
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2852 Session of
2020

INTRODUCED BY DIAMOND, COX, GAYDOS, RYAN AND SCHEMEL,
SEPTEMBER 9, 2020

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, SEPTEMBER 9, 2020

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," providing for public notice,
7 further providing for board of arbitration, powers and
8 procedures regarding arbitration and for determination of
9 board of arbitration, providing for issues excluded from
10 collective bargaining and arbitration and further providing
11 for costs and expenses.

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

14 Section 1. The act of June 24, 1968 (P.L.237, No.111),
15 referred to as the Policemen and Firemen Collective Bargaining
16 Act, is amended by adding a section to read:

17 Section 3.1. (a) The following shall apply:

18 (1) A public employer may elect to require notice to the
19 public prior to the beginning of collective bargaining under
20 section 3. The following shall apply:

21 (i) For a public employer serving a single political
22 subdivision, the governing body of the political subdivision may

1 adopt an ordinance to require public notice under this section.

2 (ii) For a public employer serving multiple political
3 subdivisions, the governing body that controls the public
4 employer, including a board or commission established by the
5 participating political subdivisions, may adopt a resolution to
6 require public notice under this section. If there is no
7 governing body that controls the public employer, the governing
8 bodies of the participating political subdivisions may all adopt
9 ordinances to require public notice under this section.

10 (2) An agency, authority or instrumentality of the
11 Commonwealth shall provide public notice under this section.

12 (b) When public notice is required by election under
13 subsection (a)(1) or is required under subsection (a)(2), the
14 following shall apply:

15 (1) Except as provided in paragraph (2), the notice under
16 subsection (a) must be posted on the public employer's publicly
17 accessible Internet website beginning at least thirty days prior
18 to the beginning of collective bargaining.

19 (2) If a public employer does not have a publicly accessible
20 Internet website, the public employer shall publish the notice
21 under subsection (a) once in a newspaper of general circulation
22 at least four weeks prior to the beginning of collective
23 bargaining.

24 (3) The notice under subsection (a) must include the
25 following:

26 (i) A statement of the terms of the current collective
27 bargaining agreement.

28 (ii) A statement of the costs to the public employer
29 associated with the current collective bargaining agreement.

30 (iii) A statement that the collective bargaining process for

1 policemen and firemen is subject to the requirements of this act
2 and may be referred to binding arbitration if the collective
3 bargaining process reaches an impasse.

4 (iv) Notice of the public comment period under subsection
5 (c) and instructions for members of the public to submit
6 comments by mail and electronically.

7 (c) A public employer that provides the notice under
8 subsection (a) shall accept public comments on upcoming
9 collective bargaining negotiations. The following shall apply:

10 (1) The public comment period shall begin five business days
11 after the posting or publication under subsection (b).

12 (2) The public comment period shall be not less than two
13 weeks or ten business days, whichever is longer.

14 (d) When public notice is required by election under
15 subsection (a) (1) or is required under subsection (a) (2), a
16 collective bargaining agreement entered into in violation of
17 this section shall be void.

18 Section 2. Sections 4(b), 6 and 7 of the act are amended to
19 read:

20 Section 4. * * *

21 (b) The following shall apply:

22 (1) The board of arbitration shall be composed of three
23 persons, one appointed by the public employer, one appointed by
24 the body of policemen or firemen involved, and a neutral third
25 [member] arbitrator to be agreed upon by the public employer and
26 [such] the policemen or firemen. The members of the board
27 representing the public employer and the policemen or firemen
28 shall be named within five days from the date of the request for
29 the appointment of [such] the board.

30 (2) If, after a period of ten days from the date of the

1 appointment of the two arbitrators appointed by the public
2 employer and by the policemen or firemen, the third arbitrator
3 has not been selected by them, [then] either arbitrator, within
4 five days, may request the [American Arbitration Association, or
5 its successor in function,] president judge of the county court
6 of common pleas to furnish a list of [three members of said
7 association] seven attorneys in good standing who are residents
8 of Pennsylvania from which the neutral third arbitrator shall be
9 selected. [The arbitrator appointed by the public employer shall
10 eliminate one name from the list within five days after
11 publication of the list, following which the arbitrator
12 appointed by the policemen or firemen shall eliminate one name
13 from the list within five days thereafter.] The seven attorneys
14 shall have experience in mediation and, to the extent
15 practicable, shall be residents of the area served by the public
16 employer. The president judge shall make reasonable attempts to
17 ensure that the list of seven attorneys reflects the demographic
18 makeup of the area served by the public employer. In the case of
19 disputes involving an agency, authority or instrumentality of
20 this Commonwealth, the president judge of Commonwealth Court
21 shall provide a list.

22 (3) Beginning with the first selection of arbitrators that
23 occurs between a public employer and policemen or firemen
24 employed on or after the effective date of this paragraph the
25 policemen or fireman employed shall be the first to eliminate a
26 name from the list and thereafter, the parties shall alternate
27 which party shall be the first to eliminate a name from the list
28 provided under paragraph (2). Each arbitrator shall then engage
29 in alternate eliminations of names from the list until only one
30 name remains on the list. The individual whose name remains on

1 the list shall be the neutral third arbitrator and shall act as
2 chairman of the board of arbitration.

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

8 Section 6. (a) Each of the arbitrators selected in
9 accordance with section 4 [~~hereof~~] shall have the power to
10 administer oaths and compel the attendance of witnesses and
11 physical evidence by subpoena.

12 (b) The following shall apply regarding meetings and
13 records:

14 (1) Except as otherwise provided in paragraph (2), a hearing
15 at which evidence of record is presented by a party or witness
16 under this act shall be open to the public. The following shall
17 apply:

18 (i) All documents and evidence of record submitted by a
19 party at the public hearing shall be public records subject to
20 the act of February 14, 2008 (P.L.6, No.3), known as the Right-
21 to-Know Law.

22 (ii) A stenographic recording of the public hearing shall be
23 made.

24 (2) Paragraph (1) shall not apply to a bargaining session
25 between the parties conducted before the hearing or an executive
26 session or other meeting between the arbitrators conducted after
27 the hearing.

28 Section 7. (a) The determination of the majority of the
29 board of arbitration thus established shall be final on the
30 issue or issues in dispute and shall be binding upon the public

1 employer and the policemen or firemen involved. [Such] The
2 following shall apply:

3 (1) The determination shall be in writing and [a copy
4 thereof shall be forwarded to both parties to the dispute. No
5 appeal therefrom shall be allowed to any court. Such
6 determination shall constitute a mandate to the head of the
7 political subdivision which is the employer, or to the
8 appropriate officer of the Commonwealth if the Commonwealth is
9 the employer, with respect to matters which can be remedied by
10 administrative action, and to the lawmaking body of such
11 political subdivision or of the Commonwealth with respect to
12 matters which require legislative action, to take the action
13 necessary to carry out the determination of the board of
14 arbitration.] contain specific findings of fact and conclusions
15 of law with regard to each of the issues presented to the board
16 by the parties. The issues shall include a complete, accurate
17 and detailed analysis, based on the evidence presented at the
18 hearing, as evaluated and studied in any subsequent executive
19 sessions, of all of the following:

20 (i) The cost of the award to the political subdivision and
21 the impact that the award will have on the finances and services
22 provided by the political subdivision.

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

29 (iii) The impact of the award on the future financial
30 stability of the political subdivision.

1 (2) The determination shall be a public record and a copy of
2 the determination shall be forwarded to both parties to the
3 dispute.

4 (3) No appeal shall be allowed to any court if the
5 determination complies with this section, unless:

6 (i) the board of arbitration exceeded its powers or
7 jurisdiction;

8 (ii) the proceedings were irregular;

9 (iii) the determination requires an unconstitutional act;

10 (iv) the determination would result in the deprivation of a
11 constitutional right; or

12 (v) the award is contrary to public policy.

13 (a.1) The determination under subsection (a) shall
14 constitute a mandate to the head of the political subdivision
15 that is the employer, or to the appropriate officer of the
16 Commonwealth if the Commonwealth is the employer, with respect
17 to matters which can be remedied by administrative action, and
18 to the lawmaking body of the political subdivision or the
19 Commonwealth with respect to matters that require legislative
20 action, to take the action necessary to carry out the
21 determination of the board of arbitration.

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

1 (c) A determination of the board of arbitration may
2 alternatively be referred to as an award or settlement. The
3 reference shall not affect the applicability of this act.

4 Section 3. The act is amended by adding a section to read:

5 Section 7.1. (a) Policies and procedures related to
6 employee discipline for policemen may be the subject of
7 collective bargaining or arbitration under this act, except for
8 policies and procedures related to discipline for any of the
9 following:

10 (1) Conduct constituting a criminal offense.

11 (2) Any of the conduct listed in 44 Pa.C.S. § 7311(a)(1)
12 (relating to hiring report).

13 (3) The violation of the rights of a person guaranteed under
14 the Constitution of the United States or the Constitution of
15 Pennsylvania.

16 (b) Discipline of policemen for infractions listed in
17 subsection (a)(1), (2) and (3) shall be at the discretion of the
18 employer.

19 (c) A collective bargaining agreement or arbitration award
20 shall not prohibit the release of information about a final
21 disciplinary decision of the employer, for infractions listed in
22 subsection (a)(1), (2) and (3), to another Federal or State law
23 enforcement agency for the purposes of making a hiring decision.

24 (d) This section shall not be construed to:

25 (1) impair the rights of an employee under any other Federal
26 or State law providing protections for employees from unlawful
27 discrimination or retaliation by an employer;

28 (2) prevent or delay an impartial fact-finding inquiry, if
29 the material facts of an alleged infraction listed in subsection
30 (a)(1), (2) and (3) are in dispute; or

1 (3) impair the criminal or civil due process rights of a
2 policeman under Federal or State law.

3 Section 4. Section 8 of the act is amended to read:

4 Section 8. [The compensation, if any, of the arbitrator
5 appointed by the policemen or firemen shall be paid by them. The
6 compensation of the other two arbitrators, as well as all
7 stenographic and other expenses incurred by the arbitration
8 panel in connection with the arbitration proceedings, shall be
9 paid by the political subdivision or by the Commonwealth, as the
10 case may be.] (a) Except as provided under subsection (b), the
11 public employer and the policemen or firemen who are engaged in
12 the collective bargaining shall bear the costs of their
13 respective appointed arbitrators, witnesses, including actuary
14 or expert witness, and attorneys in an arbitration proceeding.

15 (b) The reasonable fees and costs associated with the
16 neutral third arbitrator and the stenographic and other expenses
17 incurred by the board of arbitration as a result of the
18 arbitration proceedings shall be divided as follows:

19 (1) One-half of the fees and costs shall be paid by the
20 public employer.

21 (2) One-half of the fees and costs shall be paid by the
22 policemen and firemen who are engaged in the collective
23 bargaining.

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