

## Issue Summary

### Public Safety Collective Bargaining

#### *The Issue:*

In Pennsylvania, where teachers and transit workers can shut down services and inconvenience their users, at least one important sector of the workforce is prohibited from going on strike. This sector is comprised of policemen and firemen. Instead, they enjoy binding arbitration under Act 111 of 1968.

#### *What We Know:*

There are problems with this law. The law is quite brief and makes no mention of mediation or fact-finding provisions. The arbitration panel appointed in a dispute is made up of three members—one appointed by the union, one by the employer (the municipality) and the third a pick of the employer and the union. The employer has to pay the costs of its arbitrator as well as the costs of the neutral arbitrator. There is no mention of what factors, if any, the panel is to take into consideration when deliberating the award.

In short, placing control over salary and benefits of public safety workers into the hands of arbitrators has proven to be a recipe for disaster as costs have climbed across the state.

We have found that binding arbitration for police and fire is far more likely to be present in states that are not Right to Work and those that have levels of public sector unionization of 50 percent or greater. In comparison with the laws in the neighboring states of New York and Ohio—which spell out specific conditions for arbitration to occur and set out criteria to be considered in settlements—Pennsylvania's statute is weak. That there has not been a statewide, systematic evaluation of Pennsylvania's Act 111 since the late 1970s which produced a series of recommendations, none of which were adopted, showing that there is little legislative interest in taking on the statute's shortcomings.

#### *Recommendations:*

A far better system for binding arbitration requires changes to the selection of arbitrators and the criteria they use in making an award. These changes include:

- **State oversight:** A pool of arbitrators would be housed in the state's Department of Labor and Industry and be classified as civil servants, free of political pressure. Panels of arbitrators would be appointed from the pool to hear cases around the state.
- **Neutrality:** Arbitrators would have no interest or connection to the dispute. No arbitrator could participate in a case in the county where he or she resides.

- Professionalism: Arbitrators would be certified by a professional organization/association and would be qualified to hear cases involving workplace matters for police and fire personnel and their employers.
- Accountability: A review panel made up of disinterested senior arbitrators should oversee the arbitrators' decisions and have the final approval on awards.

Second, once arbitration has commenced, the board should have freedom to craft an award, even if it means starting from zero. This process must be guided by objective, measurable criteria, including, but not limited to:

- Comparison with economically and demographically similar cities to see what their police and fire personnel earn and the benefit packages they receive.
- Staffing levels.
- Productivity level changes.
- Hours worked per-week.
- Inflation since the approval of last contract and projected for the term of the contract.
- Average income growth in the municipality.
- Financial ability of the municipality.

Clearly, as far as possible, market forces should determine wages and what types and amounts of benefits should be awarded. There should never be a provision that shields employees from layoffs or requires minimum pre-set staffing levels regardless of the financial situation of the community. Adopting these measures is the only way to ensure that pay increases are compatible with market forces and that any burden of benefits that are not enjoyed elsewhere are placed on taxpayers. These changes would help move the present collective bargaining system from one in which outcomes are basically decided before arbitration is convened to one where there is a chance that public safety unions won't automatically get everything they want.

*Allegheny Institute References:*

Addressing the Imbalance in Pennsylvania's Act 111. Report # 05-02.  
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