

P.L.2014, CHAPTER 11, *approved June 24, 2014*  
Assembly, No. 3424

1 AN ACT concerning police and fire interest arbitration and  
2 amending P.L.1977, c.85 and P.L.2010, c.105.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to  
8 read as follows:

9 3. a. (1) Negotiations between a public fire or police  
10 department and an exclusive representative concerning the terms  
11 and conditions of employment shall begin at least 120 days prior to  
12 the day on which their collective negotiation agreement is to expire.  
13 The parties shall meet at least three times during that 120-day  
14 period. The first of those three meetings shall take place no later  
15 than the 90th day prior to the day on which their collective  
16 negotiation agreement is to expire. By mutual consent, the parties  
17 may agree to extend the period during which the second and third  
18 meetings are required to take place beyond the day on which their  
19 collective negotiation agreement is to expire. A violation of this  
20 paragraph shall constitute an unfair practice and the violator shall  
21 be subject to the penalties prescribed by the commission pursuant to  
22 rule and regulation.

23 Prior to the expiration of their collective negotiation agreement,  
24 either party may file an unfair practice charge with the commission  
25 alleging that the other party is refusing to negotiate in good faith.  
26 The charge shall be filed in the manner, form and time specified by  
27 the commission in rule and regulation. If the charge is sustained,  
28 the commission shall order that the respondent be assessed for all  
29 legal and administrative costs associated with the filing and  
30 resolution of the charge; if the charge is dismissed, the commission  
31 shall order that the charging party be assessed for all legal and  
32 administrative costs associated with the filing and resolution of the  
33 charge. The filing and resolution of the unfair practice charge shall  
34 not delay or impair the impasse resolution process.

35 (2) Whenever those negotiations concerning the terms and  
36 conditions of employment shall reach an impasse, the commission,  
37 through the Division of Public Employment Relations shall, upon  
38 the request of either party, or upon its own motion take such steps,  
39 including the assignment of a mediator, as it may deem expedient to  
40 effect a voluntary resolution of the impasse.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       b. (1) In the event of a failure to resolve the impasse by  
2 mediation, the Division of Public Employment Relations, at the  
3 request of either party, shall invoke factfinding with  
4 recommendation for settlement of all issues in dispute unless the  
5 parties reach a voluntary settlement prior to the issuance of the  
6 factfinder's report and recommended terms of settlement.  
7 Factfindings shall be limited to those issues that are within the  
8 required scope of negotiations unless the parties to the factfinding  
9 agree to factfinding on permissive subjects of negotiation.

10       (2) Notwithstanding the provisions of paragraph (2) of  
11 subsection a. of this section or paragraph (1) of this subsection,  
12 either party may petition the commission for arbitration on or after  
13 the date on which their collective negotiation agreement expires.  
14 The petition shall be filed in a manner and form prescribed by the  
15 commission. The party filing the petition shall notify the other  
16 party of its action. The notice shall be given in a manner and form  
17 prescribed by the commission.

18       Any mediation or factfinding invoked pursuant to paragraph (2)  
19 of subsection a. of this section or paragraph (1) of subsection b. of  
20 this section shall terminate immediately upon the filing of a petition  
21 for arbitration.

22       (3) Upon the filing of a petition for arbitration pursuant to  
23 paragraph (2) of this subsection, an arbitrator selected pursuant to  
24 paragraph (1) of subsection e. of this section shall conduct an initial  
25 meeting as a mediation session to effect a voluntary resolution of  
26 the impasse.

27       c. (Deleted by amendment, P.L.2010, c.105)

28       d. The resolution of issues in dispute shall be binding  
29 arbitration under which the award on the unsettled issues is  
30 determined by conventional arbitration. The arbitrator shall  
31 determine whether the total net annual economic changes for each  
32 year of the agreement are reasonable under the nine statutory  
33 criteria set forth in subsection g. of this section and shall adhere to  
34 the limitations set forth in section 2 of P.L.2010, c.105 (C.34:13A-  
35 16.7). The non-petitioning party, within five days of receipt of the  
36 petition, shall separately notify the commission in writing of all  
37 issues in dispute. The filing of the written response shall not delay,  
38 in any manner, the interest arbitration process.

39       e. (1) The commission shall take measures to assure the  
40 impartial selection of an arbitrator or arbitrators from its special  
41 panel of arbitrators. On the first business day following receipt of  
42 an interest arbitration petition, the commission shall, independent  
43 of and without any participation by either of the parties, randomly  
44 select an arbitrator from its special panel of arbitrators. The  
45 selection by the commission shall be final and shall not be subject  
46 to review or appeal.

47       (2) Applicants for initial appointment to the commission's  
48 special panel of arbitrators shall be chosen based on their

1 professional qualifications, knowledge, and experience, in  
2 accordance with the criteria and rules adopted by the commission.  
3 Such rules shall include relevant knowledge of local government  
4 operations and budgeting. Appointment to the commission's special  
5 panel of arbitrators shall be for a three-year term, with  
6 reappointment contingent upon a screening process similar to that  
7 used for determining initial appointments. Arbitrators currently  
8 serving on the panel shall demonstrate to the commission their  
9 professional qualification, knowledge and experience, in accordance  
10 with the criteria and rules adopted by the commission, within one  
11 year of the effective date of this act. Any arbitrator who does not  
12 satisfactorily demonstrate such to the commission within the  
13 specified time shall be disqualified.

14 (3) Arbitrators serving on the commission's special panel shall  
15 be guided by and subject to the objectives and principles set forth in  
16 the "Code of Professional Responsibility for Arbitrators of Labor-  
17 Management Disputers" of the National Academy of Arbitrators,  
18 the American Arbitration Association, and the Federal Mediation  
19 and Conciliation Service.

20 (4) Arbitrators shall be required to complete annual training  
21 offered by the State Ethics Commission. Any arbitrator failing to  
22 satisfactorily complete the annual training shall be immediately  
23 removed from the special panel.

24 The commission may suspend, remove, or otherwise discipline  
25 an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.),  
26 section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause.  
27 An arbitrator who fails to render an award within the time  
28 requirements set forth in this section shall be fined \$1,000 for each  
29 day that the award is late.

30 f. (1) At a time prescribed by the commission, the parties shall  
31 submit to the arbitrator their final offers on each economic and non-  
32 economic issue in dispute. The offers submitted pursuant to this  
33 section shall be used by the arbitrator for the purposes of  
34 determining an award pursuant to subsection d. of this section.

35 (2) In the event of a dispute, the commission shall have the  
36 power to decide which issues are economic issues. Economic  
37 issues include those items which have a direct relation to employee  
38 income including wages, salaries, hours in relation to earnings, and  
39 other forms of compensation such as paid vacation, paid holidays,  
40 health and medical insurance, and other economic benefits to  
41 employees.

42 (3) Throughout formal arbitration proceedings the chosen  
43 arbitrator may mediate or assist the parties in reaching a mutually  
44 agreeable settlement.

45 All parties to arbitration shall present, at the formal hearing  
46 before the issuance of the award, written estimates of the financial  
47 impact of their last offer on the taxpayers of the local unit to the  
48 arbitrator with the submission of their last offer.

1 (4) Arbitration shall be limited to those subjects that are within  
2 the required scope of collective negotiations, except that the parties  
3 may agree to submit to arbitration one or more permissive subjects  
4 of negotiation.

5 (5) The decision of an arbitrator or panel of arbitrators shall  
6 include an opinion and an award, and shall be rendered within **[45]**  
7 90 calendar days of the commission's assignment of that arbitrator.

8 Each arbitrator's decision shall be accompanied by a written  
9 report explaining how each of the statutory criteria played into the  
10 arbitrator's determination of the final award. The report shall  
11 certify that the arbitrator took the statutory limitations imposed on  
12 the local levy cap into account in making the award.

13 Any arbitrator violating the provisions of this paragraph may be  
14 subject to the commission's powers under paragraph (3) of  
15 subsection e. of this section. The decision shall be final and  
16 binding upon the parties and shall be irreversible, except:

17 (a) Within **[seven]** 14 calendar days of receiving an award, an  
18 aggrieved party may file notice of an appeal of an award to the  
19 commission on the grounds that the arbitrator failed to apply the  
20 criteria specified in subsection g. of this section or violated the  
21 standards set forth in N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal  
22 shall be filed in a form and manner prescribed by the commission.  
23 In deciding an appeal, the commission, pursuant to rule and  
24 regulation and upon petition, may afford the parties the opportunity  
25 to present oral arguments. The commission may affirm, modify,  
26 correct or vacate the award or may, at its discretion, remand the  
27 award to the same arbitrator or to another arbitrator, selected by lot,  
28 for reconsideration. The commission's decision shall be rendered  
29 no later than **[30]** 60 calendar days after the filing of the appeal  
30 with the commission.

31 Arbitration appeal decisions shall be accompanied by a written  
32 report explaining how each of the statutory criteria played into their  
33 determination of the final award. The report shall certify that in  
34 deciding the appeal, the commission took the local levy cap into  
35 account in making the award.

36 An aggrieved party may appeal a decision of the commission to  
37 the Appellate Division of the Superior Court.

38 (b) An arbitrator's award shall be implemented immediately.

39 (6) The parties shall share equally the costs of arbitration  
40 subject to a fee schedule approved by the commission. The fee  
41 schedule shall provide that the cost of services provided by the  
42 arbitrator shall not exceed \$1,000 per day. The total cost of  
43 services of an arbitrator shall not exceed **[\$7,500]** \$10,000. If the  
44 parties cancel an arbitration proceeding without good cause, the  
45 arbitrator may impose a fee of not more than \$500. The parties  
46 shall share equally in paying that fee if the request to cancel or  
47 adjourn is a joint request. Otherwise, the party causing such  
48 cancellation shall be responsible for payment of the entire fee.

1 g. The arbitrator shall decide the dispute based on a reasonable  
2 determination of the issues, giving due weight to those factors listed  
3 below that are judged relevant for the resolution of the specific  
4 dispute. In the award, the arbitrator or panel of arbitrators shall  
5 indicate which of the factors are deemed relevant, satisfactorily  
6 explain why the others are not relevant, and provide an analysis of  
7 the evidence on each relevant factor; provided, however, that in  
8 every interest arbitration proceeding, the parties shall introduce  
9 evidence regarding the factor set forth in paragraph (6) of this  
10 subsection and the arbitrator shall analyze and consider the  
11 **【factors】** factor set forth in paragraph (6) of this subsection in any  
12 award:

13 (1) The interests and welfare of the public. Among the items  
14 the arbitrator or panel of arbitrators shall assess when considering  
15 this factor are the limitations imposed upon the employer by  
16 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

17 (2) Comparison of the wages, salaries, hours, and conditions of  
18 employment of the employees involved in the arbitration  
19 proceedings with the wages, hours, and conditions of employment  
20 of other employees performing the same or similar services and  
21 with other employees generally:

22 (a) In private employment in general; provided, however, each  
23 party shall have the right to submit additional evidence for the  
24 arbitrator's consideration.

25 (b) In public employment in general; provided, however, each  
26 party shall have the right to submit additional evidence for the  
27 arbitrator's consideration.

28 (c) In public employment in the same or similar comparable  
29 jurisdictions, as determined in accordance with section 5 of  
30 P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each  
31 party shall have the right to submit additional evidence concerning  
32 the comparability of jurisdictions for the arbitrator's consideration.

33 (3) The overall compensation presently received by the  
34 employees, inclusive of direct wages, salary, vacations, holidays,  
35 excused leaves, insurance and pensions, medical and hospitalization  
36 benefits, and all other economic benefits received.

37 (4) Stipulations of the parties.

38 (5) The lawful authority of the employer. Among the items the  
39 arbitrator or panel of arbitrators shall assess when considering this  
40 factor are the limitations imposed upon the employer by P.L.1976,  
41 c.68 (C.40A:4-45.1 et seq.).

42 (6) The financial impact on the governing unit, its residents, the  
43 limitations imposed upon the local unit's property tax levy pursuant  
44 to section 10 of P.L.2007, c.62 (C.40A:4-45.45), and taxpayers.  
45 When considering this factor in a dispute in which the public  
46 employer is a county or a municipality, the arbitrator or panel of  
47 arbitrators shall take into account, to the extent that evidence is  
48 introduced, how the award will affect the municipal or county

1 purposes element, as the case may be, of the local property tax; a  
2 comparison of the percentage of the municipal purposes element or,  
3 in the case of a county, the county purposes element, required to  
4 fund the employees' contract in the preceding local budget year with  
5 that required under the award for the current local budget year; the  
6 impact of the award for each income sector of the property  
7 taxpayers of the local unit; the impact of the award on the ability of  
8 the governing body to (a) maintain existing local programs and  
9 services, (b) expand existing local programs and services for which  
10 public moneys have been designated by the governing body in a  
11 proposed local budget, or (c) initiate any new programs and services  
12 for which public moneys have been designated by the governing  
13 body in a proposed local budget.

14 (7) The cost of living.

15 (8) The continuity and stability of employment including  
16 seniority rights and such other factors not confined to the foregoing  
17 which are ordinarily or traditionally considered in the determination  
18 of wages, hours, and conditions of employment through collective  
19 negotiations and collective bargaining between the parties in the  
20 public service and in private employment.

21 (9) Statutory restrictions imposed on the employer. Among the  
22 items the arbitrator or panel of arbitrators shall assess when  
23 considering this factor are the limitations imposed upon the  
24 employer by section 10 of P.L.2007, c.62 (C.40A:4-45.45).

25 h. A mediator, factfinder, or arbitrator while functioning in a  
26 mediatory capacity shall not be required to disclose any files,  
27 records, reports, documents, or other papers classified as  
28 confidential received or prepared by him or to testify with regard to  
29 mediation, conducted by him under this act on behalf of any party  
30 to any cause pending in any type of proceeding under this act.  
31 Nothing contained herein shall exempt such an individual from  
32 disclosing information relating to the commission of a crime.

33 (cf: P.L.2010, c.105, s.1)

34

35 2. Section 2 of P.L.2010, c.105 (C.34:13A-16.7) is amended to  
36 read as follows:

37 2. a. As used in this section:

38 "Base salary" means the salary provided pursuant to a salary  
39 guide or table and any amount provided pursuant to a salary  
40 increment, including any amount provided for longevity or length of  
41 service. It also shall include any other item agreed to by the parties,  
42 or any other item that was included in the base salary as understood  
43 by the parties in the prior contract. Base salary shall not include  
44 non-salary economic issues, pension and health and medical  
45 insurance costs.

46 "Non-salary economic issues" means any economic issue that is  
47 not included in the definition of base salary.

1        b. An arbitrator shall not render any award pursuant to section  
2 3 of P.L.1977, c.85 (C.34:13A-16) which, **[ on an annual basis]** in  
3 the first year of the collective negotiation agreement awarded by the  
4 arbitrator, increases base salary items by more than 2.0 percent of  
5 the aggregate amount expended by the public employer on base  
6 salary items for the members of the affected employee organization  
7 in the twelve months immediately preceding the expiration of the  
8 collective negotiation agreement subject to arbitration **[provided,**  
9 **however, the]** . In each subsequent year of the agreement awarded  
10 by the arbitrator, base salary items shall not be increased by more  
11 than 2.0 percent of the aggregate amount expended by the public  
12 employer on base salary items for the members of the affected  
13 employee organization in the immediately preceding year of the  
14 agreement awarded by the arbitrator.

15        The parties may agree, or the arbitrator may decide, to distribute  
16 the aggregate monetary value of the award over the term of the  
17 collective negotiation agreement in unequal annual [percentages]  
18 percentage increases, which shall not be greater than the  
19 compounded value of a 2.0 percent increase per year over the  
20 corresponding length of the collective negotiation agreement. An  
21 award of an arbitrator shall not include base salary items and non-  
22 salary economic issues which were not included in the prior  
23 collective negotiations agreement.  
24 (cf: P.L.2010, c.105, s.2)

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26        3. Section 3 of P.L.2010, c.105 (C.34:13A-16.8) is amended to  
27 read as follows:

28        3. a. There is established a task force, to be known as the Police  
29 and Fire Public Interest Arbitration Impact Task Force.

30        b. The task force shall be comprised of eight members as  
31 follows:

32        (1) four to be appointed by the Governor;

33        (2) two to be appointed by the Senate President; and

34        (3) two to be appointed by the Speaker of the General  
35 Assembly.

36        c. All appointments shall be made within 30 days of the  
37 effective date of P.L.2010, c.105 (C.34:13A-16.7 et al.). Vacancies  
38 in the membership shall be filled in the same manner as the original  
39 appointments. The members of the task force shall serve without  
40 compensation but may be reimbursed, within the limits of funds  
41 made available to the task force, for necessary travel expenses  
42 incurred in the performance of their duties.

43        d. (1) The task force shall organize as soon as is practicable  
44 upon the appointment of a majority of its members and shall select  
45 a chairperson from among the appointees of the Governor and a  
46 vice chairperson from among the appointees of the Legislature. The  
47 Chair of the Public Employment Relations Commission shall serve  
48 as non-voting executive director of the task force.

1 (2) The task force shall meet within 60 days of the effective date  
2 of P.L.2010, c.105 (C.34:13A-16.7 et al.) and shall meet thereafter  
3 at the call of its chair. In furtherance of its evaluation, the task  
4 force may hold public meetings or hearings within the State on any  
5 matter or matters related to the provisions of this act, and call to its  
6 assistance and avail itself of the services of the Public Employment  
7 Relations Commission and the employees of any State department,  
8 board, task force or agency which the task force determines  
9 possesses relevant data, analytical and professional expertise or  
10 other resources which may assist the task force in discharging its  
11 duties under this act. Each department, board, commission or  
12 agency of this State is hereby directed, to the extent not inconsistent  
13 with law, to cooperate fully with the task force and to furnish such  
14 information and assistance as is necessary to accomplish the  
15 purposes of this act. In addition, in order to facilitate the work of  
16 the task force, the Public Employment Relations Commission shall  
17 post on its website all collective negotiations agreements and  
18 interest arbitration awards entered or awarded after the date of  
19 enactment, including a summary of contract or arbitration award  
20 terms in a standard format developed by the Public Employment  
21 Relations Commission to facilitate comparisons. All collective  
22 negotiations agreements shall be submitted to the Public  
23 Employment Relations Commission within 15 days of contract  
24 execution.

25 e. (1) It shall be the duty of the task force to study the effect  
26 and impact of the arbitration award cap upon local property taxes;  
27 collective bargaining agreements; arbitration awards; municipal  
28 services; municipal expenditures; municipal public safety services,  
29 particularly changes in crime rates and response times to emergency  
30 situations; police and fire recruitment, hiring and retention; the  
31 professional profile of police and fire departments, particularly with  
32 regard to age, experience, and staffing levels; and such other  
33 matters as the members deem appropriate and necessary to evaluate  
34 the effects and impact of the arbitration award cap.

35 (2) Specifically, the task force shall study total compensation  
36 rates, including factors subject to the arbitration award cap and  
37 factors exempt from the arbitration award cap, of police and fire  
38 personnel throughout the state and make recommendations thereon.  
39 The task force also shall study the interest arbitration process and  
40 make recommendations concerning its continued use in connection  
41 with police and fire labor contracts disputes. The task force shall  
42 make findings as to the relative growth in total compensation cost  
43 attributable to factors subject to the arbitration award cap and to  
44 factors exempt from the arbitration award cap, for both collective  
45 bargaining agreements and arbitration awards.

46 f. The task force shall annually report its findings, along with  
47 any recommendations it may have, to the Governor and , pursuant  
48 to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature



1 **【annually, on or before April 1 of each year】**. The task force's final  
2 report due on or before **【April 1, 2014】** December 31, 2017 shall  
3 include, in addition to any other findings and recommendations, a  
4 specific recommendation for any amendments to the arbitration  
5 award cap. Upon the filing of its final report on or before **【April 1,**  
6 **2014】** December 31, 2017, the task force shall expire.

7 (cf: P.L.2010, c.105, s.3)

8

9 4. Section 4 of P.L.2010, c.105 (C.34:13A-16.9) is amended to  
10 read as follows:

11 4. This act shall take effect January 1, 2011; provided however,  
12 section 2 of P.L.2010, c.105 (C.34:13A-16.7) shall apply only to  
13 collective negotiations between a public employer and the exclusive  
14 representative of a public police department or public fire  
15 department that relate to **【a】** negotiated **【agreement】** agreements  
16 expiring on that effective date or any date thereafter until **【April 1,**  
17 **2014】** or on December 31, 2017, whereupon , after December 31,  
18 2017, the provisions of section 2 of P.L.2010, c.105 (C.34:13A-  
19 16.7) shall become inoperative for all parties except those whose  
20 collective negotiations agreements expired prior to **【April 1, 2014】**  
21 or on December 31, 2017 but for whom a final settlement has not  
22 been reached. **【When final settlement between the parties in all**  
23 **such negotiations is reached, the provisions of section 2 of this act**  
24 **shall expire. In the case of a party that entered into a contract that**  
25 **expires on the effective date of this act or any date thereafter until**  
26 **April 1, 2014, and where the terms of that contract otherwise meet**  
27 **the criteria set forth in section 2 of this act, that party shall not be**  
28 **subject to the provisions of section 2 when negotiating a future**  
29 **contract.】**

30 (cf: P.L.2010, c.105, s.4)

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32 5. This act shall take effect immediately and shall be retroactive  
33 to April 2, 2014.

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## 36 STATEMENT

37

38 This bill makes several changes to the current law governing  
39 arbitration awards in disputes between public employers and their  
40 police and fire departments.

41 Under current law, any time after a collective negotiation  
42 agreement between a public employer and a public police or fire  
43 department expires, either party may petition the New Jersey Public  
44 Employment Relations Commission (PERC) for arbitration.  
45 Arbitrators in these cases are required to render their decision  
46 within 45 days of the case being assigned to them. This bill extends  
47 the time to render the decision to 90 days and requires the arbitrator

1 to conduct an initial meeting as a mediation session to effect a  
2 voluntary resolution of the impasse. Current law allows an  
3 aggrieved party seven days to file a notice of appeal of the  
4 arbitrator's decision. This bill extends the time to appeal to 14  
5 days. The bill also increases the time frame allotted PERC to  
6 render its decision in an appeal of an arbitration award from 30 to  
7 60 days. The bill further increases the maximum amount arbitrators  
8 can be compensated for their services from \$7,500 to \$10,000.

9 Between January 1, 2011 and April 1, 2014, there was a two-  
10 percent cap on base salary increases in arbitration awards. This  
11 two-percent cap expired on April 1, 2014. The bill extends the two-  
12 percent cap until December 31, 2017 and makes the cap retroactive  
13 to April 2, 2014.

14 The bill also makes changes to the calculation of the two-percent  
15 cap. Under current law, an arbitrator may not render an award  
16 which, on an annual basis, increases the base salary items by more  
17 than two-percent of the aggregate amount expended by the public  
18 employer on base salary items for the members of the affected  
19 employee organization in the year immediately preceding the  
20 expiration of the agreement. Under the bill, after the first year of  
21 the agreement, the award could not exceed two-percent of the base  
22 salary items as annually compounded at the end of each agreement  
23 year.

24 Finally, the bill extends the reporting requirements applicable to  
25 the Police and Fire Public Interest Arbitration Impact Task Force  
26 from April 1, 2014 to December 31, 2017 to comport with the  
27 extension of the two-percent cap.

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32 Revises certain laws governing police and fire interest  
33 arbitration; incorporates compounding in base salary calculation;  
34 extends two-percent cap on base salary awards.