

**20.22 Binding arbitration.**

1. If an impasse persists ten days after the mediator has been appointed, the board shall have the power, upon request of either party, to arrange for arbitration, which shall be binding. The request for arbitration shall be in writing and a copy of the request shall be served upon the other party.

2. Each party shall serve its final offer on each of the impasse items upon the other party within four days of the board's receipt of the request for arbitration, or by a deadline otherwise agreed upon by the parties. The parties may continue to negotiate all offers until an agreement is reached or an award is rendered by the arbitrator. The full costs of arbitration under [this section](#) shall be shared equally by the parties to the dispute.

3. The submission of the impasse items to the arbitrator shall be limited to those items upon which the parties have not reached agreement. With respect to each such item, the arbitrator's award shall be restricted to the final offers on each impasse item submitted by the parties to the arbitrator, except as provided in [subsection 10](#), paragraph "b".

4. Upon the filing of the request for arbitration, a list of five arbitrators shall be served upon the parties by the board. Within five days of service of the list, the parties shall determine by lot which party shall remove the first name from the list and the parties shall then alternately remove names from the list until the name of one person remains, who shall become the arbitrator. The parties shall immediately notify the board of their selection and the board shall notify the arbitrator. After consultation with the parties, the arbitrator shall set a time and place for an arbitration hearing.

5. The arbitrator shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in [this section](#).

6. From the time the board notifies the arbitrator of the selection of the arbitrator until such time as the arbitrator's selection on each impasse item is made, there shall be no discussion concerning recommendations for settlement of the dispute by the arbitrator with parties other than those who are direct parties to the dispute.

7. For an arbitration involving a bargaining unit that has at least thirty percent of members who are public safety employees, the arbitrator shall consider and specifically address in the arbitrator's determination, in addition to any other relevant factors, the following factors:

a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

b. Comparison of wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effect of such adjustments on the normal standard of services.

8. For an arbitration involving a bargaining unit that does not have at least thirty percent of members who are public safety employees, the following shall apply:

a. The arbitrator shall consider and specifically address in the arbitrator's determination, in addition to any other relevant factors, the following factors:

(1) Comparison of base wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved. To the extent adequate, applicable data is available, the arbitrator shall also compare base wages, hours, and conditions of employment of the involved public employees with those of private sector employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

(2) The interests and welfare of the public.

(3) The financial ability of the employer to meet the cost of an offer in light of the current economic conditions of the public employer. The arbitrator shall give substantial weight to evidence that the public employer's authority to utilize funds is restricted to special purposes or circumstances by state or federal law, rules, regulations, or grant requirements.

b. The arbitrator shall not consider the following factors:

(1) Past collective bargaining agreements between the parties or bargaining that led to such agreements.

(2) The public employer's ability to fund an award through the increase or imposition of new taxes, fees, or charges, or to develop other sources of revenues.

9. a. The arbitrator may administer oaths, examine witnesses and documents, take testimony and receive evidence, and issue subpoenas to compel the attendance of witnesses and the production of records. The arbitrator may petition the district court at the seat of government or of the county in which the hearing is held to enforce the order of the arbitrator compelling the attendance of witnesses and the production of records.

b. Except as required for purposes of the consideration of the factors specified in [subsection 7](#), paragraphs "a" through "c", and [subsection 8](#), paragraph "a", subparagraphs (1) through (3), the parties shall not introduce, and the arbitrator shall not accept or consider, any direct or indirect evidence regarding any subject excluded from negotiations pursuant to [section 20.9](#).

10. a. The arbitrator shall select within fifteen days after the hearing the most reasonable offer, in the arbitrator's judgment, of the final offers on each impasse item submitted by the parties.

b. (1) However, for an arbitration involving a bargaining unit that does not have at least thirty percent of members who are public safety employees, with respect to any increase in base wages, the arbitrator's award shall not exceed the lesser of the following percentages in any one-year period in the duration of the bargaining agreement:

(a) Three percent.

(b) A percentage equal to the increase in the consumer price index for all urban consumers for the midwest region, if any, as determined by the United States department of labor, bureau of labor statistics, or a successor index. Such percentage shall be the change in the consumer price index for the twelve-month period beginning eighteen months prior to the month in which the impasse item regarding base wages was submitted to the arbitrator and ending six months prior to the month in which the impasse item regarding base wages was submitted to the arbitrator.

(2) To assist the parties in the preparation of their final offers on an impasse item regarding base wages, the board shall provide information to the parties regarding the change in the consumer price index for all urban consumers for the midwest region for any twelve-month period. The department of workforce development shall assist the board in preparing such information upon request.

11. The selections by the arbitrator and items agreed upon by the public employer and the employee organization, shall be deemed to be the collective bargaining agreement between the parties.

12. The determination of the arbitrator shall be final and binding subject to the provisions of [section 20.17, subsection 6](#). The arbitrator shall give written explanation for the arbitrator's selections and inform the parties of the decision.

[C75, 77, 79, 81, §20.22]

[2008 Acts, ch 1032, §201](#); [2010 Acts, ch 1165, §24 – 29](#); [2017 Acts, ch 2, §12, 13, 26, 27](#)

Referred to in [§20.17, 20.19](#)