

Don't Miss the Act 111 Interest Arbitration Response Deadline

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September brings cooler weather, changing leaves and yellow school buses, but it also brings a very important deadline for municipalities that have expiring collective bargaining agreements with their union-represented police officers and firefighters. Under Act 111 of 1968, the deadline to demand Act 111 interest arbitration is 110 days before the start of a municipality's upcoming fiscal year. For municipalities with a fiscal year that ends on December 31, the Act 111 interest arbitration deadline typically falls on September 12.

Although either party can demand Act 111 interest arbitration if an agreement has not been reached at the collective bargaining table, most Act 111 interest arbitration demands are made by unions. An Act 111 arbitration demand must be in writing and must identify the union's partial arbitrator and enclose a list of written Issues in Dispute. Once a union Act 111 interest arbitration demand has been made, the municipality must respond in writing within 5 days. The municipality's written response must include the name of its partial arbitrator (typically a labor attorney) and the municipality's list of Issues in Dispute. To avoid any confusion about whether a municipality's response was timely, Act 111 interest arbitration response letters with the municipality's attached list of Issues in Dispute are typically sent by certified mail, return receipt requested, or personally delivered to the union. Failure to meet the 5 day deadline could seriously hinder the municipality's efforts to achieve its objectives in interest arbitration, as it would provide the union with a basis to argue that the municipality's list of Issues in Dispute should not be considered by the Act 111 interest arbitration panel.

A municipality's list of Issues in Dispute details the changes that the municipality is seeking in the collective bargaining agreement. A municipality's Issues in Dispute are typically the same as its initial bargaining proposals. It would generally undermine the municipality's position in Act 111 interest arbitration to alter its Issues in Dispute to take into account concessions that the municipality made during the collective bargaining process or to reflect issues that the municipality withdrew during bargaining. While it is true that Act 111 interest arbitration awards often contain some provisions that the parties agreed to in bargaining, a municipality should submit a list of Issues in Dispute that is somewhat aggressive and that would enhance the municipality's management rights and make its operations more cost effective and efficient. Doing so will provide a municipality with more meaningful leverage in the Act 111 interest arbitration process. Elimination or revision of contract provisions that could cause legal issues or create liability, like overly expansive "Police Bill of Rights" language that hinders a municipality's ability to investigate citizen complaints, should also be considered for inclusion in the municipality's list of Issue in Dispute.

The two partial arbitrators will select a third neutral arbitrator to chair the Act 111 interest arbitration panel from a list of arbitrators provided by the American Arbitration Association. The neutral arbitrator will then schedule an Act 111 interest arbitration hearing where both sides will present evidence and testimony to support their positions. After the hearing, the panel will hold one or more executive sessions before issuing a written Act 111 interest arbitration award that resolves all matters relating to the new collective bargaining agreement.

Just because Act 111 interest arbitration has been demanded does not mean that the parties must stop bargaining. In fact, often an agreement is reached at the bargaining table after Act 111 interest arbitration has been demanded.

If your municipality has received an Act 111 interest arbitration demand, you should contact your labor attorney immediately because the 5 day clock to respond is already running. If you have any questions about the Act 111 interest arbitration process or need assistance with responding to a union Act 111 interest arbitration demand, the attorneys at Campbell Durrant, PC would be glad to help.