



SPONSOR: Rep. Oberle & Sen. Marshall  
Reps. Lofink, Houghton,  
Mulrooney, Plant, Scott, Viola,  
Williams, Keeley; Sens.  
McDowell, DeLuca, Henry,  
McBride, Vaughn, Connor

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE PUBLIC EMPLOYMENT  
RELATIONS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1302(j), Title 19 of the Delaware Code by striking this section in its entirety and  
2 substituting in lieu thereof the following:

3 “(j) ‘Binding Interest Arbitration’ means the procedure by which the Public Employment  
4 Relations Board shall make written findings of fact and recommendations for final and binding  
5 resolution of an impasse arising out of collective bargaining.”.

6 Section 2. Amend § 1313(b), Title 19 of the Delaware Code by striking the word “fact-  
7 finders” in the first and second sentence and substituting in lieu thereof the words “binding  
8 interest arbitrators”.

9 Section 3. Amend § 1314(c), Title 19 of the Delaware Code by striking the word “fact-finding” in  
10 the first, second and third sentence and substituting in lieu thereof the words “binding interest  
11 arbitration”.

12 Section 4. Amend § 1315, Title 19 of the Delaware Code by striking it in its entirety and substituting  
13 in lieu thereof the following:

14 “§ 1315. Binding Interest Arbitration.

15           “(a) Within 7 working days of receipt of a petition or recommendation to initiate  
16 binding interest arbitration, the Board shall make a determination, with or without a  
17 formal hearing, as to whether a good faith effort has been made by both parties to resolve  
18 their labor dispute through negotiations and mediation and as to whether the initiation of  
19 binding interest arbitration would be appropriate and in the public interest; except that  
20 any discretionary subject shall not be subject to binding interest arbitration.

21           (b) A disinterested member of the Board shall be appointed as the binding interest arbitrator.

22           (c) The binding interest shall hold hearings in order to define the area or areas of dispute, to  
23 determine facts relating to the dispute and to render a recommendation on unresolved contract  
24 issues. The hearings shall be held at times, dates and places to be established by the binding  
25 interest arbitrator in accordance with rules promulgated by the Board. The binding interest  
26 arbitrator shall be empowered to administer oaths and issue subpoenas on behalf of the parties to  
27 the dispute or on the binding interest arbitrators’ own behalf.

28           (d) The binding interest arbitrator shall make written findings of facts and recommendations  
29 for the resolution of the dispute; provided however, that the recommendation shall be limited to a  
30 determination of which of the parties’ last, best, final offers shall be accepted in its entirety. In  
31 arriving at a determination, the binding interest arbitrator shall specify the basis for the binding  
32 interest arbitrator’s findings, taking into consideration, in addition to any other relevant factors,  
33 the following:

34                   (1) The interests and welfare of the public.

35                   (2) Comparison of the wages, salaries, benefits, hours and conditions of employment of  
36 the employees involved in the binding interest arbitration proceedings with the wages,  
37 salaries, benefits, hours and conditions of employment of other employees performing the  
38 same or similar services or requiring similar skills under similar working conditions in the  
39 same community and in comparable communities and with other employees generally in the  
40 same community and in comparable communities.

41 (3) The overall compensation presently received by the employees inclusive of direct  
42 wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and  
43 hospitalization benefits, the continuity and stability of employment and all other benefits  
44 received.

45 (4) Stipulations of the parties.

46 (5) The lawful authority of the public employer.

47 (6) The financial ability of the public employer based on existing revenues, to meet the  
48 costs of any proposed settlements; provided that, any enhancement to such financial ability  
49 derived from savings experienced by such public employer as a result of a strike shall not be  
50 considered by the binding interest arbitrator.

51 (7) Such other factors not confined to the foregoing which are normally or traditionally  
52 taken into consideration in the determination of wages, hours and conditions of employment  
53 through voluntary collective bargaining, mediation, binding interest arbitration or otherwise  
54 between parties, in the public service or in private employment.

55 In making determinations, the binding interest arbitrator shall give due weight to each  
56 relevant factor. All of the above factors shall be presumed relevant. If any factor is found  
57 not to be relevant, the binding interest arbitrator shall detail in the binding interest  
58 arbitrator's findings the specific reason why that factor is not judged relevant in arriving at  
59 the binding interest arbitrator's determination. No single factor in this subsection, shall be  
60 dispositive.

61 (g) Within 30 days after the conclusion of the hearings but not later than 120 days from  
62 the day of appointment, the binding interest arbitrator shall serve the binding interest  
63 arbitrator's written determination for resolution of the dispute on the public employer, the  
64 certified exclusive representative and the Board.

65 (h) The cost of binding interest arbitration shall be borne equally by the parties  
66 involved in the dispute.

67 (i) Nothing in this chapter shall be construed to prohibit or otherwise impede a public  
68 employer and certified exclusive representative from continuing to bargain in good faith  
69 over terms and conditions of employment or from using the services of a mediator at any  
70 time during the conduct of collective bargaining. If, at any point in the impasse proceedings  
71 invoked under this chapter, the parties are able to conclude their labor dispute with a  
72 voluntarily reached agreement, the Board shall be so notified, and all impasse resolution  
73 proceedings shall be forthwith terminated.”.

#### SYNOPSIS

This Bill adds a new provision to the Public Employment Relations Act to provide a procedure for more effective dispute resolution procedures for issues that arise in negotiating a collective bargaining agreement. Under the current law, there are provisions for fact-finding. However, the finding of facts and the fact-finder's recommendations are not binding. The public employees and the public employer can ignore the recommendations. Without a final and binding dispute resolution procedure, negotiations become a matter of who can hold out the longest. As public employees are prohibited from striking, they do not have an effective way to combat the public employer's tactic of ignoring the recommendations of the fact-finder. This does not serve the public interest in having the terms and conditions of employment resolved in an efficient and fair manner and allow collective bargaining to affect the morale and level of service to the public. With the more effective dispute resolution procedure provided by this bill, both the parties will have a much greater incentive to arrive at a voluntary agreement. The bill provides that the decision of the interest arbitrator is to be adopted in its entirety by the Public Employment Relations Board. This will allow an appeal of the decision just as if it is any other order of the Public Employment Relations Board to the Court of Chancery. The decision would be reviewed as any other agency hearing decision on the basis of being either contrary to law or not supported by substantial evidence.