

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 311 Session of 2017

INTRODUCED BY EICHELBERGER, WAGNER, FOLMER, ALLOWAY, MARTIN, AUMENT AND STEFANO, FEBRUARY 15, 2017

REFERRED TO LOCAL GOVERNMENT, FEBRUARY 15, 2017

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 collectively bargain, for duty to exert reasonable efforts,  
 8 for commencement of collective bargaining, for board of  
 9 arbitration, for notice, for powers and procedures, for  
 10 determination of board of arbitration, for costs and  
 11 expenses, for applicability, for severability, for repeals  
 12 and for effective date; and making editorial changes.

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

15 Section 1. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12  
 16 of the act of June 24, 1968 (P.L.237, No.111), referred to as  
 17 the Policemen and Firemen Collective Bargaining Act, are amended  
 18 to read:

19 Section 1. Right to collectively bargain.

20 Policemen or firemen employed by a political subdivision of  
 21 the Commonwealth or by the Commonwealth shall, through labor  
 22 organizations or other representatives designated by [fifty  
 23 percent] 50% or more of such policemen or firemen, have the

1 right to bargain collectively with their public employers  
2 concerning the terms and conditions of their employment, which  
3 are not otherwise established or prohibited under Federal or  
4 State law, including compensation, hours, working conditions,  
5 retirement, pensions and other benefits, and shall have the  
6 right to an adjustment or settlement of their grievances or  
7 disputes in accordance with the terms of this act.

8 Section 2. Duty to exert reasonable efforts.

9 It shall be the duty of public employers and their policemen  
10 and firemen [employees] employees to exert every reasonable  
11 effort to settle all disputes by engaging in collective  
12 bargaining in good faith and by entering into settlements by way  
13 of written agreements and maintaining the same. A party may  
14 assert an unfair labor practice charge for a refusal to bargain  
15 in good faith or a failure to comply with the time periods  
16 provided under this act in accordance with the act of June 1,  
17 1937 (P.L.1168, No.294), known as the Pennsylvania Labor  
18 Relations Act, for which the Pennsylvania Labor Relations Board  
19 shall have jurisdiction.

20 Section 3. Commencement of collective bargaining.

21 Collective bargaining shall begin at least [six] 10 months  
22 before the start of the fiscal year of the political subdivision  
23 or of the Commonwealth, as the case may be, and any request for  
24 arbitration, as [hereinafter] provided in this act, shall be  
25 made at least [one hundred ten] 180 days before the start of  
26 [said] the fiscal year.

27 Section 4. Board of arbitration.

28 (a) Right to request.--

29 (1) If in any case of a dispute between a public  
30 employer and its policemen or firemen [employees] employees

1 the collective bargaining process reaches an impasse and  
2 stalemate, or if the appropriate lawmaking body does not  
3 approve the agreement reached by collective bargaining, with  
4 the result that [said] the employers and [employees] employees  
5 are unable to effect a settlement, [then] either party to the  
6 dispute, after written notice to the other party containing  
7 specifications of the issue or issues in dispute, may request  
8 the appointment of a board of arbitration.

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

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

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

26 (b) Composition.--

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

1 employer and [such] the policemen or firemen. The members of  
2 the board representing the public employer and the policemen  
3 or firemen shall be named within five days from the date of  
4 the request for the appointment of [such] the board.

5 (2) If, after a period of [ten] 10 days from the date of  
6 the appointment of the two arbitrators appointed by the  
7 public employer and by the policemen or firemen, the neutral  
8 third arbitrator has not been selected by them, [then] either  
9 arbitrator, within five days, may request the American  
10 Arbitration Association, or its successor in function, to  
11 furnish a list of [three] seven members of [said] the  
12 association who are residents of Pennsylvania from which the  
13 neutral third arbitrator shall be selected. [The arbitrator  
14 appointed by the public employer shall eliminate one name  
15 from the list within five days after publication of the list,  
16 following which the arbitrator appointed by the policemen or  
17 firemen shall eliminate one name from the list within five  
18 days thereafter.] In the case of disputes involving political  
19 subdivisions of the Commonwealth, the American Arbitration  
20 Association, or its successor in function, shall provide a  
21 list that contains, if feasible and practical, at least one  
22 name of a resident of the political subdivision in which the  
23 public employer is located.

24 (3) Beginning with the selection of arbitrators that  
25 occurs between a public employer and policemen or firemen  
26 employed on or after January 1, 2017, the toss of a coin  
27 shall determine which party shall be the first to eliminate a  
28 name from the list provided under paragraph (2). Each  
29 arbitrator shall then engage in alternate eliminations of  
30 names from the list until only one name remains on the list.

1 The individual whose name remains on the list shall be the  
2 neutral third arbitrator and shall act as chairman of the  
3 board of arbitration.

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

9 Section 5. Notice.

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

16 Section 6. Powers and procedures.

17 (a) Witnesses and evidence.--Each of the arbitrators  
18 selected in accordance with section 4 [hereof] shall have the  
19 power to administer oaths and compel the attendance of witnesses  
20 and physical evidence by subpoena.

21 (b) Meetings and records.--

22 (1) Except as otherwise provided under paragraph (2),  
23 any hearing at which evidence of record is presented by a  
24 party or witness under this act shall be open to the public  
25 and all documents and evidence of record submitted by any  
26 party at the public hearing shall be public records subject  
27 to the act of February 14, 2008 (P.L.6, No.3), known as the  
28 Right-to-Know Law. A stenographic recording shall be made of  
29 the hearing.

30 (2) Paragraph (1) shall not apply to a bargaining

1 session between the parties conducted before the hearing or  
2 an executive session or other meeting between the arbitrators  
3 conducted after the hearing.

4 Section 7. Determination of board of arbitration.

5 (a) Finality and comprehensiveness.--The determination of  
6 the majority of the board of arbitration thus established shall  
7 be final on the issue or issues in dispute and shall be binding  
8 upon the public employer and the policemen or firemen involved.

9 [Such] The determination shall be in writing and contain  
10 specific findings of fact and conclusions of law with regard to  
11 each of the issues presented to the board by the parties. The  
12 issues shall include a complete, accurate and detailed analysis,  
13 based on the evidence presented at the hearing, as evaluated and  
14 studied in any subsequent executive sessions, of all of the  
15 following:

16 (1) The cost of the award to the political subdivision  
17 and the impact it will have on the finances and services  
18 provided by the political subdivision.

19 (2) The relationship between projected revenues of the  
20 political subdivision and the ability of the political  
21 subdivision to pay all the costs of the award, including any  
22 cost increases which may result from preexisting terms and  
23 conditions of employment which are allowed to continue under  
24 the award.

25 (3) The impact of the award on the future financial  
26 stability of the political subdivision.

27 The determination shall be a public record and a copy [thereof]  
28 of the determination shall be forwarded to both parties to the  
29 dispute. No appeal [therefrom] shall be allowed to any court[.  
30 Such] if the determination complies with this section, unless

1 the board of arbitration exceeded its powers or jurisdiction,  
2 the proceedings were irregular, the determination requires an  
3 unconstitutional act or the determination would result in the  
4 deprivation of a constitutional right.

5 (a.1) Mandate.--The determination under subsection (a) shall  
6 constitute a mandate to the head of the political subdivision  
7 which is the employer, or to the appropriate officer of the  
8 Commonwealth if the Commonwealth is the employer, with respect  
9 to matters which can be remedied by administrative action, and  
10 to the lawmaking body of [such] the political subdivision or of  
11 the Commonwealth with respect to matters which require  
12 legislative action, to take the action necessary to carry out  
13 the determination of the board of arbitration.

14 (b) Effect.--With respect to matters which require  
15 legislative action for implementation, [such] the legislation  
16 shall be enacted, in the case of the Commonwealth, within six  
17 months following publication of the findings, and, in the case  
18 of a political subdivision of the Commonwealth, within one month  
19 following publication of the findings. The effective date of  
20 [any such] the legislation shall be the first day of the fiscal  
21 year following the fiscal year during which the legislation is  
22 thus enacted.

23 (c) References to determination.--A determination of the  
24 board may alternatively be referred to as an award or  
25 settlement. The reference shall not affect the applicability of  
26 this act.

27 (d) Issues excluded.--No determination may award or  
28 otherwise grant postretirement health or pension benefits that  
29 are not required or authorized under Federal or State law, nor  
30 any other term or condition of employment that is specifically

1 exempted from collective bargaining under Federal or State law.  
2 No determination may award or grant any pension benefit or  
3 provision that has been found to be unauthorized, unlawful or  
4 excessive by the Department of the Auditor General or any court  
5 of law.

6 Section 8. [The compensation, if any, of the arbitrator  
7 appointed by the policemen or firemen shall be paid by them. The  
8 compensation of the other two arbitrators, as well as all  
9 stenographic and other expenses incurred by the arbitration  
10 panel in connection with the arbitration proceedings, shall be  
11 paid by the political subdivision or by the Commonwealth, as the  
12 case may be.] Costs and expenses.

13 (a) General rule.--Except as provided under subsection (b),  
14 the public employer and the policemen or firemen who are engaged  
15 in the collective bargaining shall bear the costs of their  
16 respective appointed arbitrators, witnesses, including any  
17 actuary or expert witness, and attorneys in any arbitration  
18 proceeding.

19 (b) Other expenses.--The reasonable fees and costs  
20 associated with the neutral third arbitrator and the  
21 stenographic and other expenses incurred by the board of  
22 arbitration as a result of the arbitration proceedings shall be  
23 divided. One-half of the fees and costs shall be paid by the  
24 public employer and one-half shall be paid by the policemen and  
25 firemen who are engaged in the collective bargaining.

26 Section 9. Applicability.

27 The provisions of this act shall be applicable to every  
28 political subdivision of [this] the Commonwealth notwithstanding  
29 the fact that [any such] the political subdivision, either  
30 before or after the passage of this act, has adopted or adopts a



1 home rule charter.

2 Section 10. Severability.

3 If any provision of this act or the application [thereof] of  
4 any provision of this act to any person or circumstances is held  
5 invalid, the remainder of this act and the application of [such]  
6 the provision to other persons or circumstances, shall not be  
7 affected [thereby], and to this end the provisions of this act  
8 are declared to be severable.

9 Section 11. Repeals.

10 All acts or parts of acts inconsistent [herewith] with this  
11 act are [hereby] repealed.

12 Section 12. Effective date.

13 This act shall take effect immediately.

14 Section 2. This act shall take effect in 60 days.