

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 34

**PRINTER NO.** 3639

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

February 5, 2015

**PRIME SPONSOR**

Representative Nesbit

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 34 amends Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, extensively revising statutory arbitration in the Commonwealth.

This legislation amends Chapter 73 of Title 42 of the Pennsylvania Consolidated Statutes by adding a Subchapter A.1 entitled "Revised Statutory Arbitration." If all the parties to the agreement or to the arbitration proceeding agree in a record that this new subchapter governs the agreement, this new subchapter governs the agreement, otherwise the existing Subchapter A (relating to statutory arbitration) governs the agreement.

Subchapter A.1 contains much of the same content that is contained in the existing subchapter A, but with extensive revisions. These revisions involve the following major provisions:

- Applicability;
- Waiver;
- Validity of agreement to arbitrate;
- Motion to compel or stay arbitration;
- Provisional remedies;
- Initiation of arbitration;
- Consolidation of separate arbitration proceedings;
- Appointment of arbitrator;
- Service as a neutral arbitrator;
- Disclosure by arbitrator;
- Action by majority;
- Immunity of arbitrator;
- Competency to testify;
- Attorney fees and cost;
- Arbitration process;
- Witnesses;

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- Subpoenas;
- Depositions;
- Discovery;
- Arbitration award;
- Remedies,
- Fees and expenses of arbitration proceedings;
- Confirmation of the award;
- Vacating the award;
- Modification or correction of the award;
- Judgment on award;
- Jurisdiction;
- Venue; and
- Appeals.

These new provisions in subchapter A.1 become the default rule, unless the parties have expressly provided in writing to the contrary, beginning January 1, 2018.

This act shall take effect January 1, 2017.

### **FISCAL IMPACT:**

This legislation will not have a fiscal impact by authorizing arbitrators to set their own fees notwithstanding the limits on fees established by the Pennsylvania Labor Relations Board (PLRB) in arbitration proceeding subject to the PLRB's jurisdiction. The provisions within this legislation relating to fees paid to arbitrators are the same as current law and only apply to arbitration under collective bargaining agreements to the extent consistent with other laws regulating labor and management relations. These provisions will not apply to any existing arbitration agreements to which the Commonwealth is a party unless the Commonwealth agrees to be governed by the act, and in any new agreements to arbitrate the terms of the arbitration agreements may establish or limit the fees and compensation paid to arbitrators.

The Revised Uniform Arbitration Act allows the fees of an arbitrator to be by the terms of an arbitration agreement in the same manner as under current law. In the event of any inconsistency between the fees paid to arbitrators as provided by other labor management laws and section 7321.22(d) of Title 42, any fee schedule established by the PLRB would prevail.

Finally, this legislation provides that the act "does not govern an agreement to arbitrate made by the Commonwealth or a Commonwealth agency prior to the effective date of this subchapter unless the parties have expressly provided in writing to the contrary." Accordingly any limits on fees that apply under current law will continue to apply to existing agreements to arbitrate.

Therefore, the enactment of this legislation will have no fiscal impact on Commonwealth funds.