

MINUTES OF SPECIAL MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
December 22, 2010
10:00 a.m.
495 West State Street
Trenton, New Jersey

The meeting was called to order by Chair P. Kelly Hatfield.

Present by telephone were:

Commissioners:

Patrick V. Colligan
Adrienne E. Eaton
Cheryl G. Fuller
Sharon Krengel
Paula B. Voos
Matthew U. Watkins

Also present were:

Mary E. Hennessy-Shotter, Deputy General Counsel
Don Horowitz, Deputy General Counsel
Annette Thompson, who acted as Stenographer

At the commencement of the meeting, Chair Hatfield, pursuant to section 5 of the Open Public Meetings Act, entered this announcement into the minutes of the meeting:

Adequate notice has been provided by the dissemination of a written "Notice of Special Meeting" and "Supplemental Notice of Special Meeting." On December 21, 2010 a copy of such notices were:

(a) prominently posted in a public place at the offices of the Public Employment Relations Commission;

(b) sent to the business offices of the Trenton Times, the Bergen Record, and the Camden Courier Post, as well as to the State House press room addresses of 25 media outlets;

(c) mailed to the Secretary of State for filing; and

(d) posted on the agency's web site.

Chair Hatfield opened by stating that this special meeting was being called to address administrative procedures relating to scope of negotiations cases and briefing issues for interest arbitration appeals as they relate to the new Assembly Bill 3393, which was signed into law by the Governor on December 21, 2010.

Commissioner Fuller moved to hold the special meeting and Commissioner Colligan seconded the motion. The motion was unanimously approved (Chair Hatfield, Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

Chair Hatfield continued, as previously stated, Assembly Bill 3393 was signed into law by the Governor on December 21, 2010. This meeting is required and limited to address important and urgent administrative procedures relating to scope of negotiations cases and briefing issues for interest arbitration appeals that must be immediately addressed to properly implement this new law. A delay in holding this meeting would result in substantial harm to the public employer, exclusive representative of the public police department, public fire department, as well as to the citizens of the State of New Jersey. Since the modification of administrative procedures relating to the scope of negotiation cases and briefing issues for interest arbitration appeals is required to comply with the new law, which becomes effective January 1, 2011. Chair Hatfield then turned the meeting over to Deputy General Counsel Mary E. Hennessy-Shotter

to advise the Commissioners on exactly what rules need to be changed.

Ms. Shotter read a resolution to the Commissioners for their consideration to suspend certain rules relating to the interest arbitration procedure as follows:

Pursuant to N.J.S.A. 34:13A-5.9, the Public Employment Relations Commission suspends application of the following rules:

N.J.A.C. 19:16-5.7(h) (Scope of Negotiations Determinations in Interest Arbitration Cases);

N.J.A.C. 19:16-6 (Determination of Disputes Over Issue Definition); and

N.J.A.C. 19:16-8.1 (Appeals and Cross-Appeals of Interest Arbitration Cases).

The Commission will develop Frequently Asked Questions regarding Interest Arbitration Procedures to assist parties engaged in the interest arbitration process until the Commission engages in formal rulemaking to conform its rules to the recent statutory changes to N.J.S.A. 34:13A-14a et seq.

Ms. Shotter continued by stating that currently our scope of negotiations rules require that if either party files a scope petition regarding an issue for interest arbitration they have to do so within 14 days. That time frame is no longer possible under the new law. The agency is suspending that rule and developing FAQs that would recommend that scope issues would be

considered on appeal. Also, currently our regulation prohibits an interest arbitrator from issuing an award where a scope issue is in dispute. The Determination of Disputes Over Issue Definition really will no longer apply because it is only for a final offer arbitration, and since the new statute requires conventional arbitration, it should be suspended because it is not effective anymore. Appeals and Cross-Appeals of Interest Arbitration cases, currently an organization has 14 days to file an appeal, it will be recommended in the FAQs that it be changed to 7 days. The Commission has 30 days to decide the appeal.

Commissioner Watkins moved to adopt the resolution and Commissioner Eaton seconded the motion.

Commissioner Fuller asked how soon the Frequently Asked Questions will be available because the new law is going to be very confusing to people.

Chair Hatfield responded the questions are being worked on currently and will be available on the agency's web site by next week.

Commissioner Watkins asked what happens in between the time now and the posting of the FAQ's. He stated that he is aware of a town that is just starting interest arbitration and wanted to know how they would be affected by the changes in the new law.

Chair Hatfield responded that the new law is not effective until January 1, 2011 so the parties would proceed under the existing law.

Commissioner Watkins asked if a party files for interest arbitration now do they fall under the current rules or the new rules?

Commissioner Fuller asked, by virtue of the resolution that was voted on today, are the current rules being suspended effective immediately?

Ms. Hennessy-Shotter responded, only the rules that are in conflict with the new law are being suspended.

Commissioner Voos asked if the suspended rules are going into effect January 1, 2011 or immediately?

Ms. Hennessy-Shotter responded that the suspension would also be effective January 1, 2011 and it would be explained in the FAQs that will be made available on the agency web site.

The motion was unanimously approved (Chair Hatfield, Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

Commissioner Watkins made a motion to adjourn the meeting and Commissioner Fuller seconded the motion. The motion was unanimously approved. The meeting was then adjourned.