
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1570 Session of
2012

INTRODUCED BY EARLL, EICHELBERGER, WAUGH, PICCOLA AND BROWNE,
AUGUST 16, 2012

REFERRED TO LOCAL GOVERNMENT, AUGUST 16, 2012

AN ACT

1 Amending the act of June 24, 1968 (P.L.237, No.111), entitled
2 "An act specifically authorizing collective bargaining
3 between policemen and firemen and their public employers;
4 providing for arbitration in order to settle disputes, and
5 requiring compliance with collective bargaining agreements
6 and findings of arbitrators," further providing for right to
7 enter into collective bargaining, for duty to exert
8 reasonable effort to settle, for date for collective
9 bargaining to commence, for appointment of board of
10 arbitration, for powers of arbitrators, for determination of
11 board of arbitration and for costs and expenses; and making
12 editorial changes.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 1 of the act of June 24, 1968 (P.L.237,
16 No.111), referred to as the Policemen and Firemen Collective
17 Bargaining Act, is repealed:

18 [Section 1. Policemen or firemen employed by a political
19 subdivision of the Commonwealth or by the Commonwealth shall,
20 through labor organizations or other representatives designated
21 by fifty percent or more of such policemen or firemen, have the
22 right to bargain collectively with their public employers
23 concerning the terms and conditions of their employment,

1 including compensation, hours, working conditions, retirement,
2 pensions and other benefits, and shall have the right to an
3 adjustment or settlement of their grievances or disputes in
4 accordance with the terms of this act.]

5 Section 2. The act is amended by adding sections to read:

6 Section 1.1. Short title.

7 This act shall be known and may be cited as the Policemen and
8 Firemen Collective Bargaining Act.

9 Section 1.2. (Reserved).

10 Section 1.3. Right to bargain collectively.

11 (a) General rule.--Except as otherwise provided in
12 subsection (b), policemen or firemen employed by a political
13 subdivision of the Commonwealth or by the Commonwealth shall,
14 through labor organizations or other representatives designated
15 by 50% or more of its active members, have the right to bargain
16 collectively with their public employers concerning the terms
17 and conditions of their employment, including compensation,
18 hours, working conditions, retirement, pensions and other
19 benefits, and shall have the right to a settlement of their
20 grievances or disputes in accordance with the terms of this act.

21 (b) Exception.--Where there are one or two active members,
22 then the labor organization or other representative must be
23 designated by, as the case may be, one or both of the active
24 members.

25 (c) Restriction.--Under no circumstances shall
26 postretirement health or pension benefits that are not
27 statutorily required or any other term or condition of
28 employment that is specifically exempted from collective
29 bargaining be considered a term of condition of employment
30 subject to collective bargaining under this act.

1 Section 3. Sections 2, 3, 4, 5, 6, 7 and 8 of the act are
2 amended to read:

3 Section 2. [It shall be the duty of public] Duty to exert
4 reasonable effort to settle.

5 (a) General rule.--Public employers and their policemen and
6 firemen employes [to] shall exert every reasonable effort to
7 settle all disputes by engaging in collective bargaining in good
8 faith and by entering into settlements by way of written
9 agreements and maintaining the same.

10 (b) Noncompliance.--If a public employer or a bargaining
11 unit composed of police or fire personnel fails to meet and
12 bargain in good faith, such party shall be subject to an unfair
13 labor practice charge, the jurisdiction over which shall lie in
14 the Pennsylvania Labor Relations Board. A party that fails to
15 meet and bargain in good faith, as determined by the
16 Pennsylvania Labor Relations Board, shall be prohibited from
17 engaging in arbitration under this act until it satisfies its
18 good faith bargaining obligation.

19 Section 3. Date for collective bargaining to commence.

20 Collective bargaining shall begin at least [six] ten months
21 before the start of the fiscal year of the political subdivision
22 or of the Commonwealth, as the case may be, and any request for
23 arbitration, as hereinafter provided, shall be made at least
24 [one hundred ten] 180 days before the start of said fiscal year.

25 Section 4. Appointment of board of arbitration.

26 (a) Right to request.--

27 (1) If in any case of a dispute between a public
28 employer and its policemen or firemen employes the collective
29 bargaining process reaches an impasse and stalemate, or if
30 the appropriate lawmaking body does not approve the agreement

1 reached by collective bargaining, with the result that [said]
2 the employers and employes are unable to effect a settlement,
3 then either party to the dispute, after written notice to the
4 other party containing specifications of the issue or issues
5 in dispute, may request the appointment of a board of
6 arbitration.

7 (2) For purposes of this section, an impasse or
8 stalemate shall be deemed to occur in the collective
9 bargaining process if the parties do not reach a settlement
10 of the issue or issues in dispute by way of a written
11 agreement within [thirty] 60 days after collective bargaining
12 proceedings have been initiated.

13 (3) In the case of disputes involving political
14 subdivisions of the Commonwealth, the agreement shall be
15 deemed not approved within the meaning of this section if it
16 is not approved by the appropriate lawmaking body within one
17 month after the agreement is reached by way of collective
18 bargaining.

19 (4) In the case of disputes involving the Commonwealth,
20 the agreement shall be deemed not approved within the meaning
21 of this section if it is not approved by the [Legislature]
22 General Assembly within [six months] 180 days after the
23 agreement is reached by way of collective bargaining.

24 (b) Composition.--

25 (1) The board of arbitration shall be composed of three
26 persons, one appointed by the public employer, one appointed
27 by the body of policemen or firemen involved, and a neutral
28 third [member] arbitrator to be agreed upon by the public
29 employer and such policemen or firemen. The members of the
30 board representing the public employer and the policemen or

1 firemen shall be named within five days from the date of the
2 request for the appointment of such board.

3 (2) If, after a period of ten days from the date of the
4 appointment of the two arbitrators appointed by the public
5 employer and by the policemen or firemen, the neutral third
6 arbitrator has not been selected by them, then, within five
7 days, either arbitrator may request the American Arbitration
8 Association, or its successor in function, to furnish a list
9 of [three members of said association] seven members who are
10 residents of Pennsylvania from which the neutral third
11 arbitrator shall be selected. [The arbitrator appointed by
12 the public employer shall eliminate one name from the list
13 within five days after publication of the list, following
14 which the arbitrator appointed by the policemen or firemen
15 shall eliminate one name from the list within five days
16 thereafter. The individual whose name remains on the list
17 shall be the third arbitrator and shall act as chairman of
18 the board of arbitration.]

19 (3) In the case of a political subdivision, the American
20 Arbitration Association, or its successor in function, shall
21 publish a list, where a list has been requested as provided
22 in paragraph (2), that contains the names of seven
23 arbitrators. One of the names on the list, if feasible and
24 practical, shall be a resident of the municipality, county or
25 a county contiguous to the county in which the public
26 employer is located.

27 (4) Starting with the arbitrator appointed by the labor
28 organization or representative of the policemen or firemen
29 and then the arbitrator appointed by the employer, each
30 arbitrator shall engage in alternate strikes of arbitrator

1 names from the list until only one arbitrator name remains on
2 the list. The remaining arbitrator name shall become the
3 neutral third arbitrator. The neutral third arbitrator shall
4 serve as chair of the board of arbitration. This process
5 shall be completed within ten days after publication of the
6 list.

7 (5) The board of arbitration [thus] established shall
8 commence the arbitration proceedings within ten days after
9 the neutral third arbitrator is selected and shall make its
10 determination within [thirty] 60 days after the appointment
11 of the neutral third arbitrator.

12 Section 5. Service of notice.

13 Notice by the policemen or firemen involved under section 4
14 shall, in the case of disputes involving the Commonwealth, be
15 served upon the Secretary of the Commonwealth and, in the case
16 of disputes involving political subdivisions of the
17 Commonwealth, shall be served upon the head of the governing
18 body of the local governmental unit involved.

19 Section 6. Powers of arbitrators.

20 (a) General rule.--Each of the arbitrators selected in
21 accordance with section 4 [hereof] shall have the power to
22 administer oaths and compel the attendance of witnesses and
23 physical evidence by subpoena.

24 (b) Open meetings and public records.--

25 (1) Except as otherwise provided under paragraph (2),
26 any hearing at which evidence of record is presented by any
27 party or witness under this act shall be open to the public
28 and all documents and evidence of record submitted by any
29 party at such public hearing shall be public records subject
30 to the act of February 14, 2008 (P.L.6, No.3), known as the

1 Right-to-Know Law. A stenographic recording shall be made of
2 any such hearing.

3 (2) Paragraph (1) shall not apply to a bargaining
4 session, executive session or other meeting between the
5 arbitrators and conducted before or after the hearing.

6 Section 7. Determination of board of arbitration.

7 (a) Finality.--

8 (1) The determination of the majority of the board of
9 arbitration thus established shall be final on the issue or
10 issues in dispute and shall be binding upon the public
11 employer and the policemen or firemen involved. Such
12 determination shall be in writing and a copy thereof shall be
13 forwarded to both parties to the dispute. [No appeal
14 therefrom shall be allowed to any court. Such determination
15 shall constitute a mandate to the head of the political
16 subdivision which is the employer, or to the appropriate
17 officer of the Commonwealth if the Commonwealth is the
18 employer, with respect to matters which can be remedied by
19 administrative action, and to the lawmaking body of such
20 political subdivision or of the Commonwealth with respect to
21 matters which require legislative action, to take the action
22 necessary to carry out the determination of the board of
23 arbitration.]

24 (2) No appeal may be taken from the determination of the
25 board of arbitration to any court, except for any of the
26 following reasons:

27 (i) The board of arbitration exceeded its powers and
28 duties.

29 (ii) The board of arbitration issued an award that
30 requires an unconstitutional act or results in the

1 deprivation of a constitutional right.

2 (iii) The proceedings were irregular.

3 (iv) The board of arbitration exceeded its
4 jurisdiction.

5 (v) The board of arbitration failed to include in
6 its determination:

7 (A) A detailed explanation that is supported by
8 substantial evidence, which must be evidence of
9 record submitted at the hearing and before the close
10 of the record, that justifies each provision of the
11 determination and explains that each provision is
12 based on evidence of record and that identifies the
13 evidence of record.

14 (B) The calculations that are correctly based on
15 the criteria under subsection (a.1).

16 (a.1) Required criteria.--

17 (1) The board of arbitration shall formulate, its award
18 based on the total new costs, in any year of the award. The
19 total new costs may not exceed the positive percentage change
20 in the Consumer Price Index for All Urban Consumers (CPI-U)
21 as published by the United States Department of Labor, Bureau
22 of Labor Statistics, or its successor, for the period June to
23 June contained within the immediately preceding two years
24 prior to the first year of the award, and any increase in
25 total new costs may not exceed three percent.

26 (2) The CPI-U analysis shall be performed and based on a
27 calculation of all of the combined total new costs in each
28 individual provision in the award, including any automatic
29 increase in the costs of terms and conditions of employment
30 that existed prior to the award, and shall be calculated as a

1 percentage of the preexisting base rate of a policeman or
2 fireman having five years of experience in the relevant
3 municipality.

4 (3) For purposes of this subsection, the term "total new
5 costs" shall include any increase in the costs of the terms
6 and conditions of employment that existed prior to the award,
7 the cost of all new wages or wage increases and other forms
8 of direct, indirect and deferred compensation contained in
9 the award or that existed prior to the award; the cost of the
10 annual funding for all postretirement benefits, including
11 pension and health care benefits based on Statement 45, or
12 its successor, of the Government Accounting Standards Board;
13 and any other costs associated with complying with the award
14 which requires the direct or indirect expenditure of public
15 funds, including any grants and donations from any source.
16 The award shall include a calculation establishing that this
17 requirement is satisfied based on the evidence of record
18 provided during the hearing and executive session process. In
19 averaging the costs of the award with respect to costs for
20 any year encompassed by the award for which such increase may
21 not be known at the time the award is issued, for example,
22 the cost for all forms of insurance or annual pension costs,
23 the board of arbitration shall make a good faith estimate
24 projection based on existing facts and historical increases
25 known at the time when the award is issued.

26 (a.2) Prohibition.--A board of arbitration may not include
27 in any award, determination or settlement and shall be required
28 to remove from any existing collective bargaining agreement or
29 pension plan ordinance any pension benefit or provision that has
30 been found to be or defined as either unauthorized, unlawful or

1 excessive by the Department of the Auditor General or any court
2 of law. Should the Department of the Auditor General or any
3 court of law make any such finding during the term of any
4 collective bargaining agreement, such provision shall be deemed
5 removed by the parties to the collective bargaining agreement
6 and such pension benefit or provision shall be null and void.

7 (b) Matters requiring legislation.--With respect to matters
8 which require legislative action for implementation, such
9 legislation shall be enacted, in the case of the Commonwealth,
10 within [six months] 180 days following publication of the
11 findings, and, in the case of a political subdivision of the
12 Commonwealth, within [one month] 30 days following publication
13 of the findings. The effective date of any such legislation
14 shall be the first day of the fiscal year following the fiscal
15 year during which the legislation is [thus] enacted.

16 Section 8. Costs and expenses.

17 [The compensation, if any, of the arbitrator appointed by the
18 policemen or firemen shall be paid by them. The compensation of
19 the other two arbitrators, as well as all stenographic and other
20 expenses incurred by the arbitration panel in connection with
21 the arbitration proceedings, shall be paid by the political
22 subdivision or by the Commonwealth, as the case may be.]

23 (a) General rule.--The public employer and the policemen or
24 firemen employed by the public employer who are engaged in the
25 collective bargaining shall bear the costs of their respective
26 appointed arbitrators, witnesses, including any actuary or
27 expert witness, and attorneys in any arbitration proceeding.

28 (b) Neutral third arbitrator and other expenses.--The
29 reasonable fees and costs billed by or associated with the
30 neutral third arbitrator and the stenographic and other expenses

1 incurred by the board of arbitration in connection with the
2 arbitration proceedings or incurred as a result of or associated
3 with the arbitration proceedings shall be divided. One-half of
4 such fees and costs shall be paid by the public employer and
5 one-half shall be paid by the policemen and firemen who are
6 engaged in the collective bargaining.

7 Section 4. The act is amended by adding a section to read:
8 Section 8.1. Construction.

9 Any reference to a determination of the board of arbitration
10 or award in this act shall be construed as a final and binding
11 arbitration award, determination or settlement by a board of
12 arbitrators that was issued pursuant to this act prior to the
13 effective date of this section and to any other law that
14 mandates binding interest arbitration to determine the terms and
15 conditions of employment for any public employer.

16 Section 5. Sections 9, 10, 11 and 12 of the act are amended
17 to read:

18 Section 9. Applicability.

19 The provisions of this act shall be applicable to every
20 political subdivision of this Commonwealth notwithstanding the
21 fact that any such political subdivision, either before or after
22 the passage of this act, has adopted or adopts a home rule
23 charter.

24 Section 10. Severability.

25 If any provision of this act or the application thereof to
26 any person or circumstances is held invalid, the remainder of
27 this act and the application of such provision to other persons
28 or circumstances, shall not be affected thereby, and to this end
29 the provisions of this act are declared to be severable.

30 Section 11. Inconsistent repeals.

1 All acts or parts of acts inconsistent herewith are hereby
2 repealed.

3 Section 12. Effective date.

4 This act shall take effect immediately.

5 Section 6. This act shall take effect in 60 days.