

SENATE NO. 1627

AN ACT AN ACT RELATIVE TO BINDING ARBITRATION

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 701 of the Acts of 1960, as most recently amended by chapter 243 of the
2 acts of 2002, is hereby amended by inserting after section 15, the following new sections:-

3 Section 15A. Notwithstanding any general or special law to the contrary, the authority or any
4 organizations representing employees of the authority shall not be permitted to submit any
5 dispute over the terms of a collective bargaining agreement to arbitration except in accordance
6 with Section 15A through section 15D, inclusive; provided, however, that this section shall not
7 limit the rights of organizations representing employees of the authority to submit grievances to
8 arbitration in accordance with the collective bargaining agreement between the parties.

9 In the event the directors and any organizations representing employees of the authority have
10 not reached an agreement within 90 days from the date of the expiration of the agreement, either
11 party may notify the other that it desires mediation. The parties may agree upon a person to
12 serve as a mediator or, if unable to agree on said mediator, either party or the parties acting

13 jointly may petition the board of conciliation and arbitration to appoint a mediator from a list of
14 qualified persons maintained by the board.

15 Section 15B. After a reasonable period of mediation, not to exceed 45 days from the date of
16 appointment, said mediator shall issue a report indicating the results of his services in resolving
17 the impasse. If at the conclusion of mediation the impasse still exists, the mediator shall so
18 certify. In the event, the mediator shall certify in his report the last best offer of each party on
19 each unresolved issue which has been submitted to mediation and shall also certify the
20 agreement of the parties on each issue on which agreement has been reached and shall submit
21 such certifications to the arbitrator selected by the parties. In such event, so long as the mediator
22 shall also certify that the parties have bargained in good faith, either party may notify the other
23 that it desires arbitration of the dispute. Within 10 days of said notice, the parties shall meet to
24 select a single neutral arbitrator.

25 If, within 15 days, the parties fail to select such single arbitrator, either party may forthwith
26 petition the board of conciliation and arbitration to request a list of five arbitrators from the
27 American Arbitration Association and said Association shall certify to the board that such
28 arbitrators on the list it provides possess the qualifications as provided in section 30. The parties
29 shall thereupon meet to select such arbitrator by striking one name each until one name remains
30 and that person shall serve as the neutral arbitrator. If, after 10 days, one of the parties declines
31 to strike their names, the other party shall strike two names and the board shall forthwith select
32 the arbitrator from the remaining three names.

33 Section 15C. The single arbitrator, whether agreed upon by the parties or selected by the board
34 of conciliation and arbitration, shall be a legal resident of the commonwealth and shall be

35 experienced in state and local finance. The arbitrator shall rely primarily on the following
36 factors in determining the basis for an award:

37 (a) The financial ability of the authority to meet additional costs, which shall include but not be
38 limited to: (i) the statutory requirement that the authority produce revenues in excess of
39 expenses; (ii) the financial ability of the individual communities and the commonwealth to meet
40 additional costs; (iii) the average per capita tax burden, average annual income and sources of
41 revenue within the commonwealth, and the effect of any arbitration award on the respective
42 property tax rates of the cities and towns within the authority's district.

43 (b) The overall compensation presently received by the employees, having regard not only for
44 wages for time actually worked but also for wages for time not worked, including vacations,
45 holidays and other excused time.

46 (c) All benefits received by the employees, including insurance, pension, as well as the
47 continuity and stability of employment.

48 (d) The hazards of employment, physical, educational and mental qualifications, job training
49 and skills involved.

50 (e) A comparison of wages, hours, and conditions of employment of the employees involved in
51 the arbitration proceedings with the wages, hours and conditions of employment of other
52 employees performing similar services within the commonwealth and with other employees
53 generally in public and private employment within the commonwealth.

54 (f) The average consumer price for goods and services, commonly known as the cost of living.

55 (g) Changes in any of the foregoing circumstances during the pendency of the arbitration
56 proceedings.

57 (h) Such other factors, not confined to the foregoing, which are normally or traditionally taken
58 into consideration in the determination of wages, hours and conditions of employment through
59 voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between
60 parties, in the public service of the commonwealth, and which are not precluded from
61 bargaining under section 25.

62 (i) The stipulation of the parties.

63 Section 15D. The arbitrator shall be limited in making his award to choosing between the last
64 best offers of the parties on each issue as certified in the mediator's report or any award in the
65 range between the last best offers of the parties. The arbitrator shall make no award on any issue
66 found by him to be not authorized by law to be submitted to arbitration, but shall state such
67 finding in his written opinion. Within 30 calendar days of an award, the arbitrator shall issue a
68 written opinion inclusive of an analysis of all statutory factors applicable to the proceedings.
69 Any determination by the arbitrator, if supported by material and substantial evidence on the
70 record, shall be binding upon the parties and upon the appropriate legislative or appropriating
71 body and may be enforced at the insistence of either party or by the arbitrator in the superior
72 court. The scope of arbitration shall be limited to wages, hours, and conditions of employment
73 and shall not include any provisions for any cost of living adjustment which are based on
74 changes in the consumer price index after the expiration of the contract period covered by the
75 award. In addition, any wage or salary adjustments shall be expressed in percent or dollar

76 amounts, and in no case shall there be any provision for salary adjustments to occur after the
77 expiration of the contract period covered by the award.

78 The cost, if any, of the mediation and of arbitration proceedings, exclusive of the expenses of
79 the individual parties shall, be divided equally by the parties and shall be in accordance with a
80 schedule of payments established by the American Arbitration Association.