



General Assembly

Amendment

February Session, 2008

LCO No. 5273

HB0553605273SR0

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 (e) of section 5-276a of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective July*
5 *1, 2008*):

6 (e) (1) The arbitrator selected shall contact the parties to schedule
7 dates and places for hearings which shall commence not later than
8 twenty days after the selection of the arbitrator and which shall be,
9 where feasible, in the principal locality of the state board, department,
10 commission or agency or unit thereof involved. At least ten days prior
11 to each such hearing, written notice of the designated time and place of
12 such hearing shall be sent to the state employer and the state employee
13 organization. The arbitrator shall preside over such hearings, shall

14 have the power to take testimony, to administer oaths and to summon,
15 by subpoena, any person whose testimony may be pertinent to the
16 proceedings, together with any records or other documents deemed by
17 the arbitrator to relate to such matters. In the case of contumacy or
18 refusal to obey a subpoena issued to any person, the Superior Court,
19 upon application by the arbitrator or either party, shall have
20 jurisdiction to order such person to appear before the arbitrator to
21 produce subpoenaed records and to give testimony touching the
22 matter under investigation or in question, and any failure to obey such
23 order may be punished by the court as a contempt thereof. The parties
24 may, at any time during the course of the proceeding, jointly request
25 the arbitrator to attempt to mediate any or all of the disputed issues.

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

30 (3) Prior to the commencement of the hearings, each party shall
31 submit to the arbitrator three copies of a list of all resolved and
32 unresolved issues, including the party's proposal on each disputed
33 issue. During the hearing no new issues can be considered unless such
34 addition is mutually agreed to by the parties. Upon receipt of both
35 such lists, the arbitrator shall simultaneously distribute a copy of each
36 to the opposing party. Upon the hearing, each party shall present such
37 testimony and other evidence as it deems appropriate and as the
38 arbitrator finds relevant to the issues presented. Evidence as to each
39 disputed issue shall be presented first by the party presenting the
40 demand underlying such issue. At any time prior to the issuance of the
41 award by the arbitrator, the parties may jointly file with the arbitrator
42 stipulations setting forth such disputed issues the parties have agreed
43 are to be withdrawn from arbitration. Within fourteen days after the
44 conclusion of the taking of testimony, the parties may file with the
45 arbitrator three copies of their briefs including their last best offer on
46 each unresolved issue and, where possible, estimates of the costs of
47 resolution of each disputed issue. Immediately upon receipt of both

48 briefs or upon the expiration of the time for filing such briefs,
49 whichever is sooner, the arbitrator shall distribute a copy of each such
50 brief to the opposing party. Within seven days after receipt of the
51 opposing briefs on the disputed issues or within seven days after the
52 expiration of the time for filing such briefs, whichever is sooner, the
53 parties may file with the arbitrator three copies of a reply brief,
54 responding to the briefs on the unresolved issues. Immediately upon
55 receipt of both reply briefs or upon the expiration of the time for filing
56 such briefs, whichever is sooner, the arbitrator shall distribute a copy
57 of each such brief to the opposing party.

58 (4) Within twenty days after the last day for filing reply briefs, the
59 arbitrator shall file with the secretary of the State Board of Mediation
60 and Arbitration the award on each unresolved issue as well as the
61 issues resolved by the parties during the arbitration proceedings. The
62 arbitrator shall immediately and simultaneously distribute a copy
63 thereof to each party. In making such award, the arbitrator shall select
64 the more reasonable last best offer proposal on each of the disputed
65 issues based on the factors in subdivision (5) of this subsection. The
66 arbitrator (A) shall give a decision as to each disputed issue
67 considered, (B) shall state with particularity the basis for such decision
68 as to each disputed issue and the manner in which the factors
69 enumerated in subdivision (5) of this subsection were considered in
70 arriving at such decision, (C) shall confine the award to the issues
71 submitted and shall not make observations or declarations of opinion
72 which are not directly essential in reaching a determination, and (D)
73 shall not affect the rights accorded to either party by law or by any
74 collective bargaining agreement nor in any manner, either by drawing
75 inferences or otherwise, modify, add to, subtract from or alter such
76 provisions of law or agreement. If the day for filing any document
77 under this subsection falls on a day which is not a business day of the
78 State Board of Mediation and Arbitration, then the time for filing shall
79 be extended to the next business day of the board.

80 (5) In arriving at a decision, the arbitrator shall give priority to the
81 ability of the employer to pay. In assessing the ability of the employer

82 to pay: (A) There shall be an irrebuttable presumption that if the
83 amount of moneys in the Budget Reserve Fund is equal to or less than
84 ten per cent of the net General Fund appropriations for the fiscal year
85 in progress, such moneys are not available for payment of the cost of
86 any item subject to arbitration pursuant to this chapter; and (B) the
87 arbitrator shall consider the limitation on state expenditures set forth
88 in article twenty-eighth of the amendments to the State Constitution
89 and section 2-33a and the difference between the authorized general
90 budget expenditures and the allowable general budget expenditures
91 prescribed in said article and section.

92 [(5) The factors to be considered by the arbitrator in arriving at a
93 decision are] (6) The arbitrator shall further consider, in light of such
94 ability to pay, the following factors: The history of negotiations
95 between the parties including those leading to the instant proceeding;
96 the existing conditions of employment of similar groups of employees;
97 the wages, fringe benefits and working conditions prevailing in the
98 labor market; the overall compensation paid to the employees
99 involved in the arbitration proceedings, including direct wages
100 compensation, overtime and premium pay, vacations, holidays and
101 other leave, insurance, pensions, medical and hospitalization benefits,
102 food and apparel furnished and all other benefits received by such
103 employees; [the ability of the employer to pay] whether the amount of
104 money in the Budget Reserve Fund is equal to or less than ten per cent
105 of the net General Fund appropriations for the fiscal year in progress;
106 changes in the cost of living; and the interests and welfare of the
107 employees.

108 [(6)] (7) The award of the arbitrator shall be final and binding upon
109 the employer and the designated employee organization [unless
110 rejected] if approved by the legislature as provided in section 5-278, as
111 amended by this act, except that a motion to vacate or modify the
112 arbitrator's decision concerning any issue in such award may be filed
113 in the superior court for the judicial district of Hartford within thirty
114 days following receipt of such award. Such motion to vacate or modify
115 shall identify the specific issue or issues in the award which the court

116 is being asked to vacate or modify. Any decision by the arbitrator on
117 issues that are not subject to a motion to vacate or modify shall be final
118 and binding upon the parties. The court, after hearing, may vacate or
119 modify the arbitrator's decision concerning the award or any issue in
120 the award only if the court finds that substantial rights of a party have
121 been prejudiced because such award is: (A) In violation of
122 constitutional provisions; (B) in excess of the statutory authority of the
123 arbitrator; (C) made upon unlawful procedure; (D) affected by other
124 error of law; (E) clearly erroneous in view of the reliable, probative and
125 substantial evidence of the whole record; [or] (F) made without proper
126 consideration of the ability of the employer to pay; or (G) arbitrary or
127 capricious or characterized by abuse of discretion or clearly
128 unwarranted exercise of discretion.

129 [(7)] (8) The secretary of the State Board of Mediation and
130 Arbitration shall serve as staff to the arbitrator for purposes of all
131 proceedings undertaken pursuant to this subsection.

132 Sec. 502. Section 5-276b of the general statutes is repealed and the
133 following is substituted in lieu thereof (*Effective July 1, 2008*):

134 (a) Whenever a monetary settlement is awarded pursuant to an
135 interest arbitration proceeding conducted pursuant to section 5-276a,
136 as amended by this act, and such award is [not rejected] approved by
137 the legislature pursuant to section 5-278, as amended by this act, and
138 payment is not made in accordance with the terms of such settlement
139 within [sixty] one hundred eighty days of the date such award was
140 [issued] approved, the party liable for such payment shall be required
141 to pay interest, at the rate of five per cent per annum, on such overdue
142 payment, calculated from the date the award was issued.

143 (b) Whenever a monetary settlement is awarded pursuant to a state
144 employee grievance arbitration proceeding, and payment is not made
145 in accordance with the terms of such settlement within [thirty] one
146 hundred eighty days of the date such award was issued, the party
147 liable for such payment shall be required to pay interest, at the rate of

148 five per cent per annum, on such overdue payment, calculated from
149 the date the award was issued.

150 Sec. 503. Subsection (b) of section 5-278 of the general statutes is
151 repealed and the following is substituted in lieu thereof (*Effective July*
152 *1, 2008*):

153 (b) Any agreement reached by the negotiators shall be reduced to
154 writing. The agreement, together with a request for funds necessary to
155 fully implement such agreement and for approval of any provisions of
156 the agreement which are in conflict with any statute or any regulation
157 of any state agency, and any arbitration award, issued in accordance
158 with section 5-276a, as amended by this act, together with a statement
159 setting forth the amount of funds necessary to implement such award,
160 shall be filed by the bargaining representative of the employer with the
161 clerks of the House of Representatives and the Senate within ten days
162 after the date on which such agreement is reached or such award is
163 distributed. The General Assembly may approve or reject any such
164 agreement or award as a whole by a majority vote of each house or
165 may reject such agreement as a whole by a majority vote of either
166 house. [The General Assembly may reject any such award as a whole
167 by a two-thirds vote of either house if it determines that there are
168 insufficient funds for full implementation of the award.] If rejected, the
169 matter shall be returned to the parties for further bargaining. Once
170 approved by the General Assembly, any provision of an agreement or
171 award need not be resubmitted by the parties to such agreement or
172 award as part of a future contract approval process unless changes in
173 the language of such provision are negotiated by such parties. Any
174 supplemental understanding reached between such parties containing
175 provisions [which] that would supersede any provision of the general
176 statutes or any regulation of any state agency or would require
177 additional state funding shall be submitted to the General Assembly
178 for approval in the same manner as agreements and awards. If the
179 General Assembly is in session, it shall vote to approve or reject such
180 agreement or award within thirty days after the date of filing. If the
181 General Assembly is not in session when such agreement or award is

182 filed, it shall be submitted to the General Assembly within ten days of
183 the first day of the next regular session or special session called for
184 such purpose. The agreement or award shall be deemed [approved]
185 rejected if the General Assembly fails to vote to approve or reject such
186 agreement or award within thirty days after such filing or submission.
187 The thirty-day period shall not begin or expire unless the General
188 Assembly is in regular session. For the purpose of this subsection, any
189 agreement or award filed with the clerks within thirty days before the
190 commencement of a regular session of the General Assembly shall be
191 deemed to be filed on the first day of such session.

192 Sec. 504. (NEW) (*Effective July 1, 2008*) (a) The legislative body of any
193 municipal employer, as defined in section 7-467 of the general statutes,
194 or of any board of education, as defined in section 10-151 of the general
195 statutes, may, by resolution, elect to extend the provisions of any
196 expired or expiring collective bargaining agreement covering its
197 employees for a period of up to three years beyond the expiration of
198 such agreement, provided (1) the reason for such extension is due to
199 financial difficulty, as determined by the legislative body, and (2) the
200 municipality provides written notice of such election to the affected
201 employee organization. The provisions of such notice by a municipal
202 employer or board of education shall not constitute a violation of
203 sections 7-469 to 7-470, inclusive, of the general statutes.

204 (b) During such extension period, each of the provisions of the
205 expired agreement, including base wage rates and salaries in effect
206 prior to expiration, but excluding annual step, longevity and cost of
207 living increases, shall remain in effect.

208 (c) In the event there is a conflict between this section and the
209 provisions of an expired collective bargaining agreement or the
210 provisions of section 7-450 of the general statutes, this section shall
211 prevail.

212 (d) In any future arbitration pursuant to section 10-153f of the
213 general statutes, as amended by this act, or section 7-473c of the

214 general statutes, as amended by this act, the single arbitrator or
215 arbitration panel shall not consider the extension of a collective
216 bargaining agreement pursuant to subsection (a) of this section in
217 arriving at a decision.

218 Sec. 505. Section 10-153f of the general statutes is repealed and the
219 following is substituted in lieu thereof (*Effective from passage*):

220 (a) There shall be in the Department of Education an arbitration
221 panel of not less than twenty-four or more than twenty-nine persons to
222 serve as provided in subsection (c) of this section. The Governor shall
223 appoint such panel, with the advice and consent of the General
224 Assembly, as follows: (1) Seven members shall be representative of the
225 interests of local and regional boards of education and shall be selected
226 from lists of names submitted by such boards; (2) seven members shall
227 be representative of the interests of exclusive bargaining
228 representatives of certified employees and shall be selected from lists
229 of names submitted by such bargaining representatives; and (3) not
230 less than ten or more than fifteen members shall be impartial
231 representatives of the interests of the public in general and shall be
232 residents of the state of Connecticut, experienced in public sector
233 collective bargaining interest impasse resolution and selected from lists
234 of names submitted by the State Board of Education. The lists of names
235 submitted to the Governor pursuant to subdivisions (1) to (3),
236 inclusive, of this subsection shall, in addition to complying with the
237 provisions of section 4-9b, include a report from the State Board of
238 Education certifying that the process conducted for soliciting
239 applicants made adequate outreach to minority communities and
240 documenting that the number and make-up of minority applicants
241 considered reflect the state's racial and ethnic diversity. Each member
242 of the panel shall serve a term of two years, provided each arbitrator
243 shall hold office until a successor is appointed and, provided further,
244 any arbitrator not reappointed shall finish to conclusion any
245 arbitration for which such arbitrator has been selected or appointed.
246 Arbitrators may be removed for good cause. If any vacancy occurs in
247 such panel, the Governor shall act within forty days to fill such

248 vacancy in the manner provided in section 4-19. Persons appointed to
249 the arbitration panel shall serve without compensation but each shall
250 receive a per diem fee for any day during which such person is
251 engaged in the arbitration of a dispute pursuant to this section. The
252 parties to the dispute so arbitrated shall pay the fee in accordance with
253 subsection (c) of this section.

254 (b) If any local or regional board of education cannot agree with the
255 exclusive representatives of a teachers' or administrators' unit after
256 negotiation concerning the terms and conditions of employment
257 applicable to the employees in such unit, either party may submit the
258 issues to the commissioner for mediation. On the one hundred sixtieth
259 day prior to the budget submission date, the commissioner shall order
260 the parties to report their settlement. If, on such one hundred sixtieth
261 day, the parties have not reached agreement and have failed to initiate
262 mediation, the commissioner shall order the parties to notify the
263 commissioner of the name of a mutually selected mediator and to
264 commence mediation. The commissioner may order the parties to
265 appear before said commissioner during the mediation period. In
266 either case, the parties shall meet with a mediator mutually selected by
267 them, provided such parties shall inform the commissioner of the
268 name of such mediator, or with the commissioner or the
269 commissioner's agents or a mediator designated by said commissioner.
270 Mediators shall be chosen from a panel of mediators selected by the
271 State Board of Education or from outside such panel if mutually
272 agreed by the parties. Such mediators shall receive a per diem fee
273 determined on the basis of the prevailing rate for such services, and
274 the parties shall share equally in the cost of such mediation. In any
275 civil or criminal case, any proceeding preliminary thereto, or in any
276 legislative or administrative proceeding, a mediator shall not disclose
277 any confidential communication made to such mediator in the course
278 of mediation unless the party making such communication waives
279 such privilege. The parties shall provide such information as the
280 commissioner may require. The commissioner may recommend a basis
281 for settlement but such recommendations shall not be binding upon

282 the parties. Such recommendation shall be made within twenty-five
283 days after the day on which mediation begins.

284 (c) (1) On the fourth day next following the end of the mediation
285 session or on the one hundred thirty-fifth day prior to the budget
286 submission date, whichever is sooner, the commissioner shall order the
287 parties to report their settlement of the dispute or, if there is no
288 settlement, to notify the commissioner of either their agreement to
289 submit their dispute to a single arbitrator or the name of the arbitrator
290 selected by each of them. Within five days of providing such notice,
291 the parties shall notify the commissioner of the name of the arbitrator
292 if there is an agreement on a single arbitrator appointed to the panel
293 pursuant to subdivision (3) of subsection (a) of this section or
294 agreement on the third arbitrator appointed to the panel pursuant to
295 said subdivision. The commissioner may order the parties to appear
296 before said commissioner during the arbitration period. If the parties
297 have notified the commissioner of their agreement to submit their
298 dispute to a single arbitrator and they have not agreed on such
299 arbitrator, within five days after such notification, the commissioner
300 shall select such single arbitrator who shall be an impartial
301 representative of the interests of the public in general. If each party has
302 notified the commissioner of the name of the arbitrator it has selected
303 and the parties have not agreed on the third arbitrator, within five
304 days after such notification, the commissioner shall select a third
305 arbitrator, who shall be an impartial representative of the interests of
306 the public in general. If either party fails to notify the commissioner of
307 the name of an arbitrator, the commissioner shall select an arbitrator to
308 serve and the commissioner shall also select a third arbitrator who
309 shall be an impartial representative of the interests of the public in
310 general. Any selection pursuant to this section by the commissioner of
311 an impartial arbitrator shall be made at random from among the
312 members appointed under subdivision (3) of subsection (a) of this
313 section. Arbitrators shall be selected from the panel appointed
314 pursuant to subsection (a) of this section and shall receive a per diem
315 fee determined on the basis of the prevailing rate for such services.

316 Whenever a panel of three arbitrators is selected, the chairperson of
317 such panel shall be the impartial representative of the interests of the
318 public in general.

319 (2) The chairperson of the arbitration panel or the single arbitrator
320 shall set the date, time and place for a hearing to be held in the school
321 district between the fifth and twelfth day, inclusive, after such
322 chairperson or such single arbitrator is selected. At least five days prior
323 to such hearing, a written notice of the date, time and place of the
324 hearing shall be sent to the board of education and the representative
325 organization which are parties to the dispute, and, if a three-member
326 arbitration panel is selected or designated, to the other members of
327 such panel. Such written notice shall also be sent, by registered mail,
328 return receipt requested, to the fiscal authority having budgetary
329 responsibility or charged with making appropriations for the school
330 district, and a representative designated by such body may be heard at
331 the hearing as part of the presentation and participation of the board of
332 education. At the hearing each party shall have full opportunity to
333 submit all relevant evidence, to introduce relevant documents and
334 written material and to argue on behalf of its positions. At the hearing
335 a representative of the fiscal authority having budgetary responsibility
336 or charged with making appropriations for the school district shall be
337 heard regarding the financial capability of the school district, unless
338 such opportunity to be heard is waived by the fiscal authority. The
339 nonappearance of the representative shall constitute a waiver of the
340 opportunity to be heard unless there is a showing that proper notice
341 was not given to the fiscal authority. The chairperson of the arbitration
342 panel or the single arbitrator shall preside over such hearing.

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

346 (4) After hearing all the issues, the arbitrators or the single arbitrator
347 shall, within twenty days, render a decision in writing, signed by a
348 majority of the arbitrators or the single arbitrator, which states in detail

349 the nature of the decision and the disposition of the issues by the
350 arbitrators or the single arbitrator. The written decision shall include a
351 narrative explaining the evaluation by the arbitrators or the single
352 arbitrator of the evidence presented for each item upon which a
353 decision was rendered by the arbitrators or the single arbitrator and
354 shall state with particularity the basis for the decision as to each
355 disputed issue and the manner in which the factors enumerated in this
356 subdivision were considered in arriving at such decision, including,
357 where applicable, the specific similar groups and conditions of
358 employment presented for comparison and accepted by the arbitrators
359 or the single arbitrator and the reason for such acceptance. The
360 arbitrators or the single arbitrator shall file one copy of the decision
361 with the commissioner, each town clerk in the school district involved
362 and the board of education and organization which are parties to the
363 dispute. The decision of the arbitrators or the single arbitrator shall be
364 final and binding upon the parties to the dispute unless a rejection is
365 filed in accordance with subdivision (7) of this subsection. The decision
366 of the arbitrators or the single arbitrator shall incorporate those items
367 of agreement the parties have reached prior to its issuance. At any time
368 prior to the issuance of a decision by the arbitrators or the single
369 arbitrator, the parties may jointly file with the arbitrators or the single
370 arbitrator, any stipulations setting forth contract provisions which both
371 parties agree to accept. In arriving at a decision, the arbitrators or the
372 single arbitrator shall give priority to the public interest and the
373 financial capability of the town or towns in the school district,
374 including consideration of other demands on the financial capability of
375 the town or towns in the school district. In assessing the financial
376 capability of the town or towns, there shall be an irrebuttable
377 presumption that a budget reserve [of five per cent or less] is not
378 available for payment of the cost of any item subject to arbitration
379 under this chapter. The arbitrators or the single arbitrator shall further
380 consider, in light of such financial capability, the following factors: (A)
381 The negotiations between the parties prior to arbitration, including the
382 offers and the range of discussion of the issues; (B) the interests and
383 welfare of the employee group; (C) changes in the cost of living

384 averaged over the preceding three years; (D) the existing conditions of
385 employment of the employee group and those of similar groups; [and]
386 (E) the salaries, fringe benefits, and other conditions of employment
387 prevailing in the state labor market, including the terms of recent
388 contract settlements or awards in collective bargaining for other
389 municipal employee organizations and developments in private sector
390 wages and benefits; and (F) at the sole election of the local or regional
391 board of education, the municipality's effective tax rate, as set forth in
392 the Office of Policy and Management's latest "Municipal Fiscal
393 Indicators" publication. The parties shall submit to the arbitrators or
394 the single arbitrator their respective positions on each individual issue
395 in dispute between them in the form of a last best offer. The arbitrators
396 or the single arbitrator shall resolve separately each individual
397 disputed issue by accepting the last best offer thereon of either of the
398 parties, and shall incorporate in a decision each such accepted
399 individual last best offer and an explanation of how the total cost of all
400 offers accepted was considered. The award of the arbitrators or the
401 single arbitrator shall not be subject to rejection by referendum. The
402 parties shall each pay the fee of the arbitrator selected by or for them
403 and share equally the fee of the third arbitrator or the single arbitrator
404 and all other costs incidental to the arbitration.

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

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

411 (7) The award of the arbitrators or single arbitrator may be rejected
412 by the legislative body of the local school district or, in the case of a
413 regional school district, by the legislative bodies of the participating
414 towns. Such rejection shall be by a two-thirds majority vote of the
415 members of such legislative body or, in the case of a regional school
416 district, the legislative body of each participating town, present at a

417 regular or special meeting called and convened for such purpose
418 within twenty-five days of the receipt of the award. If the legislative
419 body or legislative bodies, as appropriate, reject any such award, they
420 shall notify, within ten days after the vote to reject, the commissioner
421 and the exclusive representative for the teachers' or administrators'
422 unit of such vote and submit to them a written explanation of the
423 reasons for the vote. Within ten days after receipt of such notice, the
424 exclusive representative of the teachers' or administrators' unit shall
425 prepare, and the board of education may prepare, a written response
426 to such rejection and shall submit it to such legislative body or
427 legislative bodies, as appropriate, and the commissioner. [Within ten
428 days after the commissioner has been notified of the vote to reject, (A)
429 the commissioner shall select a review panel of three arbitrators or, if
430 the parties agree, a single arbitrator, who are residents of Connecticut
431 and labor relations arbitrators approved by the American Arbitration
432 Association and not members of the panel who issued the rejected
433 award, and (B) such arbitrators or single arbitrator shall review the
434 decision on each rejected issue. The review conducted pursuant to this
435 subdivision shall be limited to the record and briefs of the hearing
436 pursuant to subdivision (2) of this subsection, the written explanation
437 of the reasons for the vote and a written response by either party. In
438 conducting such review, the arbitrators or single arbitrator shall be
439 limited to consideration of the criteria set forth in subdivision (4) of
440 this subsection. Such review shall be completed within twenty days of
441 the appointment of the arbitrators or single arbitrator. The arbitrators
442 or single arbitrator shall accept the last best offer of either of the
443 parties. Within five days after the completion of such review, the
444 arbitrators or single arbitrator shall render a final and binding award
445 with respect to each rejected issue. The decision of the arbitrators or
446 single arbitrator shall be in writing and shall include the specific
447 reasons and standards used by each arbitrator in making his decision
448 on each issue. The decision shall be filed with the parties. The
449 reasonable costs of the arbitrators or single arbitrator and the cost of
450 the transcript shall be paid by the legislative body or legislative bodies,
451 as appropriate. Where the legislative body of the school district is the

452 town meeting, the board of selectmen shall have all of the authority
453 and responsibilities required of and granted to the legislative body
454 under this subdivision.

455 (8) The decision of the arbitrators or a single arbitrator shall be
456 subject to judicial review upon the filing by a party to the arbitration,
457 within thirty days following receipt of a final decision pursuant to
458 subdivision (4) or (7), as appropriate, of a motion to vacate or modify
459 such decision in the superior court for the judicial district wherein the
460 school district involved is located. The superior court, after hearing,
461 may vacate or modify the decision if substantial rights of a party have
462 been prejudiced because such decision is: (A) In violation of
463 constitutional or statutory provisions; (B) in excess of the statutory
464 authority of the panel; (C) made upon unlawful procedure; (D)
465 affected by other error of law; (E) clearly erroneous in view of the
466 reliable, probative and substantial evidence on the whole record; or (F)
467 arbitrary or capricious or characterized by abuse of discretion or
468 clearly unwarranted exercise of discretion. In any action brought
469 pursuant to this subdivision to vacate or modify the decision of the
470 arbitrators or single arbitrator, reasonable attorney's fees, costs and
471 legal interest on salary withheld as the result of an appeal of said
472 decision may be awarded in accordance with the following: Where the
473 board of education moves to vacate or modify the decision and the
474 decision is not vacated or modified, the court may award to the
475 organization which is the exclusive representative reasonable
476 attorney's fees, costs and legal interest on salary withheld as the result
477 of an appeal; or, where the organization which is the exclusive
478 representative moves to vacate or modify the decision and the decision
479 is not vacated or modified, the court may award to the board of
480 education reasonable attorney's fees, costs and legal interest on salary
481 withheld as the result of an appeal.]

482 (d) (1) Within ten days after the commissioner's receipt of a written
483 response to such rejection, the commissioner shall order the parties to
484 notify the commissioner of either their agreement to resubmit their
485 dispute to a single arbitrator or the name of the arbitrator selected by

486 each of them. Within five days of providing such notice, the parties
487 shall notify the commissioner of the name of the arbitrator if there is an
488 agreement on a single arbitrator appointed to the panel pursuant to
489 subdivision (3) of subsection (a) of this section or agreement on the
490 third arbitrator appointed to the panel pursuant to said subdivision
491 (3). The commissioner may order the parties to appear before said
492 commissioner during the arbitration period. If the parties have notified
493 the commissioner of their agreement to submit their dispute to a single
494 arbitrator and they have not agreed on such arbitrator within five days
495 after such notification, the commissioner shall select such single
496 arbitrator, who shall be an impartial representative of the interests of
497 the public in general. If each party has notified the commissioner of the
498 name of the arbitrator it has selected and the parties have not agreed
499 on the third arbitrator, within five days after such notification, the
500 commissioner shall select a third arbitrator, who shall be an impartial
501 representative of the interests of the public in general. If either party
502 fails to notify the commissioner of the name of an arbitrator, the
503 commissioner shall select an arbitrator to serve and the commissioner
504 shall also select a third arbitrator, who shall be an impartial
505 representative of the interests of the public in general. Any selection
506 pursuant to this section by the commissioner of an impartial arbitrator
507 shall be made at random from among the members appointed under
508 subdivision (3) of subsection (a) of this section. Arbitrators shall be
509 selected from the panel appointed pursuant to subsection (a) of this
510 section and shall receive a per diem fee determined on the basis of the
511 prevailing rate for such services. Whenever a panel of three arbitrators
512 is selected, the chairperson of such panel shall be the impartial
513 representative of the interests of the public in general.

514 (2) The chairperson of the arbitration panel or the single arbitrator
515 shall set the date, time and place for a hearing to be held in the school
516 district between the fifth and twelfth day, inclusive, after such
517 chairperson or such single arbitrator is selected. At least five days prior
518 to such hearing, a written notice of the date, time and place of the
519 hearing shall be sent to the board of education and the representative

520 organization which are parties to the dispute, and, if a three-member
521 arbitration panel is selected or designated, to the other members of
522 such panel. Such written notice shall also be sent, by registered mail,
523 return receipt requested, to the fiscal authority having budgetary
524 responsibility or charged with making appropriations for the school
525 district, and a representative designated by such body may be heard at
526 the hearing as part of the presentation and participation of the board of
527 education. At the hearing each party shall have full opportunity to
528 submit all relevant evidence, to introduce relevant documents and
529 written material and to argue on behalf of its positions. At the hearing
530 a representative of the fiscal authority having budgetary responsibility
531 or charged with making appropriations for the school district shall be
532 heard regarding the financial capability of the school district, unless
533 such opportunity to be heard is waived by the fiscal authority. The
534 nonappearance of the representative shall constitute a waiver of the
535 opportunity to be heard unless there is a showing that proper notice
536 was not given to the fiscal authority. The chairperson of the arbitration
537 panel or the single arbitrator shall preside over such hearing.

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

541 (4) After hearing all the issues, the arbitrators or the single arbitrator
542 shall, within twenty days, render a decision in writing, signed by a
543 majority of the arbitrators or the single arbitrator, which states in detail
544 the nature of the decision and the disposition of the issues by the
545 arbitrators or the single arbitrator. The written decision shall include a
546 narrative explaining the evaluation by the arbitrators or the single
547 arbitrator of the evidence presented for each item upon which a
548 decision was rendered by the arbitrators or the single arbitrator and
549 shall state with particularity the basis for the decision as to each
550 disputed issue and the manner in which the factors enumerated in this
551 subdivision were considered in arriving at such decision, including,
552 where applicable, the specific similar groups and conditions of
553 employment presented for comparison and accepted by the arbitrators

554 or the single arbitrator and the reason for such acceptance. The
555 arbitrators or the single arbitrator shall file one copy of the decision
556 with the commissioner, each town clerk in the school district involved
557 and the board of education and organization which are parties to the
558 dispute. The decision of the arbitrators or the single arbitrator shall be
559 final and binding upon the parties to the dispute, except that the
560 decision shall be subject to judicial review in accordance with
561 subdivision (7) of this subsection. The decision of the arbitrators or the
562 single arbitrator shall incorporate those items of agreement the parties
563 have reached prior to its issuance. At any time prior to the issuance of
564 a decision by the arbitrators or the single arbitrator, the parties may
565 jointly file with the arbitrators or the single arbitrator any stipulations
566 setting forth contract provisions which both parties agree to accept. In
567 arriving at a decision, the arbitrators or the single arbitrator shall give
568 priority to the public interest and the financial capability of the town or
569 towns in the school district, including consideration of other demands
570 on the financial capability of the town or towns in the school district.
571 In assessing the financial capability of the town or towns, there shall be
572 an irrebuttable presumption that a budget reserve is not available for
573 payment of the cost of any item subject to arbitration under this
574 chapter. The arbitrators or the single arbitrator shall further consider,
575 in light of such financial capability, the following factors: (A) The
576 negotiations between the parties prior to arbitration, including the
577 offers and the range of discussion of the issues; (B) the interests and
578 welfare of the employee group; (C) changes in the cost of living
579 averaged over the preceding three years; (D) the existing conditions of
580 employment of the employee group and those of similar groups; (E)
581 the salaries, fringe benefits and other conditions of employment
582 prevailing in the state labor market, including the terms of recent
583 contract settlements or awards in collective bargaining for other
584 municipal employee organizations and developments in private sector
585 wages and benefits; (F) the reasons for the rejection of the award
586 pursuant to subdivision (7) of subsection (c) of this section; and (G) at
587 the sole election of the local or regional board of education, the
588 municipality's effective tax rate, as set forth in the Office of Policy and

589 Management's latest "Municipal Fiscal Indicators" publication. The
590 parties shall submit to the arbitrators or the single arbitrator their
591 respective positions on each individual issue in dispute between them
592 in the form of a last best offer. The arbitrators or the single arbitrator
593 shall resolve separately each individual disputed issue by accepting
594 the last best offer thereon of either of the parties, and shall incorporate
595 in a decision each such accepted individual last best offer and an
596 explanation of how the total cost of all offers accepted was considered.
597 The award of the arbitrators or the single arbitrator shall not be subject
598 to rejection by referendum. The parties shall each pay the fee of the
599 arbitrator selected by or for them and share equally the fee of the third
600 arbitrator or the single arbitrator and all other costs incidental to the
601 arbitration.

602 (5) The commissioner shall assist the arbitration panel or the single
603 arbitrator as may be required in the course of arbitration pursuant to
604 this subsection.

605 (6) If the day for filing any document required pursuant to this
606 subsection falls on Saturday, Sunday or a holiday, the time for such
607 filing shall be extended to the next business day.

608 (7) The decision of the arbitrators or a single arbitrator shall be
609 subject to judicial review upon the filing by a party to the arbitration,
610 within thirty days following receipt of a final decision pursuant to
611 subdivision (4) of subsection (c) of this section or subdivision (4) of this
612 subsection, as appropriate, of a motion to vacate or modify such
613 decision in the superior court for the judicial district wherein the
614 school district involved is located. The superior court, after hearing,
615 may vacate or modify the decision if substantial rights of a party have
616 been prejudiced because such decision is: (A) In violation of
617 constitutional or statutory provisions; (B) in excess of the statutory
618 authority of the panel; (C) made upon unlawful procedure; (D)
619 affected by other error of law; (E) clearly erroneous in view of the
620 reliable, probative and substantial evidence on the whole record; (F)
621 without proper consideration of the financial capability of the town or

622 towns in the school district; or (G) arbitrary or capricious or
623 characterized by abuse of discretion or clearly unwarranted exercise of
624 discretion. In any action brought pursuant to this subdivision to vacate
625 or modify the decision of the arbitrators or single arbitrator, reasonable
626 attorney's fees, costs and legal interest on salary withheld as the result
627 of an appeal of said decision may be awarded in accordance with the
628 following: Where the board of education moves to vacate or modify
629 the decision and the decision is not vacated or modified, the court may
630 award to the organization which is the exclusive representative
631 reasonable attorney's fees, costs and legal interest on salary withheld
632 as the result of an appeal; or, where the organization which is the
633 exclusive representative moves to vacate or modify the decision and
634 the decision is not vacated or modified, the court may award to the
635 board of education reasonable attorney's fees, costs and legal interest
636 on salary withheld as the result of an appeal.

637 [(d)] (e) The commissioner and the arbitrators or single arbitrator
638 shall have the same powers and duties as the board under section 31-
639 108 for the purposes of mediation or arbitration pursuant to this
640 section, and subsection (c) of section 10-153d, and all provisions in
641 section 31-108 with respect to procedure, jurisdiction of the Superior
642 Court, witnesses and penalties shall apply.

643 [(e)] (f) The local or regional board of education and the
644 organization designated or elected as the exclusive representative for
645 the appropriate unit, through designated officials or their
646 representatives, which are parties to a collective bargaining agreement,
647 and which, for the purpose of negotiating with respect to salaries,
648 hours and other conditions of employment, mutually agree to
649 negotiate during the term of the agreement or are ordered to negotiate
650 said agreement by a body of competent jurisdiction, shall notify the
651 commissioner of the date upon which negotiations commenced within
652 five days after said commencement. If the parties are unable to reach
653 settlement twenty-five days after the date of the commencement of
654 negotiations, the parties shall notify the commissioner of the name of a
655 mutually selected mediator and shall conduct mediation pursuant to

656 the provisions of subsection (b) of this section, notwithstanding the
657 mediation time schedule of subsection (b) of this section. On the fourth
658 day next following the end of the mediation session or on the fiftieth
659 day following the date of the commencement of negotiations,
660 whichever is sooner, if no settlement is reached the parties shall
661 commence arbitration pursuant to the provisions of subsections (a), (c)
662 and ~~[(d)]~~ (e) of this section, notwithstanding the reference to the
663 budget submission date.

664 ~~[(f)]~~ (g) The State Board of Education shall adopt regulations
665 pursuant to chapter 54 concerning the method by which names of
666 persons who are impartial representatives of the interests of the public
667 in general are placed on lists submitted by the State Board of
668 Education to the Governor for appointment to the arbitration panel
669 established pursuant to subsection (a) of this section. Such regulations
670 shall include, but not be limited to (1) a description of the composition
671 of the group which screens persons applying to be such impartial
672 representatives, which group shall include representatives of local
673 legislative and fiscal authorities and local and regional boards of
674 education and exclusive bargaining representatives of certified
675 employees, (2) application requirements and procedures and (3) the
676 selection criteria and process, including an evaluation of an applicant's
677 experience in arbitration. Such regulations shall provide for a training
678 program for applicants who lack experience in arbitration but who are
679 otherwise qualified and shall describe the criteria for participation in
680 the training program.

681 Sec. 506. Section 7-473c of the general statutes is repealed and the
682 following is substituted in lieu thereof (*Effective July 1, 2008*):

683 (a) The Labor Commissioner shall appoint a Neutral Arbitrator
684 Selection Committee consisting of ten members, five of whom shall
685 represent the interests of employees and employee organizations and
686 five of whom shall represent the interests of municipal employers,
687 provided one of the members representing the interests of municipal
688 employers shall be a representative of the Connecticut Conference of

689 Municipalities. The members of the selection committee shall serve for
690 a term of four years. Arbitrators may be removed for good cause. The
691 selection committee shall appoint a panel of neutral arbitrators
692 consisting of not less than twenty impartial persons representing the
693 interests of the public in general to serve as provided in this section.
694 Each member of the panel shall be a resident of the state and shall be
695 selected by a unanimous vote of the selection committee. The members
696 of the panel shall serve for a term of two years.

697 (b) (1) If neither the municipal employer nor the municipal
698 employee organization has requested the arbitration services of the
699 State Board of Mediation and Arbitration (A) within one hundred
700 eighty days after the certification or recognition of a newly certified or
701 recognized municipal employee organization required to commence
702 negotiations pursuant to section 7-473a, or (B) within thirty days after
703 the expiration of the current collective bargaining agreement, or within
704 thirty days after the specified date for implementation of reopener
705 provisions in an existing collective bargaining agreement, or within
706 thirty days after the date the parties to an existing collective bargaining
707 agreement commence negotiations to revise said agreement on any
708 matter affecting wages, hours, and other conditions of employment,
709 said board shall notify the municipal employer and municipal
710 employee organization that one hundred eighty days have passed
711 since the certification or recognition of the newly certified or
712 recognized municipal employee organization, or that thirty days have
713 passed since the specified date for implementation of reopener
714 provisions in an existing agreement, or the date the parties
715 commenced negotiations to revise an existing agreement on any matter
716 affecting wages, hours and other conditions of employment or the
717 expiration of such collective bargaining agreement and that [binding
718 and final] arbitration is now imposed on them, provided written
719 notification of such imposition shall be sent by registered mail or
720 certified mail, return receipt requested, to each party.

721 (2) Within ten days of receipt of the written notification required
722 pursuant to subdivision (1) of this subsection, the chief executive

723 officer of the municipal employer and the executive head of the
724 municipal employee organization each shall select one member of the
725 arbitration panel. Within five days of their appointment, the two
726 members of the arbitration panel shall select a third member, who shall
727 be an impartial representative of the interests of the public in general
728 and who shall be selected from the panel of neutral arbitrators
729 appointed pursuant to subsection (a) of this section. Such third
730 member shall be the chairperson of the panel.

731 (3) In the event that the municipal employer or the municipal
732 employee organization have not selected their respective members of
733 the arbitration panel or the two members of the panel have not
734 selected the third member, the State Board of Mediation and
735 Arbitration shall appoint such members as are needed to complete the
736 panel, provided (A) the member or members so appointed are
737 residents of this state, and (B) the selection of the third member of the
738 panel by the State Board of Mediation and Arbitration shall be made at
739 random from among the members of the panel of neutral arbitrators
740 appointed pursuant to subsection (a) of this section.

741 (c) Within ten days of appointment of the chairperson, the
742 arbitration panel shall, by call of its chairperson, hold a hearing within
743 the municipality involved. At least five days prior to such hearing, a
744 written notice of the time and place of such hearing shall be sent to the
745 municipal employer, the municipal employee organization and the
746 other members of the panel. The chairperson of the panel shall preside
747 over such hearing. Any member of the panel shall have the power to
748 take testimony, to administer oaths and to summon, by subpoena, any
749 person whose testimony may be pertinent to the matters before said
750 panel, together with any records or other documents relating to such
751 matters. In the case of contumacy or refusal to obey a subpoena issued
752 to any person, the Superior Court, upon application by the panel, shall
753 have jurisdiction to order such person to appear before the panel to
754 produce evidence or to give testimony touching the matter under
755 investigation or in question, and any failure to obey such order may be
756 punished by said court as a contempt thereof.

757 (d) (1) The hearing may, at the discretion of the panel, be continued
758 and shall be concluded within twenty days after its commencement.
759 Not less than two days prior to the commencement of the hearing,
760 each party shall file with the chairperson of the panel, and deliver to
761 the other party, a proposed collective bargaining agreement, in
762 numbered paragraphs, which such party is willing to execute and cost
763 data for all provisions of such proposed agreement. At the
764 commencement of the hearing each party shall file with the panel a
765 reply setting forth (A) those paragraphs of the proposed agreement of
766 the other party which it is willing to accept, and (B) those paragraphs
767 of the proposed agreement of the other party which it is unwilling to
768 accept, together with any alternative contract language which such
769 party would accept in lieu of those paragraphs of the proposed
770 agreement of the other party which it is unwilling to accept. At any
771 time prior to the issuance of a decision by the panel, the parties may
772 jointly file with the panel stipulations setting forth the agreement
773 provisions which both parties have agreed to accept.

774 (2) Within five days after the conclusion of the taking of testimony,
775 the panel shall forward to each party an arbitration statement,
776 approved by a majority vote of the panel, setting forth all agreement
777 provisions agreed upon by both parties in the proposed agreements
778 and the replies, and in the stipulations, and stating, in numbered
779 paragraphs, those issues which are unresolved.

780 (3) Within ten days after the conclusion of the taking of testimony,
781 the parties shall file with the secretary of the State Board of Mediation
782 and Arbitration five copies of their statements of last best offer setting
783 forth, in numbered paragraphs corresponding to the statement of
784 unresolved issues contained in the arbitration statement, the final
785 agreement provisions proposed by such party. Immediately upon
786 receipt of both statement of last best offer or upon the expiration of the
787 time for filing such statements of last best offer, whichever is sooner,
788 said secretary shall distribute a copy of each such statement of last best
789 offer to the opposing party.

790 (4) Within seven days after the distribution of the statements of last
791 best offer or within seven days of the expiration of the time for filing
792 the statements of last best offer, whichever is sooner, the parties may
793 file with the secretary of the State Board of Mediation and Arbitration
794 five copies of their briefs on the unresolved issues. Immediately upon
795 receipt of both briefs or upon the expiration of the time for filing such
796 briefs, whichever is sooner, said secretary shall distribute a copy of
797 each such brief to the opposing party.

798 (5) Within five days after the distribution of the briefs on the
799 unresolved issues or within five days after the last day for filing such
800 briefs, whichever is sooner, each party may file with said secretary five
801 copies of a reply brief, responding to the briefs on the unresolved
802 issues. Immediately upon receipt of the reply briefs or upon the
803 expiration of the time for filing such reply briefs, whichever is sooner,
804 said secretary shall simultaneously distribute a copy of each such reply
805 brief to the opposing party.

806 (6) Within twenty days after the last day for filing such reply briefs,
807 the panel shall issue, upon majority vote, and file with the State Board
808 of Mediation and Arbitration its decision on all unresolved issues set
809 forth in the arbitration statement, and said secretary shall immediately
810 and simultaneously distribute a copy thereof to each party. The panel
811 shall treat each unresolved issue set forth in the arbitration statement
812 as a separate question to be decided by it. In deciding each such
813 question, the panel agreement shall accept the final provision relating
814 to such unresolved issue as contained in the statement of last best offer
815 of one party or the other. As part of the arbitration decision, each
816 member shall state the specific reasons and standards used in making
817 a choice on each unresolved issue.

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

821 (8) If the day for filing any document required or permitted to be

822 filed under this subsection falls on a day which is not a business day of
823 the State Board of Mediation and Arbitration then the time for such
824 filing shall be extended to the next business day of such board.

825 (9) In arriving at a decision, the arbitration panel shall give priority
826 to the public interest and the financial capability of the municipal
827 employer, including consideration of other demands on the financial
828 capability of the municipal employer. In assessing the financial
829 capability of the town or towns, there shall be an irrebuttable
830 presumption that a budget reserve is not available for payment of the
831 cost of any item subject to arbitration under this chapter. The panel
832 shall further consider the following factors in light of such financial
833 capability: (A) The negotiations between the parties prior to
834 arbitration; (B) the interests and welfare of the employee group; (C)
835 changes in the cost of living; (D) the existing conditions of employment
836 of the employee group and those of similar groups; [and] (E) the
837 wages, salaries, fringe benefits, and other conditions of employment
838 prevailing in the labor market, including developments in private
839 sector wages and benefits; and (F) at the sole election of the municipal
840 employer, the municipality's effective tax rate, as set forth in the Office
841 of Policy and Management's latest "Municipal Fiscal Indicators"
842 publication.

843 (10) The decision of the panel and the resolved issues shall be final
844 and binding upon the municipal employer and the municipal
845 employee organization except as provided in subdivision (12) of this
846 subsection and, if such award is not rejected by the legislative body
847 pursuant to said subdivision, except that a motion to vacate or modify
848 such decision may be made in accordance with sections 52-418 and
849 52-419.

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

853 (12) Within twenty-five days of the receipt of an arbitration award

854 issued pursuant to this section, the legislative body of the municipal
855 employer may reject the award of the arbitrators or single arbitrator by
856 a two-thirds majority vote of the members of such legislative body
857 present at a regular or special meeting called and convened for such
858 purpose.

859 (13) Within ten days after such rejection, the legislative body or its
860 authorized representative shall be required to state, in writing, the
861 reasons for such vote and shall submit such written statement to the
862 State Board of Mediation and Arbitration and the municipal employee
863 organization. Within ten days after receipt of such notice, the
864 municipal employee organization shall prepare a written response to
865 such rejection and shall submit it to the legislative body and the State
866 Board of Mediation and Arbitration.

867 [(14) Within ten days after receipt of such rejection notice, the State
868 Board of Mediation and Arbitration shall select a review panel of three
869 arbitrators or, if the parties agree, a single arbitrator who are residents
870 of Connecticut and labor relations arbitrators approved by the
871 American Arbitration Association and not members of the panel who
872 issued the rejected award. Such arbitrators or single arbitrator shall
873 review the decision on each such rejected issue. The review conducted
874 pursuant to this subdivision shall be limited to the record and briefs of
875 the hearing pursuant to subsection (c) of this section, the written
876 explanation of the reasons for the vote and a written response by either
877 party. In conducting such review, the arbitrators or single arbitrator
878 shall be limited to consideration of the criteria set forth in subdivision
879 (9) of this subsection. Such review shall be completed within twenty
880 days of the appointment of the arbitrators or single arbitrator. The
881 arbitrators or single arbitrator shall accept the last best offer of either of
882 the parties.

883 (15) Within five days after the completion of such review the
884 arbitrators or single arbitrator shall render a decision with respect to
885 each rejected issue which shall be final and binding upon the
886 municipal employer and the employee organization except that a

887 motion to vacate or modify such award may be made in accordance
888 with sections 52-418 and 52-419. The decision of the arbitrators or
889 single arbitrator shall be in writing and shall include specific reasons
890 and standards used by each arbitrator in making a decision on each
891 issue. The decision shall be filed with the parties. The reasonable costs
892 of the arbitrators or single arbitrator and the cost of the transcript shall
893 be paid by the legislative body. Where the legislative body of a
894 municipal employer is the town meeting, the board of selectmen shall
895 perform all of the duties and shall have all of the authority and
896 responsibilities required of and granted to the legislative body under
897 this subsection.]

898 (e) (1) Within ten days after receipt of such written response to such
899 rejection, the State Board of Mediation and Arbitration shall notify the
900 municipal employer and municipal employee organization that
901 binding and final arbitration is now imposed on them, provided
902 written notification of such imposition shall be sent by registered mail
903 or certified mail, return receipt requested, to each party.

904 (2) Within ten days after receipt of such notice, the chief executive
905 officer of the municipal employer and the executive head of the
906 municipal employee organization each shall select one member of the
907 arbitration panel. Within five days of their appointment, the two
908 members of the arbitration panel shall select a third member, who shall
909 be an impartial representative of the interests of the public in general
910 and who shall be selected from the panel of neutral arbitrators
911 appointed pursuant to subsection (a) of this section. Such third
912 member shall be the chairperson of the panel.

913 (3) In the event that the municipal employer or the municipal
914 employee organization has not selected its respective members of the
915 arbitration panel or the two members of the panel have not selected
916 the third member, the State Board of Mediation and Arbitration shall
917 appoint such members as are needed to complete the panel, provided
918 (A) the member or members so appointed are residents of this state,
919 and (B) the selection of the third member of the panel by the State

920 Board of Mediation and Arbitration shall be made at random from
921 among the members of the panel of neutral arbitrators appointed
922 pursuant to subsection (a) of this section.

923 (4) Within ten days of appointment of the chairperson, the
924 arbitration panel shall, by call of its chairperson, hold a hearing within
925 the municipality involved. At least five days prior to such hearing, a
926 written notice of the time and place of such hearing shall be sent to the
927 municipal employer, the municipal employee organization and the
928 other members of the panel. The chairperson of the panel shall preside
929 over such hearing. Any member of the panel shall have the power to
930 take testimony, to administer oaths and to summon, by subpoena, any
931 person whose testimony may be pertinent to the matters before said
932 panel, together with any records or other documents relating to such
933 matters. In the case of contumacy or refusal to obey a subpoena issued
934 to any person, the Superior Court, upon application by the panel, shall
935 have jurisdiction to order such person to appear before the panel to
936 produce evidence or to give testimony touching upon the matter under
937 investigation or in question, and any failure to obey such order may be
938 punished by said court as a contempt thereof.

939 (5) The hearing may, at the discretion of the panel be continued and
940 shall be concluded within twenty days after its commencement. Not
941 less than two days prior to the commencement of the hearing, each
942 party shall file with the chairperson of the panel and deliver to the
943 other party a proposed collective bargaining agreement, in numbered
944 paragraphs, which such party is willing to execute and cost data for all
945 provisions of such proposed agreement. At the commencement of the
946 hearing, each party shall file with the panel a reply setting forth (A)
947 those paragraphs of the proposed agreement of the other party that it
948 is willing to accept, and (B) those paragraphs of the proposed
949 agreement of the other party that it is unwilling to accept, together
950 with any alternative contract language that such party would accept in
951 lieu of those paragraphs of the proposed agreement of the other party
952 that it is unwilling to accept. At any time prior to the issuance of a
953 decision by the panel, the parties may jointly file with the panel

954 stipulations setting forth the agreement provisions that both parties
955 have agreed to accept.

956 (6) Within five days after the conclusion of the taking of testimony,
957 the panel shall forward to each party an arbitration statement,
958 approved by a majority vote of the panel, setting forth all agreement
959 provisions agreed upon by both parties in the proposed agreements
960 and the replies, and in the stipulations, and stating, in numbered
961 paragraphs, those issues which are unresolved.

962 (7) Within ten days after the conclusion of the taking of testimony,
963 the parties shall file with the secretary of the State Board of Mediation
964 and Arbitration five copies of their statements of last best offer setting
965 forth, in numbered paragraphs corresponding to the statement of
966 unresolved issues contained in the arbitration statement, the final
967 agreement provisions proposed by such party. Immediately upon
968 receipt of both statement of last best offer or upon the expiration of the
969 time for filing such statements of last best offer, whichever is sooner,
970 said secretary shall distribute a copy of each such statement of last best
971 offer to the opposing party.

972 (8) Within seven days after the distribution of the statements of last
973 best offer or within seven days of the expiration of the time for filing
974 the statements of last best offer, whichever is sooner, the parties may
975 file with the secretary of the State Board of Mediation and Arbitration
976 five copies of their briefs on the unresolved issues. Immediately upon
977 receipt of both briefs or upon the expiration of the time for filing such
978 briefs, whichever is sooner, said secretary shall distribute a copy of
979 each such brief to the opposing party.

980 (9) Within five days after the distribution of the briefs on the
981 unresolved issues or within five days after the last day for filing such
982 briefs, whichever is sooner, each party may file with said secretary five
983 copies of a reply brief, responding to the briefs on the unresolved
984 issues. Immediately upon receipt of the reply briefs or upon the
985 expiration of the time for filing such reply briefs, whichever is sooner,

986 said secretary shall simultaneously distribute a copy of each such reply
987 brief to the opposing party.

988 (10) Within twenty days after the last day for filing such reply briefs,
989 the panel shall issue, upon majority vote, and file with the State Board
990 of Mediation and Arbitration its decision on all unresolved issues set
991 forth in the arbitration statement, and said secretary shall immediately
992 and simultaneously distribute a copy thereof to each party. The panel
993 shall treat each unresolved issue set forth in the arbitration statement
994 as a separate question to be decided by it. In deciding each such
995 question, the panel agreement shall accept the final provision relating
996 to such unresolved issue as contained in the statement of last best offer
997 of one party or the other. As part of the arbitration decision, each
998 member shall state the specific reasons and standards used in making
999 a choice on each unresolved issue.

1000 (11) The parties may jointly file with the panel stipulations
1001 modifying, deferring or waiving any or all provisions of this
1002 subsection.

1003 (12) If the day for filing any document required or permitted to be
1004 filed under this subsection falls on a day which is not a business day of
1005 the State Board of Mediation and Arbitration then the time for such
1006 filing shall be extended to the next business day of such board.

1007 (13) In arriving at a decision, the arbitration panel shall give priority
1008 to the public interest and the financial capability of the municipal
1009 employer, including consideration of other demands on the financial
1010 capability of the municipal employer. In assessing the financial
1011 capability of the town or towns, there shall be an irrebuttable
1012 presumption that a budget reserve is not available for payment of the
1013 cost of any item subject to arbitration under this chapter. The panel
1014 shall further consider the following factors in light of such financial
1015 capability: (A) The negotiations between the parties prior to
1016 arbitration; (B) the interests and welfare of the employee group; (C)
1017 changes in the cost of living; (D) the existing conditions of employment

1018 of the employee group and those of similar groups; (E) the wages,
1019 salaries, fringe benefits and other conditions of employment prevailing
1020 in the labor market, including developments in private sector wages
1021 and benefits; (F) the reasons for the rejection of the award pursuant to
1022 subdivision (12) of subsection (d) of this section; and (G) at the sole
1023 election of the municipal employer, the municipality's effective tax
1024 rate, as set forth in the Office of Policy and Management's latest
1025 "Municipal Fiscal Indicators" publication.

1026 (14) The decision of the panel and the resolved issues shall be final
1027 and binding upon the municipal employer and the municipal
1028 employee organization, except that a motion to vacate or modify such
1029 decision may be made in accordance with sections 52-418 and 52-419.
1030 The panel's failure to adhere to the criteria set forth in subdivision (13)
1031 of this subsection when choosing between last best offers will
1032 constitute an additional ground for vacating or modifying such an
1033 award pursuant to a motion made in accordance with sections 52-418
1034 and 52-419, and, where appropriate, a party may introduce evidence
1035 and testimony in support of an application on this ground.

1036 (15) In regard to all proceedings undertaken pursuant to this
1037 subsection, the secretary of the State Board of Mediation and
1038 Arbitration shall serve as staff to the arbitration panel.

1039 ~~[(e)]~~ (f) The cost of the arbitration panel shall be distributed among
1040 the parties in the following manner: (1) The municipal employer shall
1041 pay the costs of the arbitrator appointed by it, (2) the municipal
1042 employee organization shall pay the costs of the arbitrator appointed
1043 by it, (3) the municipal employer and the municipal employee
1044 organization shall equally divide and pay the cost of the chairperson,
1045 and (4) the costs of any arbitrator appointed by the State Board of
1046 Mediation and Arbitration shall be paid by the party in whose absence
1047 the board appointed.

1048 ~~[(f)]~~ (g) A municipal employer and a municipal employee
1049 organization may, at any time, file with the State Board of Mediation

1050 and Arbitration a joint stipulation modifying, deferring or waiving any
1051 or all of the provisions of this section, or modifying, deferring or
1052 waiving any or all of the provisions of a previously filed stipulation,
1053 and any such stipulation shall be controlling over the provisions of this
1054 section or of any previously filed stipulation.

1055 [(g)] (h) No party may submit for binding arbitration pursuant to
1056 this section any issue or proposal which was not presented during the
1057 negotiation process, unless the submittal of such additional issue or
1058 proposal is agreed to by the parties."