

18A:6-17.1
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2015 **CHAPTER:** 109

NJSA: 18A:6-17.1 (Increases number of arbitrators on panel determining contested cases involving tenured employees in school districts and gives Commissioner of Education discretion on setting fees.)

BILL NO: A4608 (Substituted for S3055)

SPONSOR(S) Diegnan, Patrick J., and others

DATE INTRODUCED: June 25, 2015

COMMITTEE: **ASSEMBLY:** none

SENATE: none

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 6/25/2015

SENATE: 6/29/2015

DATE OF APPROVAL: August 27, 2015

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced bill enacted)	Yes
A4608	
INTRODUCED BILL: (Includes sponsor(s) statement)	Yes
COMMITTEE STATEMENT:	
ASSEMBLY:	No
SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes
S3055	
INTRODUCED BILL: (Includes sponsor(s) statement)	Yes
COMMITTEE STATEMENT:	
ASSEMBLY:	No
SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"CHANGES IN N.J. TEACHER TENURE LAW TAKE EFFECT - CHRISTIE SIGNS BILL MODIFYING REFORMS",
Herald News, August 29, 2015, p. A03,

"CHANGES IN N.J. TEACHER TENURE LAW TAKE EFFECT - CHRISTIE SIGNS BILL MODIFYING REFORMS",
The Record, August 29, 2015, p. A03.

"Christie signs bill expanding teacher arbitration panel" Associated Press State Wire: New Jersey, August 28, 2015

"Christie signs bill expanding teacher arbitration panel" Associated Press State Wire: Cherry Hill Metro Area, August 28, 2015

"Christie signs bill revising tenure reforms", northjersey.com, August 28, 2015

end

P.L.2015, CHAPTER 109, *approved August 27, 2015*
Assembly, No. 4608

1 AN ACT concerning certain arbitrators and amending P.L.2012,
2 c.26.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 22 of P.L.2012, c.26 (C.18A:6-17.1) is amended to
8 read as follows:

9 22. a. The Commissioner of Education shall maintain a panel of
10 **[25]** 50 permanent arbitrators to hear matters pursuant to
11 N.J.S.18A:6-16. Of the **[25]** 50 arbitrators, **[eight]** 16 arbitrators
12 shall be designated by the New Jersey Education Association,
13 **[three]** six arbitrators shall be designated by the American
14 Federation of Teachers, **[nine]** 18 arbitrators shall be designated by
15 the New Jersey School Boards Association, and **[five]** 10
16 arbitrators shall be designated by the New Jersey Principals and
17 Supervisors Association. The commissioner shall inform the
18 appropriate designating entity when a vacancy exists. If the
19 appropriate entity does not designate an arbitrator within 30 days,
20 the commissioner shall designate an arbitrator to fill that vacancy.

21 All arbitrators designated pursuant to this section shall serve on
22 the American Arbitration Association panel of labor arbitrators and
23 shall be members of the National Academy of Arbitrators. The
24 arbitrators shall have knowledge and experience in the school
25 employment sector. Arbitrators on the permanent panel shall be
26 assigned by the commissioner randomly to hear cases.

27 b. The following provisions shall apply to a hearing conducted
28 by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise
29 provided pursuant to P.L.2012, c.26 (C.18A:6-117 et al.):

30 (1) The hearing shall be held before the arbitrator within 45
31 days of the assignment of the arbitrator to the case;

32 (2) The arbitrator shall receive no **[more]** less than \$1250 per
33 day **[and no more than \$7500 per case]** , or such amount as
34 established at the discretion of the Commissioner of Education, who
35 shall consider the average per diem rate of arbitrators eligible to
36 serve on the panel who reside in New Jersey, New York, and
37 Pennsylvania. The costs and expenses of the arbitrator shall be
38 borne by the State of New Jersey;

39 (3) Upon referral of the case for arbitration, the employing
40 board of education shall provide all evidence including, but not
41 limited to, documents, electronic evidence, statements of witnesses,
42 and a list of witnesses with a complete summary of their testimony,
43 to the employee or the employee's representative. The employing

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 board of education shall be precluded from presenting any
2 additional evidence at the hearing, except for purposes of
3 impeachment of witnesses. At least 10 days prior to the hearing,
4 the employee shall provide all evidence upon which he will rely
5 including, but not limited to, documents, electronic evidence,
6 statements of witnesses, and a list of witnesses with a complete
7 summary of their testimony, to the employing board of education or
8 its representative. The employee shall be precluded from
9 presenting any additional evidence at the hearing except for
10 purposes of impeachment of witnesses.

11 Discovery shall not include depositions, and interrogatories shall
12 be limited to 25 without subparts.

13 c. The arbitrator shall determine the case under the American
14 Arbitration Association labor arbitration rules. In the event of a
15 conflict between the American Arbitration Association labor
16 arbitration rules and the procedures established pursuant to this
17 section, the procedures established pursuant to this section shall
18 govern.

19 d. Notwithstanding the provisions of N.J.S.18A:6-25 or any
20 other section of law to the contrary, the arbitrator shall render a
21 written decision within 45 days of the start of the hearing.

22 e. The arbitrator's determination shall be final and binding and
23 may not be appealable to the commissioner or the State Board of
24 Education. The determination shall be subject to judicial review
25 and enforcement as provided pursuant to N.J.S.2A:24-7 through
26 N.J.S.2A:24-10.

27 f. Timelines set forth herein shall be strictly followed; the
28 arbitrator or any involved party shall inform the commissioner of
29 any timeline that is not adhered to.

30 g. An arbitrator may not extend the timeline of holding a
31 hearing beyond 45 days of the assignment of the arbitrator to the
32 case without approval from the commissioner. An arbitrator may
33 not extend the timeline for rendering a written decision within 45
34 days of the start of the hearing without approval from the
35 commissioner. Extension requests shall occur before the 41 day of
36 the respective timelines set forth herein. The commissioner shall
37 approve or disapprove extension requests within five days of
38 receipt.

39 h. The commissioner may remove any arbitrator from an
40 arbitration case or an arbitration panel if an arbitrator does not
41 adhere to the timelines set forth herein without approval from the
42 commissioner. If the commissioner removes an arbitrator from an
43 arbitration case, the commissioner shall refer the case to a new
44 arbitrator within five days. The newly-assigned arbitrator shall
45 convene a new hearing and then render a written decision within 45
46 days of being referred the case.

47 (cf: P.L.2012, c.26, s.22)

2. This act shall take effect immediately.

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STATEMENT

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5 The "Teacher Effectiveness and Accountability for the Children
6 of New Jersey (TEACHNJ) Act," P.L.2012, c.26 (C.18A:6-117 et
7 al.), established binding arbitration for contested cases involving
8 the dismissal or reduction in compensation of tenured employees in
9 school districts. TEACHNJ required the Commissioner of
10 Education to maintain a panel of arbitrators to hear the cases. This
11 bill will increase the number of arbitrators on the panel from 25 to
12 50. The New Jersey Education Association, the American
13 Federation of Teachers, the New Jersey School Boards Association,
14 and the New Jersey Principals and Supervisors Association
15 designate arbitrators to the panel under TEACHNJ. This bill will
16 double the number of arbitrators designated by each entity.

17 The bill also alters the fee provision for the arbitrators. Under
18 TEACHNJ, arbitrators could receive no more than \$1,250 per day
19 and no more than \$7,500 per case. The bill provides that arbitrators
20 will receive no less than \$1,250 per day and eliminates the per case
21 amount limitation. The bill also gives the Commissioner of
22 Education the discretion to establish the amount to be received by
23 the arbitrators. In doing so, the bill requires the commissioner to
24 consider the average per diem rate of arbitrators eligible to serve on
25 the panel who reside in New Jersey, New York, and Pennsylvania.

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30 Increases number of arbitrators on panel determining contested
31 cases involving tenured employees in school districts and gives
32 Commissioner of Education discretion on setting fees.

ASSEMBLY, No. 4608

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 25, 2015

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblyman DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Senator M. TERESA RUIZ

District 29 (Essex)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Increases number of arbitrators on panel determining contested cases involving tenured employees in school districts and gives Commissioner of Education discretion on setting fees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2015)

1 AN ACT concerning certain arbitrators and amending P.L.2012,
2 c.26.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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14 Federation of Teachers, **[nine]** 18 arbitrators shall be designated by
15 the New Jersey School Boards Association, and **[five]** 10
16 arbitrators shall be designated by the New Jersey Principals and
17 Supervisors Association. The commissioner shall inform the
18 appropriate designating entity when a vacancy exists. If the
19 appropriate entity does not designate an arbitrator within 30 days,
20 the commissioner shall designate an arbitrator to fill that vacancy.

21 All arbitrators designated pursuant to this section shall serve on
22 the American Arbitration Association panel of labor arbitrators and
23 shall be members of the National Academy of Arbitrators. The
24 arbitrators shall have knowledge and experience in the school
25 employment sector. Arbitrators on the permanent panel shall be
26 assigned by the commissioner randomly to hear cases.

27 b. The following provisions shall apply to a hearing conducted
28 by an arbitrator pursuant to N.J.S.18A:6-16, except as otherwise
29 provided pursuant to P.L.2012, c.26 (C.18A:6-117 et al.):

30 (1) The hearing shall be held before the arbitrator within 45
31 days of the assignment of the arbitrator to the case;

32 (2) The arbitrator shall receive no **[more]** less than \$1250 per
33 day **[and no more than \$7500 per case]** , or such amount as
34 established at the discretion of the Commissioner of Education, who
35 shall consider the average per diem rate of arbitrators eligible to
36 serve on the panel who reside in New Jersey, New York, and
37 Pennsylvania. The costs and expenses of the arbitrator shall be
38 borne by the State of New Jersey;

39 (3) Upon referral of the case for arbitration, the employing
40 board of education shall provide all evidence including, but not
41 limited to, documents, electronic evidence, statements of witnesses,
42 and a list of witnesses with a complete summary of their testimony,
43 to the employee or the employee's representative. The employing
44 board of education shall be precluded from presenting any
45 additional evidence at the hearing, except for purposes of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 impeachment of witnesses. At least 10 days prior to the hearing,
2 the employee shall provide all evidence upon which he will rely
3 including, but not limited to, documents, electronic evidence,
4 statements of witnesses, and a list of witnesses with a complete
5 summary of their testimony, to the employing board of education or
6 its representative. The employee shall be precluded from
7 presenting any additional evidence at the hearing except for
8 purposes of impeachment of witnesses.

9 Discovery shall not include depositions, and interrogatories shall
10 be limited to 25 without subparts.

11 c. The arbitrator shall determine the case under the American
12 Arbitration Association labor arbitration rules. In the event of a
13 conflict between the American Arbitration Association labor
14 arbitration rules and the procedures established pursuant to this
15 section, the procedures established pursuant to this section shall
16 govern.

17 d. Notwithstanding the provisions of N.J.S.18A:6-25 or any
18 other section of law to the contrary, the arbitrator shall render a
19 written decision within 45 days of the start of the hearing.

20 e. The arbitrator's determination shall be final and binding and
21 may not be appealable to the commissioner or the State Board of
22 Education. The determination shall be subject to judicial review
23 and enforcement as provided pursuant to N.J.S.2A:24-7 through
24 N.J.S.2A:24-10.

25 f. Timelines set forth herein shall be strictly followed; the
26 arbitrator or any involved party shall inform the commissioner of
27 any timeline that is not adhered to.

28 g. An arbitrator may not extend the timeline of holding a
29 hearing beyond 45 days of the assignment of the arbitrator to the
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31 not extend the timeline for rendering a written decision within 45
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33 commissioner. Extension requests shall occur before the 41 day of
34 the respective timelines set forth herein. The commissioner shall
35 approve or disapprove extension requests within five days of
36 receipt.

37 h. The commissioner may remove any arbitrator from an
38 arbitration case or an arbitration panel if an arbitrator does not
39 adhere to the timelines set forth herein without approval from the
40 commissioner. If the commissioner removes an arbitrator from an
41 arbitration case, the commissioner shall refer the case to a new
42 arbitrator within five days. The newly-assigned arbitrator shall
43 convene a new hearing and then render a written decision within 45
44 days of being referred the case.

45 (cf: P.L.2012, c.26, s.22)

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47 2. This act shall take effect immediately.

STATEMENT

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The “Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act,” P.L.2012, c.26 (C.18A:6-117 et al.), established binding arbitration for contested cases involving the dismissal or reduction in compensation of tenured employees in school districts. TEACHNJ required the Commissioner of Education to maintain a panel of arbitrators to hear the cases. This bill will increase the number of arbitrators on the panel from 25 to 50. The New Jersey Education Association, the American Federation of Teachers, the New Jersey School Boards Association, and the New Jersey Principals and Supervisors Association designate arbitrators to the panel under TEACHNJ. This bill will double the number of arbitrators designated by each entity.

The bill also alters the fee provision for the arbitrators. Under TEACHNJ, arbitrators could receive no more than \$1,250 per day and no more than \$7,500 per case. The bill provides that arbitrators will receive no less than \$1,250 per day and eliminates the per case amount limitation. The bill also gives the Commissioner of Education the discretion to establish the amount to be received by the arbitrators. In doing so, the bill requires the commissioner to consider the average per diem rate of arbitrators eligible to serve on the panel who reside in New Jersey, New York, and Pennsylvania.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4608
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: JULY 6, 2015

SUMMARY

Synopsis: Increases number of arbitrators on panel determining contested cases involving tenured employees in school districts and gives Commissioner of Education discretion on setting fees.

Type of Impact: Expenditure Increase in General Fund

Agencies Affected: Department of Education

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate Expenditure Increase		

- The Office of Legislative Services notes that Assembly Bill No. 4608 may lead to an increase in State expenditures by potentially increasing the per diem rate and total compensation of arbitrators presiding over tenure cases. The expenditure increase is indeterminate, as the legislation gives the Commissioner of Education discretion in setting the per diem rate.

BILL DESCRIPTION

Under current law, cases involving the potential revocation of the tenure of a teaching staff member are heard by an arbitrator. The State maintains a permanent panel of 25 such arbitrators. Assembly Bill No. 4608 of 2015 increases the number of permanent arbitrators to 50. Additionally, the bill establishes a minimum per diem rate for the arbitrators of \$1,250 (under current law, that amount is the maximum per diem rate), and provides the Commissioner of Education with the discretion to establish a different rate. The bill also eliminates the \$7,500 limit on the amount that an arbitrator could be paid for each case heard.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services notes that Assembly Bill No. 4608 will likely lead to an indeterminate increase in State expenditures. First, the bill establishes a minimum per diem rate of \$1,250; under current law, that value is the maximum per diem rate that may be paid to an arbitrator. Additionally, the Commissioner of Education has the discretion to establish a different rate, taking into consideration the average per diem rate of arbitrators eligible to serve on the panel who reside in New Jersey, New York, and Pennsylvania.¹

Second, under current law, an arbitrator's compensation may not exceed \$7,500 for each tenure case heard. This bill eliminates that cap, thereby possibly increasing the total amount that the State will pay to arbitrators.

Section: Education
Analyst: Allen T. Dupree
Lead Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

¹ Based on data from the Federal Mediation and Conciliation Service, arbitrators' per diem rates in these states averaged \$1,340 during the fiscal year 2012-2013.

SENATE, No. 3055

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JUNE 25, 2015

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Increases number of arbitrators on panel determining contested cases involving tenured employees in school districts and gives Commissioner of Education discretion on setting fees.

CURRENT VERSION OF TEXT

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(Sponsorship Updated As Of: 6/30/2015)

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44 days of being referred the case.

45 (cf: P.L.2012, c.26, s.22)

46

47 2. This act shall take effect immediately.

STATEMENT

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3 The “Teacher Effectiveness and Accountability for the Children
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5 117 et al.), established binding arbitration for contested cases
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LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3055
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: JULY 6, 2015

SUMMARY

Synopsis: Increases number of arbitrators on panel determining contested cases involving tenured employees in school districts and gives Commissioner of Education discretion on setting fees.

Type of Impact: Expenditure Increase in General Fund

Agencies Affected: Department of Education

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate Expenditure Increase		

- The Office of Legislative Services notes that Senate Bill No. 3055 may lead to an increase in State expenditures by potentially increasing the per diem rate and total compensation of arbitrators presiding over tenure cases. The expenditure increase is indeterminate, as the legislation gives the Commissioner of Education discretion in setting the per diem rate.

BILL DESCRIPTION

Under current law, cases involving the potential revocation of the tenure of a teaching staff member are heard by an arbitrator. The State maintains a permanent panel of 25 such arbitrators. Senate Bill No. 3055 of 2015 increases the number of permanent arbitrators to 50. Additionally, the bill establishes a minimum per diem rate for the arbitrators of \$1,250 (under current law, that amount is the maximum per diem rate), and provides the Commissioner of Education with the discretion to establish a different rate. The bill also eliminates the \$7,500 limit on the amount that an arbitrator could be paid for each case heard.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services notes that Senate Bill No. 3055 will likely lead to an indeterminate increase in State expenditures. First, the bill establishes a minimum per diem rate of \$1,250; under current law, that value is the maximum per diem rate that may be paid to an arbitrator. Additionally, the Commissioner of Education has the discretion to establish a different rate, taking into consideration the average per diem rate of arbitrators eligible to serve on the panel who reside in New Jersey, New York, and Pennsylvania.¹

Second, under current law, an arbitrator's compensation may not exceed \$7,500 for each tenure case heard. This bill eliminates that cap, thereby possibly increasing the total amount that the State will pay to arbitrators.

Section: Education
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Governor Chris Christie Takes Action On Pending Legislation

Friday, August 28, 2015

Tags: [Bill Action](#)



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Trenton, NJ - Governor Chris Christie announced action that has been taken on the following legislation:

BILL SIGNING:

A-4608/S-3055 (Diegnan, O'Scanlon/Ruiz, T. Kean) - Increases number of arbitrators on panel determining contested cases involving tenured employees in school districts and gives Commissioner of Education discretion on setting fees

###

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Brian Murray
Nicole Sizemore
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