

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1749 Session of 2017

INTRODUCED BY DIAMOND, HELM, MENTZER AND ZIMMERMAN,
AUGUST 30, 2017

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, AUGUST 30, 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. The terms of the
9 current contract shall remain in effect until the board makes
10 its determination. Implementation of the board's
11 determination shall only apply prospectively.

12 Section 5. 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 and procedures.

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

24 (b) Meetings and records.--

25 (1) Except as otherwise provided under paragraph (2),
26 any hearing at which evidence of record is presented by a
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 the 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 the hearing.

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

7 Section 7. Determination of board of arbitration.

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

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

19 (1) The cost of the award to the political subdivision
20 and the impact it will have on the finances and services
21 provided by the political subdivision.

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

28 (3) The impact of the award on the future financial
29 stability of the political subdivision.

30 The determination shall be a public record and a copy [thereof]

1 of the determination shall be forwarded to both parties to the
2 dispute. No appeal [therefrom] shall be allowed to any court[.
3 Such] if the determination complies with this section, unless
4 the board of arbitration exceeded its powers or jurisdiction,
5 the proceedings were irregular, the determination requires an
6 unconstitutional act or the determination would result in the
7 deprivation of a constitutional right.

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

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

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

30 (d) Issues excluded.--No determination may award or

1 otherwise grant postretirement health or pension benefits that
2 are not required or authorized under Federal or State law, nor
3 any other term or condition of employment that is specifically
4 exempted from collective bargaining under Federal or State law.
5 No determination may award or grant any pension benefit or
6 provision that has been found to be unauthorized, unlawful or
7 excessive by the Department of the Auditor General or any court
8 of law and may not award a salary increase above two percent of
9 the salary provided in the current contract.

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

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

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

30 Section 9. Applicability.

1 The provisions of this act shall be applicable to every
2 political subdivision of [this] the Commonwealth notwithstanding
3 the fact that [any such] the political subdivision, either
4 before or after the passage of this act, has adopted or adopts a
5 home rule charter.

6 Section 10. Severability.

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

13 Section 11. Repeals.

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

16 Section 12. Effective date.

17 This act shall take effect immediately.

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