

2009 -- H 5142

LC00585

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- SCHOOL TEACHER
ARBITRATION

Introduced By: Representative Al Gemma

Date Introduced: January 22, 2009

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-9.3-9, 28-9.3-11 and 28-9.3-12 of the General Laws in Chapter
2 28-9.3 entitled "Certified School Teachers' Arbitration" are hereby amended to read as follows:

3 **28-9.3-9. Unresolved issues submitted to mediation or arbitration.** -- (a) In the event
4 that the negotiating or bargaining agent and the school committee are unable, within thirty (30)
5 days from and including the date of their first meeting, to reach an agreement on a contract, either
6 of them may request mediation and conciliation upon any and all unresolved issues by the
7 director of labor and training or from any other source. ~~If mediation and conciliation fail or are~~
8 ~~not requested, at any time after the thirty (30) days, either party may request that any and all~~
9 ~~unresolved issues shall be submitted to arbitration by sending the request by certified mail~~
10 ~~postage prepaid to the other party, setting forth the issues to be arbitrated.~~

11 (b) In the event that the negotiating or bargaining agent and the school committee are
12 unable to reach an agreement on a contract thirty (30) days before the last day on which money
13 can be appropriated by the city and town to cover the first year of the contract period, any and all
14 unresolved issues shall be submitted to the director of labor and training for compulsory
15 mediation until the date upon which the money is scheduled to be appropriated. The director of
16 labor and training or his or her designee may waive this requirement upon the mutual agreement
17 of the parties.

18 (c) In the event that the negotiating or bargaining agent and the school committee are

1 unable within ten (10) days of the scheduled close of school in June of the last year of the
2 contract in effect to reach an agreement on a contract, any and all unresolved issues shall be
3 submitted to the director of labor and training for compulsory mediation.

4 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
5 the director of labor and training shall select a mediator from a panel previously established by
6 the director comprised of persons knowledgeable in the field of labor management relations to
7 mediate the dispute. The department of labor and training is empowered to compel the attendance
8 of all the parties to any and all meetings it deems necessary until the dispute is resolved.

9 (e) For any mediation pertaining to unresolved issues that are submitted to compulsory
10 mediation between the negotiating or bargaining agent and the school committee, pursuant to the
11 provisions of this section, the state shall pay up to five thousand dollars (\$5,000) of the cost of the
12 mediation expenses. Any costs above five thousand dollars (\$5,000) shall be shared equally
13 between the bargaining unit and the school committee.

14 (f) If no agreement is reached by midnight of the expiration of the existing contract, or
15 by mutual agreement of the parties at an earlier point in the mediation process, the parties shall
16 submit a list of their respective unresolved issues to the mediator. If an agreement is not reached
17 prior to the opening of school, teachers shall continue to work under the terms of the existing
18 contract.

19 (g) The parties shall then proceed to arbitration with the composition of the arbitration
20 board made in accordance with section 28-9.3-10 herein.

21 (h) Between ten (10) and fifteen (15) days prior to the first scheduled arbitration hearing,
22 the parties shall meet with the mediator and submit to the mediator their respective positions on
23 each individual issue in dispute between them in the form of a last best offer.

24 (i) In the event an agreement is still not reached by the date of the first scheduled
25 arbitration hearing, the parties shall proceed with arbitration. The arbitration panel shall resolve
26 separately each individual disputed issue by accepting the last best offer thereon of either of the
27 parties, and shall incorporate in a decision each such accepted individual last best offer. The
28 decision shall be rendered within thirty (30) days of the conclusion of the arbitration hearings,
29 and shall be retroactive to the expiration date of the prior contract.

30 **28-9.3-11. Hearings.** -- (a) The arbitrators shall call a hearing to be held within ~~ten (10)~~
31 sixty (60) days after their appointment and shall give at least seven (7) days notice in writing to
32 the negotiating or bargaining agent and the school committee of the time and place of the hearing.
33 The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall
34 not be binding. Any documentary evidence and other data deemed relevant by the arbitrators may

1 be received in evidence.

2 (b) The arbitrators shall have the power to administer oaths and to require by subpoena
3 the attendance and testimony of witnesses, and the production of books, records, and other
4 evidence relative or pertinent to the issues presented to them for determination.

5 (c) Both the negotiating or bargaining agent and the school committee shall have the
6 right to be represented at any hearing before the arbitrators by counsel of their own choosing.

7 (d) The hearing conducted by the arbitrators shall be concluded within ~~twenty (20)~~ forty-
8 five (45) days of the time of commencement, and within ~~ten (10)~~ thirty (30) days after the
9 conclusion of the hearings, the arbitrators shall make written findings and a written opinion upon
10 the issues presented, a copy of which shall be mailed or otherwise delivered to the negotiating or
11 bargaining agent or its attorney or other designated representative and the school committee.

12 **28-9.3-12. Appeal from decision.** -- The decision of the arbitrators shall be made public
13 and shall be binding on the certified public school teachers and their representative and the school
14 committee on all matters ~~not involving the expenditure of money; provided, that nothing~~
15 ~~contained in this section shall prevent the representative of the certified public school teachers~~
16 ~~and the school committee from mutually agreeing to submit all unresolved issues to binding~~
17 ~~arbitration pursuant to the procedures set forth in sections 28-9.3-10 -- 28-9.3-12. In that case the~~
18 ~~decision of the arbitrators shall be final and binding on all matters so submitted, including those~~
19 ~~involving the expenditure of money,~~ and cannot be appealed except on the ground that the
20 decision was procured by fraud or that it violates the law, in which case appeals shall be to the
21 superior court. The school committee shall within three (3) days after it receives the decision send
22 a true copy of the decision by certified or registered mail postage prepaid to the department or
23 agency which appropriates money for the operation of the schools in the city, town, or regional
24 school district involved, if decision involves the expenditure of money.

25 SECTION 2. Chapter 28-9.3 of the General Laws entitled "Certified School Teachers'
26 Arbitration" is hereby amended by adding thereto the following section:

27 **28-9.3-9.1. Unresolved issues in non-teacher employee disputes submitted to**
28 **mediation or arbitration.** -- (a) In the event that the negotiating or bargaining agent for non-
29 teacher, non-certified employees and the school committee are unable, within thirty (30) days
30 from and including the date of their first meeting, to reach an agreement on a contract, either of
31 them may request mediation and conciliation upon any and all unresolved issues by the director
32 of labor or from any other source.

33 (b) In the event that the negotiating or bargaining agent and the school committee are
34 unable to reach an agreement on a contract thirty (30) days before the last day on which money

1 can be appropriated by the city or town to cover the first year of the contract period, then any and
2 all unresolved issues shall be submitted to the director of labor for compulsory mediation until the
3 date upon which the money is scheduled to be appropriated. The director of labor or his/her
4 designee may waive this requirement upon the mutual agreement of the parties.

5 (c) In the event that the negotiating or bargaining agent and the school committee are
6 unable within ten (10) days of the scheduled close of school in June of the last year of the
7 contract in effect to reach an agreement on a contract, any and all unresolved issues shall be
8 submitted to the director of labor for compulsory mediation.

9 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
10 the director of labor shall select a mediator from a panel previously established by the director
11 comprised of persons knowledgeable in the field of labor management relations to mediate the
12 dispute. The department of labor is hereby empowered to compel the attendance of all the parties
13 to any and all meetings it deems necessary until the dispute is resolved.

14 (e) If no agreement is reached by midnight of the expiration of the existing contract, or by
15 mutual agreement of the parties at an earlier point in the mediation process, the parties shall
16 submit a list of their respective unresolved issues to the mediator. If an agreement is not reached
17 prior to the opening of school, teachers shall continue to work under the terms of the existing
18 contract.

19 (f) The parties shall then proceed to arbitration with the composition of the arbitration
20 board made in accordance with section 28-9.3-10 herein.

21 (g) Between ten (10) and fifteen (15) days prior to the first scheduled arbitration hearing,
22 the parties shall meet with the mediator and submit to the mediator their respective positions on
23 each individual issue in dispute between them in the form of a last best offer.

24 (h) In the event an agreement is still not reached by the date of the first scheduled
25 arbitration hearing, the parties shall proceed with arbitration. The arbitration panel shall resolve
26 separately each individual disputed issue by accepting the last best offer thereon of either of the
27 parties, and shall incorporate in a decision each such accepted individual last best offer. The
28 decision shall be rendered within thirty (30) days of the conclusion of the arbitration hearings,
29 and shall be retroactive to the expiration date of the prior contract.

30 SECTION 3. Section 28-9.4-10 of the General Laws in Chapter 28-9.4 entitled
31 "Municipal Employees' Arbitration" is hereby amended to read as follows:

32 **28-9.4-10. Unresolved issues submitted to mediation or arbitration.** -- (a) In the event
33 that the negotiating or bargaining agent and the municipal employer are unable after thirty (30)
34 days from and including the date of their first meeting to reach an agreement on a contract, either

1 of them may request mediation and conciliation upon any and all unresolved issues by the
2 director of labor and training or from any other source. After a request for mediation and
3 conciliation has been made by either party, it shall be the duty and obligation of each party to
4 participate in the mediation and conciliation. If mediation and conciliation fail or are not
5 requested at any time after the thirty (30) days, either party may request that any and all
6 unresolved issues shall be submitted to arbitration by sending the request by certified mail
7 postage prepaid to the other party, setting forth the issues to be arbitrated except those employees
8 pursuant to section 28-9.3-9.1.

9 (b) In the event that the negotiating or bargaining agent and the municipal employer are
10 unable to reach an agreement on a contract thirty (30) days before the last day on which money
11 can be appropriated by the city or town to cover the first year of the contract period, then any and
12 all unresolved issues shall be submitted to the director of labor and training for compulsory
13 mediation until the date upon which the money is scheduled to be appropriated. The director of
14 labor and training, or his or her designee, may waive this requirement upon the mutual agreement
15 of the parties.

16 (c) In the event that the negotiating or bargaining agent and the municipal employer are
17 unable within ten (10) days of the expiration of the contract to reach an agreement on a contract,
18 any and all unresolved issues shall be submitted to the director of labor and training for
19 compulsory mediation, except where the municipal employer is a school board. In the event that
20 the negotiating or bargaining agent and the municipal employer school board are unable within
21 thirty (30) days of the scheduled opening of school to reach an agreement on a contract, any and
22 all unresolved issues shall be submitted to the director of labor and training for compulsory
23 mediation.

24 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
25 the director of labor and training shall select a mediator from a panel previously established by
26 the director comprised of persons knowledgeable in the field of labor management relations to
27 mediate the dispute. The department of labor and training is empowered to compel the attendance
28 of all parties to any and all meetings it deems necessary until the dispute is resolved.

29 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- SCHOOL TEACHER
ARBITRATION

1 This act would expand the scope of the binding arbitration process to include monetary
2 issues for teachers and non-teacher educational employees. It would also streamline the actual
3 binding arbitration process itself.

4 This act would take effect upon passage.

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