

# ASSEMBLY, No. 4608

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 25, 2015

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Increases number of arbitrators on panel determining contested cases involving tenured employees in school districts and gives Commissioner of Education discretion on setting fees.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 6/30/2015)

1 AN ACT concerning certain arbitrators and amending P.L.2012,  
2 c.26.

3

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

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7 1. Section 22 of P.L.2012, c.26 (C.18A:6-17.1) is amended to  
8 read as follows:

9 22. a. The Commissioner of Education shall maintain a panel of  
10 **[25]** 50 permanent arbitrators to hear matters pursuant to  
11 N.J.S.18A:6-16. Of the **[25]** 50 arbitrators, **[eight]** 16 arbitrators  
12 shall be designated by the New Jersey Education Association,  
13 **[three]** six arbitrators shall be designated by the American  
14 Federation of Teachers, **[nine]** 18 arbitrators shall be designated by  
15 the New Jersey School Boards Association, and **[five]** 10  
16 arbitrators shall be designated by the New Jersey Principals and  
17 Supervisors Association. The commissioner shall inform the  
18 appropriate designating entity when a vacancy exists. If the  
19 appropriate entity does not designate an arbitrator within 30 days,  
20 the commissioner shall designate an arbitrator to fill that vacancy.

21 All arbitrators designated pursuant to this section shall serve on  
22 the American Arbitration Association panel of labor arbitrators and  
23 shall be members of the National Academy of Arbitrators. The  
24 arbitrators shall have knowledge and experience in the school  
25 employment sector. Arbitrators on the permanent panel shall be  
26 assigned by the commissioner randomly to hear cases.

27 b. The following provisions shall apply to a hearing conducted  
28 by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise  
29 provided pursuant to P.L.2012, c.26 (C.18A:6-117 et al.):

30 (1) The hearing shall be held before the arbitrator within 45  
31 days of the assignment of the arbitrator to the case;

32 (2) The arbitrator shall receive no **[more]** less than \$1250 per  
33 day **[and no more than \$7500 per case]** , or such amount as  
34 established at the discretion of the Commissioner of Education, who  
35 shall consider the average per diem rate of arbitrators eligible to  
36 serve on the panel who reside in New Jersey, New York, and  
37 Pennsylvania. The costs and expenses of the arbitrator shall be  
38 borne by the State of New Jersey;

39 (3) Upon referral of the case for arbitration, the employing  
40 board of education shall provide all evidence including, but not  
41 limited to, documents, electronic evidence, statements of witnesses,  
42 and a list of witnesses with a complete summary of their testimony,  
43 to the employee or the employee's representative. The employing  
44 board of education shall be precluded from presenting any  
45 additional evidence at the hearing, except for purposes of

**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 impeachment of witnesses. At least 10 days prior to the hearing,  
2 the employee shall provide all evidence upon which he will rely  
3 including, but not limited to, documents, electronic evidence,  
4 statements of witnesses, and a list of witnesses with a complete  
5 summary of their testimony, to the employing board of education or  
6 its representative. The employee shall be precluded from  
7 presenting any additional evidence at the hearing except for  
8 purposes of impeachment of witnesses.

9 Discovery shall not include depositions, and interrogatories shall  
10 be limited to 25 without subparts.

11 c. The arbitrator shall determine the case under the American  
12 Arbitration Association labor arbitration rules. In the event of a  
13 conflict between the American Arbitration Association labor  
14 arbitration rules and the procedures established pursuant to this  
15 section, the procedures established pursuant to this section shall  
16 govern.

17 d. Notwithstanding the provisions of N.J.S.18A:6-25 or any  
18 other section of law to the contrary, the arbitrator shall render a  
19 written decision within 45 days of the start of the hearing.

20 e. The arbitrator's determination shall be final and binding and  
21 may not be appealable to the commissioner or the State Board of  
22 Education. The determination shall be subject to judicial review  
23 and enforcement as provided pursuant to N.J.S.2A:24-7 through  
24 N.J.S.2A:24-10.

25 f. Timelines set forth herein shall be strictly followed; the  
26 arbitrator or any involved party shall inform the commissioner of  
27 any timeline that is not adhered to.

28 g. An arbitrator may not extend the timeline of holding a  
29 hearing beyond 45 days of the assignment of the arbitrator to the  
30 case without approval from the commissioner. An arbitrator may  
31 not extend the timeline for rendering a written decision within 45  
32 days of the start of the hearing without approval from the  
33 commissioner. Extension requests shall occur before the 41 day of  
34 the respective timelines set forth herein. The commissioner shall  
35 approve or disapprove extension requests within five days of  
36 receipt.

37 h. The commissioner may remove any arbitrator from an  
38 arbitration case or an arbitration panel if an arbitrator does not  
39 adhere to the timelines set forth herein without approval from the  
40 commissioner. If the commissioner removes an arbitrator from an  
41 arbitration case, the commissioner shall refer the case to a new  
42 arbitrator within five days. The newly-assigned arbitrator shall  
43 convene a new hearing and then render a written decision within 45  
44 days of being referred the case.

45 (cf: P.L.2012, c.26, s.22)

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47 2. This act shall take effect immediately.

STATEMENT

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The “Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act,” P.L.2012, c.26 (C.18A:6-117 et al.), established binding arbitration for contested cases involving the dismissal or reduction in compensation of tenured employees in school districts. TEACHNJ required the Commissioner of Education to maintain a panel of arbitrators to hear the cases. This bill will increase the number of arbitrators on the panel from 25 to 50. The New Jersey Education Association, the American Federation of Teachers, the New Jersey School Boards Association, and the New Jersey Principals and Supervisors Association designate arbitrators to the panel under TEACHNJ. This bill will double the number of arbitrators designated by each entity.

The bill also alters the fee provision for the arbitrators. Under TEACHNJ, arbitrators could receive no more than \$1,250 per day and no more than \$7,500 per case. The bill provides that arbitrators will receive no less than \$1,250 per day and eliminates the per case amount limitation. The bill also gives the Commissioner of Education the discretion to establish the amount to be received by the arbitrators. In doing so, the bill requires the commissioner to consider the average per diem rate of arbitrators eligible to serve on the panel who reside in New Jersey, New York, and Pennsylvania.