



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; Sens. Amick, Blevins, Bunting, Cook, DeLuca, Ennis, Henry, McBride, McDowell, Peterson, Cloutier

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE BILL NO. 283

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:

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

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

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

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

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

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

15 “§ 4015. Binding Interest Arbitration.

16 “(a) Within 7 working days of receipt of a petition or recommendation to initiate binding interest
17 arbitration, the Board shall make a determination, with or without a formal hearing, as to whether a good faith
18 effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to
19 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

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

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

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

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

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

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

SYNOPSIS

This Bill adds a new provision to the Public School 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 school employees and the public school 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 school employees are prohibited from striking, they do not have an effective way to combat the public school 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. The 140th General Assembly passed similar legislation amending the Public Employment Relations Act and Police Officers' and Firefighters' Employment Relations Act to replace advisory fact-finding with binding interest arbitration.