POLICY BRIEF

An electronic publication of
The Allegheny Institute for Public Policy

March 1, 2005 **Volume 5, Number 9**

Addressing the Imbalance in Act 111

Nearly two years ago we commented on the nature of binding arbitration for public safety workers in Pennsylvania and suggested several reforms, including changing the procedures for selecting arbitrators and establishing clear, objective criteria for the arbitrators to consider in making an award. To put it mildly, Act 111 has had significant negative financial impacts on state and local government in the Commonwealth.

In a follow up, the Allegheny Institute has just released a detailed report on binding arbitration in Pennsylvania that looks at the history of the law, binding arbitration on a national scale, the shortcomings of Pennsylvania's law in comparison with other states, and a summary of suggested reforms.

Pennsylvania's Act 111 guarantees collective bargaining between police and fire unions and their employer, with the right of binding arbitration to settle contract disputes and grievances. Any contract not settled within thirty days after the commencement of negotiations goes to an arbitration panel whose decision is binding upon both the employees and the employer.

When Act 111 was passed, no other state had binding arbitration to settle contract disputes with police and fire unions. Today, a total of 24 states (including Pennsylvania) and Washington D.C. have binding arbitration. The presence of binding arbitration for public safety workers is correlated with two other labor indicators: Right to Work, and the percentage of public sector union coverage. More often than not, a state that has binding arbitration is likely to be a non-Right to Work state and have a high level of public sector unionization. Pennsylvania meets both of these indicators.

Binding arbitration laws in two neighboring states--Ohio and New York--provide a sharp contrast to the provisions of Act 111. For instance, laws in those states call for mediation and a fact-finding process prior to binding arbitration. Pennsylvania does not.

After the arbitrators are chosen, they hear the dispute and decide on a contract award. Pennsylvania's Act 111 fails to spell out a single criterion that the arbitrators must take into consideration in reaching a settlement. In contrast, the statutes in New York and Ohio contain factors that must be examined in an arbitration case. These include wage levels and conditions of employment in similar professions, past collective bargaining agreements, the ability of the employer to pay, per capita income and assessed property valuation, and the effects of a settlement on the standards of public service, among others.

Added to these shortcomings is the fact that in Pennsylvania the employer pays the costs for its arbitrator as well as the mutually selected arbitrator and all stenographic costs. This undoubtedly

makes the decision to go to arbitration easier for the employees. In New York and Ohio costs are more equally distributed.

Act 111's favorable, unbalanced treatment of bargaining units relative to employers has definitely been felt in Pittsburgh over the last decade or so. Successive rounds of arbitration led to a "ratcheting up" of police and fire expenses as the benefits and pay of one would be matched by the other in the following contract negotiation and arbitration session. These very generous police and fire contracts have played a major role in forcing Pittsburgh into distressed status.

Clearly, reforms to Act 111 are needed, and there have been calls for reforms going back as far as the late 1970s when a commission appointed by Governor Shapp provided the last statewide, systematic evaluation of Act 111. That commission produced a series of recommended reforms--including mediation and the requirement that a written opinion accompany an award--that have never been enacted. Others have called for having the arbitrators take into account the employer's ability to pay, a power now enjoyed by the City of Pittsburgh under Act 47 distressed status.

But bear in mind that Pittsburgh won't be under Act 47 forever, and a lot of other communities will never be in distressed status at all. Thus, it is a virtual certainty that Act 111's destructive effects on municipality budgets will continue. It has been nearly forty years since Act 111 was passed and the legislation has never been amended. Obviously, the time has come to make substantial, fairness enhancing improvements to Act 111. The Allegheny Institute's recommendations to use purely neutral arbitrators that have no connection to the dispute and to include objective and measurable criteria in making contract awards are absolutely necessary to ensure that the arbitration process is equitable to all parties.

Eric Montarti, Policy Analyst **Jake Haulk, Ph.D., President**

For more information about this and other topics, please visit our website:
www.alleghenyinstitute.org

If you have enjoyed this or previous Policy Briefs and wish to support our efforts please consider becoming a donor to the Allegheny Institute. The Allegheny Institute is a 501(c)(3) non-profit organization and all contributions are tax deductible. Please mail your contribution to:

The Allegheny Institute
305 Mt. Lebanon Boulevard
Suite 208
Pittsburgh, PA 15234

Thank you for your support.