



# Senate

General Assembly

**File No. 29**

February Session, 2014

Substitute Senate Bill No. 63

*Senate, March 18, 2014*

The Committee on Labor and Public Employees reported through SEN. HOLDER-WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING TIMELINES FOR ARBITRATION AWARDS.***

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 Section 7-473c of the general statutes is repealed and the  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, 2014*):

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] Except as provided in subsection (f) of this section, parties  
139 may jointly file with the panel stipulations modifying, deferring or  
140 waiving any or all provisions of this 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.

172 (13) Within ten days after such rejection, the legislative body or its  
173 authorized representative shall be required to state, in writing, the  
174 reasons for such vote and shall submit such written statement to the  
175 State Board of Mediation and Arbitration and the municipal employee  
176 organization. Within ten days after receipt of such notice, the  
177 municipal employee organization shall prepare a written response to  
178 such rejection and shall submit it to the legislative body and the State  
179 Board of Mediation and Arbitration.

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

196 (15) Within five days after the completion of such review the  
197 arbitrators or single arbitrator shall render a decision with respect to  
198 each rejected issue which shall be final and binding upon the  
199 municipal employer and the employee organization except that a  
200 motion to vacate or modify such award may be made in accordance  
201 with sections 52-418 and 52-419. The decision of the arbitrators or  
202 single arbitrator shall be in writing and shall include specific reasons  
203 and standards used by each arbitrator in making a decision on each  
204 issue. The decision shall be filed with the parties. The reasonable costs  
205 of the arbitrators or single arbitrator and the cost of the transcript shall  
206 be paid by the legislative body. Where the legislative body of a  
207 municipal employer is the town meeting, the board of selectmen shall  
208 perform all of the duties and shall have all of the authority and  
209 responsibilities required of and granted to the legislative body under  
210 this subsection.

211 (e) The cost of the arbitration panel shall be distributed among the  
212 parties in the following manner: (1) The municipal employer shall pay  
213 the costs of the arbitrator appointed by it, (2) the municipal employee

214 organization shall pay the costs of the arbitrator appointed by it, (3) the  
215 municipal employer and the municipal employee organization shall  
216 equally divide and pay the cost of the chairperson, and (4) the costs of  
217 any arbitrator appointed by the State Board of Mediation and  
218 Arbitration shall be paid by the party in whose absence the board  
219 appointed.

220 (f) (1) A municipal employer and a municipal employee  
221 organization may, at any time, file with the State Board of Mediation  
222 and Arbitration a joint stipulation modifying, deferring or waiving any  
223 or all of the provisions of subsections (a), (b), (c) and (e) of this section,  
224 or modifying, deferring or waiving any or all of the provisions of a  
225 previously filed stipulation, and any such stipulation shall be  
226 controlling over the provisions of subsections (a), (b), (c) and (e) of this  
227 section or of any previously filed stipulation.

228 (2) A municipal employer and municipal employee organization  
229 engaged in mandatory binding arbitration pursuant to this section  
230 shall file any statement of last best offer and brief on unresolved issues  
231 required pursuant to subdivisions (3) and (4) of subsection (d) of this  
232 section not later than one hundred eighty calendar days from the date  
233 (A) either party requested the arbitration services of the State Board of  
234 Mediation and Arbitration, or (B) binding and final arbitration was  
235 imposed on them by said board pursuant to subsection (b) of this  
236 section, as the case may be.

237 (3) No municipal employer or municipal employee organization  
238 may file a stipulation with the State Board of Mediation and  
239 Arbitration modifying, deferring or waiving any provision of this  
240 subsection.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	7-473c

**LAB**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	Potential Savings	Potential	Potential

**Explanation**

The bill, which eliminates certain municipal employers and employees ability to indefinitely postpone arbitration deadlines, may result in a potential savings to municipalities. Any potential savings depends on legal costs associated with the arbitration process and the number of arbitration cases postponed.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sSB 63*****AN ACT CONCERNING TIMELINES FOR ARBITRATION AWARDS.*****SUMMARY:**

This bill ensures that an arbitrator in a municipal interest arbitration proceeding can begin deciding the case no later than 180 days after the arbitration process began. It does so by (1) requiring the municipality and the union representing the municipal employee group to file their last best offers and briefs on unresolved issues (steps which occur after testimony is taken, but before a decision is issued) before that 180-day deadline and (2) prohibiting them from modifying, deferring or waiving the deadline. Although current law specifies numerous deadlines in the arbitration process, it allows the parties to mutually modify, defer, or waive any of them, including the deadline to file the last best offers and briefs on unresolved issues, indefinitely. Under the bill, the parties can still mutually waive or postpone deadlines for steps in the process, but not beyond the 180-day period.

EFFECTIVE DATE: October 1, 2014

**BACKGROUND*****Municipal Interest Arbitration***

When a municipal employees' union and the municipality cannot agree to the terms of a new collective bargaining agreement, the law requires them to undergo binding arbitration to determine the contested issues and prohibits the employees from striking. This "interest" arbitration differs from "grievance" arbitration, which is generally used to arbitrate employee complaints over how an existing collective bargaining agreement is being applied or interpreted by an employer.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 1 (03/04/2014)