In arriving at a decision, the arbitrators or the
236 single arbitrator shall give priority to the public interest and the
237 financial capability of the town or towns in the school district,
238 including consideration of other demands on the financial capability of
239 the town or towns in the school district. [In assessing the financial
240 capability of the town or towns, there shall be an irrebuttable
241 presumption that a budget reserve of five per cent or less is not
242 available for payment of the cost of any item subject to arbitration
243 under this chapter.] In determining the financial capability of the town
244 or towns, it shall be an irrebuttable presumption that six per cent of the
245 general operating budget of the municipality is needed to maintain the
246 fiscal solvency of such town or towns. The arbitrators or the single

247 arbitrator shall further consider, in light of such financial capability,
248 the following factors: (A) The negotiations between the parties prior to
249 arbitration, including the offers and the range of discussion of the
250 issues; (B) the interests and welfare of the employee group; (C)
251 changes in the cost of living averaged over the preceding three years;
252 (D) the existing conditions of employment of the employee group and
253 those of similar groups; and (E) the salaries, fringe benefits, and other
254 conditions of employment prevailing in the state labor market,
255 including the terms of recent contract settlements or awards in
256 collective bargaining for other municipal employee organizations and
257 developments in private sector wages and benefits. The parties shall
258 submit to the arbitrators or the single arbitrator their respective
259 positions on each individual issue in dispute between them in the form
260 of a last best offer. The arbitrators or the single arbitrator shall resolve
261 separately each individual disputed issue by accepting the last best
262 offer thereon of either of the parties, and shall incorporate in a decision
263 each such accepted individual last best offer and an explanation of
264 how the total cost of all offers accepted was considered. The award of
265 the arbitrators or the single arbitrator shall not be subject to rejection
266 by referendum. The parties shall each pay the fee of the arbitrator
267 selected by or for them and share equally the fee of the third arbitrator
268 or the single arbitrator and all other costs incidental to the arbitration.

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

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

275 (7) The award of the arbitrators or single arbitrator may be rejected
276 by the legislative body of the local school district or, in the case of a
277 regional school district, by the legislative bodies of the participating
278 towns. Such rejection shall be by a two-thirds majority vote of the
279 members of such legislative body or, in the case of a regional school

280 district, the legislative body of each participating town, present at a
281 regular or special meeting called and convened for such purpose
282 within twenty-five days of the receipt of the award. If the legislative
283 body or legislative bodies, as appropriate, reject any such award, they
284 shall notify, within ten days after the vote to reject, the commissioner
285 and the exclusive representative for the teachers' or administrators'
286 unit of such vote and submit to them a written explanation of the
287 reasons for the vote. Within ten days after receipt of such notice, the
288 exclusive representative of the teachers' or administrators' unit shall
289 prepare, and the board of education may prepare, a written response
290 to such rejection and shall submit it to such legislative body or
291 legislative bodies, as appropriate, and the commissioner. Within ten
292 days after the commissioner has been notified of the vote to reject, (A)
293 the commissioner shall select a review panel of three arbitrators or, if
294 the parties agree, a single arbitrator, who are residents of Connecticut
295 and labor relations arbitrators approved by the American Arbitration
296 Association and not members of the panel who issued the rejected
297 award, and (B) such arbitrators or single arbitrator shall review the
298 decision on each rejected issue. The review conducted pursuant to this
299 subdivision shall be limited to the record and briefs of the hearing
300 pursuant to subdivision (2) of this subsection, the written explanation
301 of the reasons for the vote and a written response by either party. In
302 conducting such review, the arbitrators or single arbitrator shall be
303 limited to consideration of the criteria set forth in subdivision (4) of
304 this subsection. Such review shall be completed within twenty days of
305 the appointment of the arbitrators or single arbitrator. The arbitrators
306 or single arbitrator shall accept the last best offer of either of the
307 parties. Within five days after the completion of such review, the
308 arbitrators or single arbitrator shall render a final and binding award
309 with respect to each rejected issue. The decision of the arbitrators or
310 single arbitrator shall be in writing and shall include the specific
311 reasons and standards used by each arbitrator in making his decision
312 on each issue. The decision shall be filed with the parties. The
313 reasonable costs of the arbitrators or single arbitrator and the cost of
314 the transcript shall be paid by the legislative body or legislative bodies,

315 as appropriate. Where the legislative body of the school district is the
316 town meeting, the board of selectmen shall have all of the authority
317 and responsibilities required of and granted to the legislative body
318 under this subdivision.

319 (8) The decision of the arbitrators or a single arbitrator shall be
320 subject to judicial review upon the filing by a party to the arbitration,
321 within thirty days following receipt of a final decision pursuant to
322 subdivision (4) or (7), as appropriate, of a motion to vacate or modify
323 such decision in the superior court for the judicial district wherein the
324 school district involved is located. The superior court, after hearing,
325 may vacate or modify the decision if substantial rights of a party have
326 been prejudiced because such decision is: (A) In violation of
327 constitutional or statutory provisions; (B) in excess of the statutory
328 authority of the panel; (C) made upon unlawful procedure; (D)
329 affected by other error of law; (E) clearly erroneous in view of the
330 reliable, probative and substantial evidence on the whole record; or (F)
331 arbitrary or capricious or characterized by abuse of discretion or
332 clearly unwarranted exercise of discretion. In any action brought
333 pursuant to this subdivision to vacate or modify the decision of the
334 arbitrators or single arbitrator, reasonable attorney's fees, costs and
335 legal interest on salary withheld as the result of an appeal of said
336 decision may be awarded in accordance with the following: Where the
337 board of education moves to vacate or modify the decision and the
338 decision is not vacated or modified, the court may award to the
339 organization which is the exclusive representative reasonable
340 attorney's fees, costs and legal interest on salary withheld as the result
341 of an appeal; or, where the organization which is the exclusive
342 representative moves to vacate or modify the decision and the decision
343 is not vacated or modified, the court may award to the board of
344 education reasonable attorney's fees, costs and legal interest on salary
345 withheld as the result of an appeal."