



SPONSOR: Rep. Spence & Rep. Mulrooney, & Sen. Marshall, & Sen. Connor
Reps. Cathcart, Lofink, Maier, Manolakos, Miro, Oberle, Wagner, Brady, Carson, Ewing, Gilligan, Hall-Long, Johnson, Keeley, Kowalko, Longhurst, M Marshall, McWilliams, Mitchell, Plant, Schooley, Schwartzkopf, B. Short, Viola, Walls, Williams; Sen. Blevins, Bunting, Cook, DeLuca, Ennis, Henry, McBride, McDowell, Peterson, Cloutier

HOUSE OF REPRESENTATIVES

144th GENERAL ASSEMBLY

HOUSE BILL NO. 283
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE PUBLIC SCHOOL EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend § 4002(j), Title 14 of the Delaware Code by striking this section in its entirety and substituting in lieu thereof the following:

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

Section 2. Amend § 4006(f), Title 14 of the Delaware Code by striking the word “fact-finding” in the third sentence. Further amend § 4006(f) by inserting the words “binding interest” between “and” and “arbitration” in the third sentence of that Section.

Section 3. Amend § 4013(b), Title 14 of the Delaware Code by striking the word “fact-finders” in the first and second sentence and substituting in lieu thereof the words “binding interest arbitrators”.

Section 4. Amend § 4014(c), Title 14 of the Delaware Code by striking the word “fact-finding” in the first, second and third sentence and substituting in lieu thereof the words “binding interest arbitration”.

Section 5. Amend § 4015, Title 14 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

“§ 4015. Binding Interest Arbitration.

“(a) Within 7 working days of receipt of a petition or recommendation to initiate binding interest arbitration, the Board shall make a determination, with or without a formal hearing, as to whether a good faith effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to whether the initiation of binding interest arbitration would be appropriate and in the public interest.

(b) Pursuant to § 4006(f) of this Title, the Board shall appoint the Executive Director or his/her designee to act as binding interest arbitrator. Such delegation shall not limit a party’s right to appeal to the Board.

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

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

- (1) The interests and welfare of the public.
- (2) Comparison of the wages, salaries, benefits, hours and conditions of employment of the employees involved in the binding interest arbitration proceedings with the wages, salaries, benefits, hours and conditions of employment of other employees performing the same or similar services or requiring similar skills under similar working conditions in the same community and in comparable communities and with other employees generally in the same community and in comparable communities.
- (3) The overall compensation presently received by the employees inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and

hospitalization benefits, the continuity and stability of employment and all other benefits received.

(4) Stipulations of the parties.

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

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

(7) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, binding interest arbitration or otherwise between parties, in public service or in private employment. In making determinations, the binding interest arbitrator shall give due weight to each relevant factor. All of the above factors shall be presumed relevant. If any factor is found not to be relevant, the binding interest arbitrator shall detail in the binding interest arbitrator's findings the specific reason why that factor is not judged relevant in arriving at the binding interest arbitrator's determination. With the exception of paragraph (6) of this subsection, no single factor in subsection, shall be dispositive.

(e) Within 30 days after the conclusion of the hearings but not later than 120 days from the day of appointment, the binding interest arbitrator shall serve the binding interest arbitrator's written determination for resolution of the dispute on the public school employer, the certified exclusive representative and the Board. The decision of the binding interest arbitrator shall become an order of the Board within five (5) business days after it has been served on the parties.

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

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

Section 6. Amend § 4009(a), Title 14 of the Delaware Code by inserting the words “or § 4015” after “4008” and before “of” in the first sentence of that Section.

Section 7. Amend § 4009(b), Title 14 of the Delaware Code by inserting the words “or § 4015” between “4008” and “of” in that Section.

Section 8. Any collective bargaining process which has not commenced the impasse resolution process (i.e. mediation) at the time of enactment of this Bill shall be resolved through binding interest arbitration. If at the time of enactment of this Bill, a collective bargaining process has commenced the impasse resolution process, such a dispute is not subject to binding interest arbitration unless the parties to the dispute mutually agree to binding interest arbitration.