



General Assembly

January Session, 2009

Raised Bill No. 804

LCO No. 2492

02492_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING MUNICIPAL BINDING ARBITRATION.

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

1 Section 1. Section 7-473c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) The Labor Commissioner shall appoint a Neutral Arbitrator
4 Selection Committee consisting of ten members, five of whom shall
5 represent the interests of employees and employee organizations and
6 five of whom shall represent the interests of municipal employers,
7 provided one of the members representing the interests of municipal
8 employers shall be a representative of the Connecticut Conference of
9 Municipalities. The members of the selection committee shall serve for
10 a term of four years. Arbitrators may be removed for good cause. The
11 selection committee shall appoint a panel of neutral arbitrators
12 consisting of not less than twenty impartial persons representing the
13 interests of the public in general to serve as provided in this section.
14 Each member of the panel shall be a resident of the state and shall be
15 selected by a unanimous vote of the selection committee. The members
16 of the panel shall serve for a term of two years.

17 (b) (1) If neither the municipal employer nor the municipal
18 employee organization has requested the arbitration services of the
19 State Board of Mediation and Arbitration (A) within one hundred
20 eighty days after the certification or recognition of a newly certified or
21 recognized municipal employee organization required to commence
22 negotiations pursuant to section 7-473a, or (B) within thirty days after
23 the expiration of the current collective bargaining agreement, or within
24 thirty days after the specified date for implementation of reopener
25 provisions in an existing collective bargaining agreement, or within
26 thirty days after the date the parties to an existing collective bargaining
27 agreement commence negotiations to revise said agreement on any
28 matter affecting wages, hours, and other conditions of employment,
29 said board shall notify the municipal employer and municipal
30 employee organization that one hundred eighty days have passed
31 since the certification or recognition of the newly certified or
32 recognized municipal employee organization, or that thirty days have
33 passed since the specified date for implementation of reopener
34 provisions in an existing agreement, or the date the parties
35 commenced negotiations to revise an existing agreement on any matter
36 affecting wages, hours and other conditions of employment or the
37 expiration of such collective bargaining agreement and that binding
38 and final arbitration is now imposed on them, provided written
39 notification of such imposition shall be sent by registered mail or
40 certified mail, return receipt requested, to each party.

41 (2) Within ten days of receipt of the written notification required
42 pursuant to subdivision (1) of this subsection, the chief executive
43 officer of the municipal employer and the executive head of the
44 municipal employee organization each shall select one member of the
45 arbitration panel. Within five days of their appointment, the two
46 members of the arbitration panel shall select a third member, who shall
47 be an impartial representative of the interests of the public in general
48 and who shall be selected from the panel of neutral arbitrators
49 appointed pursuant to subsection (a) of this section. Such third
50 member shall be the chairperson of the panel.

51 (3) In the event that the municipal employer or the municipal
52 employee organization have not selected their respective members of
53 the arbitration panel or the two members of the panel have not
54 selected the third member, the State Board of Mediation and
55 Arbitration shall appoint such members as are needed to complete the
56 panel, provided (A) the member or members so appointed are
57 residents of this state, and (B) the selection of the third member of the
58 panel by the State Board of Mediation and Arbitration shall be made at
59 random from among the members of the panel of neutral arbitrators
60 appointed pursuant to subsection (a) of this section.

61 (c) Within ten days of appointment of the chairperson, the
62 arbitration panel shall, by call of its chairperson, hold a hearing within
63 the municipality involved. At least five days prior to such hearing, a
64 written notice of the time and place of such hearing shall be sent to the
65 municipal employer, the municipal employee organization and the
66 other members of the panel. The chairperson of the panel shall preside
67 over such hearing. Any member of the panel shall have the power to
68 take testimony, to administer oaths and to summon, by subpoena, any
69 person whose testimony may be pertinent to the matters before said
70 panel, together with any records or other documents relating to such
71 matters. In the case of contumacy or refusal to obey a subpoena issued
72 to any person, the Superior Court, upon application by the panel, shall
73 have jurisdiction to order such person to appear before the panel to
74 produce evidence or to give testimony touching the matter under
75 investigation or in question, and any failure to obey such order may be
76 punished by said court as a contempt thereof.

77 (d) (1) The hearing may, at the discretion of the panel, be continued
78 and shall be concluded within twenty days after its commencement.
79 Not less than two days prior to the commencement of the hearing,
80 each party shall file with the chairperson of the panel, and deliver to
81 the other party, a proposed collective bargaining agreement, in
82 numbered paragraphs, which such party is willing to execute and cost
83 data for all provisions of such proposed agreement. At the

84 commencement of the hearing each party shall file with the panel a
85 reply setting forth (A) those paragraphs of the proposed agreement of
86 the other party which it is willing to accept, and (B) those paragraphs
87 of the proposed agreement of the other party which it is unwilling to
88 accept, together with any alternative contract language which such
89 party would accept in lieu of those paragraphs of the proposed
90 agreement of the other party which it is unwilling to accept. At any
91 time prior to the issuance of a decision by the panel, the parties may
92 jointly file with the panel stipulations setting forth the agreement
93 provisions which both parties have agreed to accept.

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

100 (3) Within ten days after the conclusion of the taking of testimony,
101 the parties shall file with the secretary of the State Board of Mediation
102 and Arbitration five copies of their statements of last best offer setting
103 forth, in numbered paragraphs corresponding to the statement of
104 unresolved issues contained in the arbitration statement, the final
105 agreement provisions proposed by such party. Immediately upon
106 receipt of both statement of last best offer or upon the expiration of the
107 time for filing such statements of last best offer, whichever is sooner,
108 said secretary shall distribute a copy of each such statement of last best
109 offer to the opposing party.

110 (4) Within seven days after the distribution of the statements of last
111 best offer or within seven days of the expiration of the time for filing
112 the statements of last best offer, whichever is sooner, the parties may
113 file with the secretary of the State Board of Mediation and Arbitration
114 five copies of their briefs on the unresolved issues. Immediately upon
115 receipt of both briefs or upon the expiration of the time for filing such

116 briefs, whichever is sooner, said secretary shall distribute a copy of
117 each such brief to the opposing party.

118 (5) Within five days after the distribution of the briefs on the
119 unresolved issues or within five days after the last day for filing such
120 briefs, whichever is sooner, each party may file with said secretary five
121 copies of a reply brief, responding to the briefs on the unresolved
122 issues. Immediately upon receipt of the reply briefs or upon the
123 expiration of the time for filing such reply briefs, whichever is sooner,
124 said secretary shall simultaneously distribute a copy of each such reply
125 brief to the opposing party.

126 (6) Within twenty days after the last day for filing such reply briefs,
127 the panel shall issue, upon majority vote, and file with the State Board
128 of Mediation and Arbitration its decision on all unresolved issues set
129 forth in the arbitration statement, and said secretary shall immediately
130 and simultaneously distribute a copy thereof to each party. The panel
131 shall treat each unresolved issue set forth in the arbitration statement
132 as a separate question to be decided by it. In deciding each such
133 question, the panel agreement shall accept the final provision relating
134 to such unresolved issue as contained in the statement of last best offer
135 of one party or the other. As part of the arbitration decision, each
136 member shall state the specific reasons and standards used in making
137 a choice on each unresolved issue.

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

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

145 (9) In arriving at a decision, the arbitration panel shall give priority
146 to the public interest and the financial capability of the municipal

147 employer, including consideration of other demands on the financial
148 capability of the municipal employer. The panel shall further consider
149 the following factors in light of such financial capability: (A) The
150 negotiations between the parties prior to arbitration; (B) the interests
151 and welfare of the employee group; (C) changes in the cost of living;
152 (D) the existing conditions of employment of the employee group and
153 those of similar groups; and (E) the wages, salaries, fringe benefits, and
154 other conditions of employment prevailing in the labor market,
155 including developments in private sector wages and benefits.

156 (10) The decision of the panel and the resolved issues shall be final
157 and binding upon the municipal employer and the municipal
158 employee organization except as provided in subdivision (12) of this
159 subsection and, if such award is not rejected by the legislative body
160 pursuant to said subdivision, except that a motion to vacate or modify
161 such decision may be made in accordance with sections 52-418 and
162 52-419.

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

166 (12) Within twenty-five days of the receipt of an arbitration award
167 issued pursuant to this section, the legislative body of the municipal
168 employer may reject the award of the arbitrators or single arbitrator by
169 a two-thirds majority vote of the members of such legislative body
170 present at a regular or special meeting called and convened for such
171 purpose and the municipal employee organization may reject the
172 award of the arbitrators or single arbitrator by a two-thirds majority
173 vote of the members of such municipal employee organization present
174 at a regular or special meeting called and convened for such purpose.

175 (13) Within ten days after such rejection, the legislative body or its
176 authorized representative or the municipal employee organization
177 shall be required to state, in writing, the reasons for such vote and
178 shall submit such written statement to the State Board of Mediation

179 and Arbitration and [the municipal employee organization] to each
180 party. Within ten days after receipt of such notice, the [municipal
181 employee organization] nonrejecting party shall prepare a written
182 response to such rejection and shall submit it to the legislative body
183 and the State Board of Mediation and Arbitration.

184 (14) Within ten days after receipt of such rejection notice, the State
185 Board of Mediation and Arbitration shall select a review panel of three
186 arbitrators or, if the parties agree, a single arbitrator who are residents
187 of Connecticut and labor relations arbitrators approved by the
188 American Arbitration Association and not members of the panel who
189 issued the rejected award. Such arbitrators or single arbitrator shall
190 review the decision on each such rejected issue. The review conducted
191 pursuant to this subdivision shall be limited to the record and briefs of
192 the hearing pursuant to subsection (c) of this section, the written
193 explanation of the reasons for the vote and a written response by either
194 party. In conducting such review, the arbitrators or single arbitrator
195 shall be limited to consideration of the criteria set forth in subdivision
196 (9) of this subsection. Such review shall be completed within twenty
197 days of the appointment of the arbitrators or single arbitrator. The
198 arbitrators or single arbitrator shall accept the last best offer of either of
199 the parties.

200 (15) Within five days after the completion of such review the
201 arbitrators or single arbitrator shall render a decision with respect to
202 each rejected issue which shall be final and binding upon the
203 municipal employer and the employee organization except that a
204 motion to vacate or modify such award may be made in accordance
205 with sections 52-418 and 52-419. The decision of the arbitrators or
206 single arbitrator shall be in writing and shall include specific reasons
207 and standards used by each arbitrator in making a decision on each
208 issue. The decision shall be filed with the parties. The reasonable costs
209 of the arbitrators or single arbitrator and the cost of the transcript shall
210 be paid equally by the legislative body and the municipal employee
211 organization. Where the legislative body of a municipal employer is

212 the town meeting, the board of selectmen shall perform all of the
213 duties and shall have all of the authority and responsibilities required
214 of and granted to the legislative body under this subsection.

215 (e) The cost of the arbitration panel shall be distributed among the
216 parties in the following manner: (1) The municipal employer shall pay
217 the costs of the arbitrator appointed by it, (2) the municipal employee
218 organization shall pay the costs of the arbitrator appointed by it, (3) the
219 municipal employer and the municipal employee organization shall
220 equally divide and pay the cost of the chairperson, and (4) the costs of
221 any arbitrator appointed by the State Board of Mediation and
222 Arbitration shall be paid by the party in whose absence the board
223 appointed.

224 (f) A municipal employer and a municipal employee organization
225 may, at any time, file with the State Board of Mediation and
226 Arbitration a joint stipulation modifying, deferring or waiving any or
227 all of the provisions of this section, or modifying, deferring or waiving
228 any or all of the provisions of a previously filed stipulation, and any
229 such stipulation shall be controlling over the provisions of this section
230 or of any previously filed stipulation.

231 (g) No party may submit for binding arbitration pursuant to this
232 section any issue or proposal which was not presented during the
233 negotiation process, unless the submittal of such additional issue or
234 proposal is agreed to by the parties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	7-473c

Statement of Purpose:
To allow municipal employee organizations the right to reject arbitration awards and to require that such organizations split the costs of the binding arbitration that follows with the municipality.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]