

# Finality Fairness Stability



## The Binding Arbitration Story

Statistical Analysis on Salary  
Increases Conducted by  
Abacus (pages 5-7)

*February 2004*

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## Introduction

Twenty-five years ago, a simple knock on the door of her Fairfield home turned into a nightmare for Adrienne Silverstein. On the morning of September 13, 1978, that knock was a sheriff with a summons requiring her to appear in court for her participation in a teachers' strike in the City of Bridgeport.

Adrienne Silverstein, a teacher, wife, mother of two, and respected member of her community, was handcuffed and taken to a Windsor Locks military barracks that had been pressed into service as a makeshift prison to house Mrs. Silverstein and other striking Bridgeport teachers. In Mrs. Silverstein's words, "It was outrageous for us back in 1978 as young men and women to suffer the indignities of spider-infested mattresses, bathroom stalls with no doors, endless hours of waiting."

At home, her uncomprehending daughter wept and her son became ill. An entire week passed before her husband was able to secure her release by having the family physician convince a judge that Mrs. Silverstein had to return home to care for their son.

Imprisonment was the furthest thing from Mrs. Silverstein's mind when she first signed a contract to teach Bridgeport's children. How did it come to this? The short answer is that after a year of ultimately futile negotiations, the teachers of Bridgeport saw no way to resolve the serious impasse that stalled negotiations. The school board was unwilling to move from its positions; teachers believed the district's final offer to be unfair. And, the *Teachers Negotiations Act* of 1965 provided no mechanism to ultimately resolve the dispute.

In the Act's 14-year history, teachers went out on strike 55 times – 55 times when negotiators found themselves unable to reach agreement – 55 wrenching and traumatic labor disputes that tore into communities and schools and disrupted educational activities for children, parents, and educators themselves.

The Bridgeport strike wasn't the only or the first teachers' strike in Connecticut. It was, however, the largest, the most visible, and, for teachers, the most humiliating and public instance of failure of the *Teacher Negotiations Act*. Two hundred seventy-four teachers were imprisoned in the facility in Windsor Locks over a 13-day period.<sup>1</sup> The education of the district's more than 21,000 students ground to a halt at significant cost to the citizens and taxpayers of Bridgeport. To bring negotiations to an end, an arbitrator was called in to resolve the dispute.

## The General Assembly Passes Binding Arbitration

In the wake of the Bridgeport strike and other teacher strikes, the Connecticut Education Association and a contingent of lawmakers sought passage of a statute that would bring both finality and fairness to the process of teacher negotiations as well as stability to public schools. In reviewing the legislative debate on the passage of the binding arbitration statute, there is little doubt that these concerns were uppermost in the minds of legislators as they debated *An Act Concerning Last Best Offer Binding Arbitration for Teacher Contract Disputes* and other proffered amendments.

At the present time when the concept of binding arbitration is under assault and subject to ever-closer scrutiny, it is only fitting to remind ourselves of why the law was passed in the first place, to review the contours of the legislative debate, and to determine whether the statute has lived up to the expectations of its supporters.

The failure of the original *Teacher Negotiations Act* to provide finality to the process of collective bargaining for teachers was a serious deficit and perhaps the single most important reason that contract disputes ended in strikes in numbers too great to ignore. Under the original statute for teacher negotiations, arbitration was merely advisory. The legislative bodies of towns could simply continue to reject agreements. Many teachers in Connecticut returned to school without agreements year after year. All the power in these matters lay with a few elected officials in each town.

It was the frustration borne of this system that led teachers in communities across the state to take the ultimate step of withholding their labor. And, it was a desire to end this system and provide finality through statutory means that led many lawmakers to support the measure.

The debate to incorporate binding arbitration in the *Teacher Negotiations Act* occurred in 1979, on May 8th in the Senate and the May 16th in the House. The tenor of debate and the nature of legislators' concerns were remarkably similar in both houses. In their remarks, state legislators from both chambers vigorously supported the notion that binding arbitration would produce closure in negotiations. Sen. Howard Owens spoke for many in that chamber when he noted,

*Mr. President, three or four years ago, the Legislature in its infinite wisdom passed legislation authorizing binding arbitration by municipalities. However at that time, we didn't have the foresight and the good judgment to*

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<sup>1</sup> The actual strike lasted 19 days.

include the teachers in that particular piece of legislation and since that time we have had utter chaos in many of our communities because teachers and the municipalities have not had an opportunity to sit down and adjust their differences and come up with bona fide agreements that would inure to the benefit of the municipality and all of its citizens as well. Since that time, in the last four years, when we have had an opportunity to do something about it, we've seen strikes in Norwalk, we have seen a strike in Milford, we've seen a serious strike in New Britain, we saw a very horrendous and serious strike in the City of New Haven when hundreds of teachers were put into buses and taken off to Niantic... then in 1978 we had fourteen days of shame and infamy in the City of Bridgeport when some 263 teachers were carted away.<sup>2</sup>

Sen. Michael Skelley placed emphasis on the problem created by the lack of a mechanism to bring negotiations to a close.

*In the case of the teacher and the state employee, they have no options. They cannot withhold their labor because it is illegal and those they are negotiating with do not have to negotiate and it [sic] can stand firm for as long as they see fit.*<sup>3</sup>

In the words of Sen. Richard Schneller,

*I think if you believe in the concept of collective bargaining, and I for one believe in the concept of collective bargaining, then you also must believe in providing some mechanism to bring the collective bargaining process to an end. A collective bargaining process that has not [sic] termination, that remains in limbo is, in my opinion not a true collective bargaining process. And that, in fact, has been the major concern and the major problem with teachers [sic] negotiations.*<sup>4</sup>

In the House, these sentiments were placed on the record by Rep. Walter Henderson.

*Contract disputes have underscored one common difficulty: that one difficulty has been the lack of a finality [sic] or the end to the negotiations process. Properly negotiated contracts after months of attention, talk, compromise, and agreement have been rejected and*

*returned to the negotiation process only to frustrate boards of education and the teachers and cause a turmoil [sic] in the communities.*<sup>5</sup>

While all desired finality, some doubted the ability of binding arbitration to provide it. Sen. John Matthews told his Senate colleagues,

*There is no assurance that if you go back home and say to your constituents that yes, we now will be able to control strikes of teachers, you would be wrong there also. There is no way you will be able to guarantee or promise that.*<sup>6</sup>

Rep. Yorke Allen queried the House chamber,

*Now, does binding arbitration, has it kept Connecticut municipal employees from striking? It has not... Compulsory binding arbitration does not solve the problem automatically, and in the states where the process now exists, strikes have been continuing... The leading country in the world, which has for seventy-five years had a provision in its Constitution favoring compulsory binding arbitration, is Australia. And Australia, ladies and gentlemen, has many more strikes than does the United States, in fact, it has the worst strike record of any democratic western style nation.*<sup>7</sup>

In the end, there can be no question that supporters of the law were correct about finality. Binding arbitration did, in fact, eliminate teacher strikes. Since its passage in 1979, not one child has lost a day of school because of a dispute between teachers and school boards. Binding arbitration has provided finality and decisive resolution for teacher negotiations – just as its supporters claimed.

While we can say with certainty that finality has been reached through the strict timetables for negotiations set forth in the statute, it is also true that the timetables by themselves are not a sufficient force to bring negotiations to an end. Negotiations must also be perceived as fair. Criticism of the original *Teacher Negotiations Act* didn't merely center around the open-ended and indeterminate cast of negotiations, it also focused on the lack of fairness for teachers which was then inherent in the process. Legislative supporters of binding

<sup>2</sup> Legislative History, Senate Bill 002: An Act Concerning Last Best Offer Binding Arbitration for Teacher Contract Disputes, May 8, 1979, pp. 138-39. In the debate on the statute, lawmakers' estimates of the number of teachers involved in the Bridgeport strike varied from 250 to 265. We believe the correct number to be 274.

<sup>3</sup> *Ibid.*, p. 144.

<sup>4</sup> *Ibid.*, p. 152.

<sup>5</sup> *Ibid.*, May 16, 1979, p. 202.

<sup>6</sup> *Ibid.*, May 8, 1979, p. 151.

<sup>7</sup> *Ibid.*, May 16, 1979, pp. 239-40.

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arbitration brought this issue to the fore in their remarks. In the view of Sen. Amelia Mustone,

*I think that today society is asking an awful lot of schools. They are asking them to be day care centers, they are asking them to provide nutrition, to curb violence and vandalism and overall we have a very low esteem of our public school teachers and consequently our children go to school with those same attitudes. I submit to you that we had better start taking a different view in how we see our public school teachers and show them that we are giving them the support and respect that they deserve. I think this is a very honorable bill and I think it will lend itself to facilitate more compromise and be a more productive tool in the negotiation process.*<sup>8</sup>

Rep. Eugene Migliaro advanced the fairness issue in especially colorful language,

*A person can go out and rob a bank, commit a murder, rape, and can be back out on the street, on bond, almost immediately. Yes [sic] these people, husbands, wives with families, good people, were put behind stockade fence [sic] and kept there by our law, our system. I think we owe them something. I think we ought to give them the right to be able to bargain for something, and bargain in good faith for their position. If we don't want to do that, then give them the right to strike. But we have to give them something.*<sup>9</sup>

Binding arbitration wasn't merely significant to the parties involved in negotiations. Equally important, it was about the broader public interest, about children and public schools generally. Supporters of the legislation placed strong emphasis on the public interest ends it served. In the words of Rep. Walter Henderson,

*This bill is a notable example of legislative leadership in the public interest. It distills the many constructive suggestions made over the years by various individuals and groups into a humane and equitable document. The binding arbitration of teacher contract disputes should become law.*<sup>10</sup>

The essential drama of the moment was perhaps best captured by Rep. Tom Ritter,

*Let me say this, that if there's anything that we're going to do in this session that's worthy of our operating on the*

*merits, it's this bill that's before us. Because we are going to affect the lives of kids in every classroom in this state. We're going to affect the lives of not only the teachers, but of the public fabric of the institutions as well as the taxpayers of this state.*<sup>11</sup>

The debate in the Connecticut General Assembly about binding arbitration was one of the most momentous legislative decisions regarding public education in this state. The debate encompassed issues of finality, fairness, the public interest, and how decisions should be made in the public sphere. The law is almost a quarter of a century old, and it has worked at least as well as its supporters promised, producing settlements on a predictable timetable that are split fairly evenly between teachers and school boards.

Without a doubt, labor peace and the predictable resolution of collective bargaining disputes are integral elements to a high-performing education system. In our own state, binding arbitration has played no small role in the state's attraction and retention of high-quality teachers and high overall levels of student achievement. Despite the record, however, whenever state education funding dips and town residents face higher property taxes, binding arbitration is held by its critics to be responsible for local tax rates. It happened with a vengeance in the early 1990s and it is happening once again today.

### **State Aid Cutbacks and Perceptions of Binding Arbitration**

During Connecticut's last major fiscal crisis in the early 1990s, binding arbitration was decried as the reason for inflation in town budgets and rising property taxes. Gov. Lowell Weicker, coming off an especially bruising battle over the enactment of a state income tax in the previous legislative session, proposed a massive cut of \$143 million in municipal aid. The draconian budget cuts were coupled with a proposal to reform binding arbitration laws by giving town legislative bodies the right to overturn arbitrated settlements.

Reform of binding arbitration became a quid pro quo for towns' willingness to accept aid reductions. Rep. Jonathan Pelto (then Deputy Majority Leader of the House) put it this way,

*[Lawmakers] are under incredible pressure to throw the towns a bone in return for not bringing back the bacon. The municipalities have bought into that, and [the Connecticut Conference of Municipalities] others have*

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<sup>8</sup> *Ibid.*, May 8, 1979, p. 135.

<sup>9</sup> *Ibid.*, May 16, 1979, p. 205.

<sup>10</sup> *Ibid.*, May 16, 1979, p. 204.

<sup>11</sup> *Ibid.*, p. 227.

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created the image of, 'OK, if we get rid of binding arbitration, then maybe the cuts are OK.'<sup>12</sup>

At the time, a *Hartford Courant* journalist playfully remarked that binding arbitration, heart and hypertension benefits for police and firemen, and prevailing wage were invoked in town council chambers with "all the affection of a priest's intoning 'Satan' on the altar."<sup>13</sup> As property taxes came under pressure from steep declines in state aid, municipalities, their lobbyists, and taxpayer groups exerted inordinate pressure on lawmakers to reform binding arbitration. The pressure worked. After an especially contentious debate in the House and Senate, the most significant changes in the history of the law were passed.

In response to pressure from those who believed that weakening binding arbitration would help ameliorate local budget crises, the legislature made several changes to the binding arbitration law. In particular, two of these changes (still in effect today) were intended to give the local legislative bodies greater control over the process of binding arbitration.

- First, a local legislative body can reject the entirety of an arbitrator's award in a teacher contract by a two-thirds vote. Rejected arbitration awards are sent to a second arbitration.
- The legislation altered the criteria used by arbitrators in making their decisions. Going forward, arbitrators were required to place the public interest and a municipality's ability to pay above all other factors.<sup>14</sup>

The Connecticut Conference of Municipalities (CCM) was pleased with the changes in 1992. CCM spokesperson Kevin Maloney told the *Hartford Courant*, "I think the reforms bring back some fairness and more credibility to the system."<sup>15</sup> Union advocates disagreed. The decline of state aid and not binding arbitration was the precipitate cause of local budget problems. Until the state fiscal crisis redefined the political climate, no political consensus existed to change the binding arbitration statute. Municipalities and their lobbyists took

advantage of legislators' inability to deliver adequate state aid as an opportunity to seek statutory changes of questionable necessity.

The events of 1992 bear close similarity to the political climate today. With Connecticut's rapid descent into the fiscal doldrums in 2002, lawmakers, newspapers, taxpayer groups, and advocates for municipalities began to once again raise the specter of binding arbitration. The Federation of Connecticut Taxpayer Organizations, Inc. (FCTO) has been aggressive in its circulation of a call to arms on binding arbitration. The organization has sent letters to municipal officials all over Connecticut informing them that 75-90% of municipal budgets stem from personnel-related expenses. The letter goes on to say that towns are either settling contracts under the threat of binding arbitration or contracts are being sent to arbitration to be decided upon by "independent arbitrators with no relationship to the municipality they are financially impacting." Finally, it asks municipalities to pass a resolution to "open the debate on binding arbitration."<sup>16</sup>

Let's revisit the debate on the law for a moment. Connecticut's system of impartial arbitrators was instituted because, in an unacceptably high proportion of cases, municipalities proved incapable of reaching fair and timely settlements with their employees. The strikes, disruption of services, and intra-community turmoil occasioned by the then-extant system were deemed to be unacceptable by state legislators, who passed a law in the public interest to eliminate these unfortunate consequences of impasses in collective bargaining.<sup>17</sup>

The fact that arguments against binding arbitration are specious has not prevented some from continuing to demonize the process. A number of towns around the state have passed resolutions calling variously for opening the debate on binding arbitration, reforming the process, or even ending it. Shelton's Board of Aldermen voted in October 2003 to support a resolution asking state legislators to support a state-wide debate on the issue. On the same night that the East Hartford town council was told that it would have to take \$500,000 out of its reserve, it passed a resolution asking the

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<sup>12</sup> Quoted in Mike Swift, "Threat of Cuts Intensify Battle over 3 Costly Laws," *Hartford Courant*, March 9, 1992, URL = [http://nl.newsbank.com/nl-search/we/Archives?p\\_action=doc&p\\_docid=0EB02F1C973F...](http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=0EB02F1C973F...)

<sup>13</sup> *Ibid.*

<sup>14</sup> The legislation also reduced the terms of neutral arbitrators from four years to two to permit greater accountability.

<sup>15</sup> Quoted in Mike Swift, "Many Claim Legislative Victories," *Hartford Courant*, May 10, 1992, URL = [http://nl.newsbank.com/nl-search/we/Archives?p\\_action=doc&p\\_docid=0EB02F2569618...](http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=0EB02F2569618...)

<sup>16</sup> Letter to municipal leaders from Susan Kniep, president, Connecticut Federation of Taxpayer Organizations.

<sup>17</sup> It should also be noted that the statute has been amended a number of times in the years following its passage. In addition to its amendment in 1992 discussed above, it was amended in 1990, 1991, 1997, 1998, and 2000. Legislative amendments to the original statute have governed such issues as the selection of neutral arbitrators, the factors to be considered by arbitrators, notification of the local fiscal authority of arbitration proceedings, and the reporting of arbitration results. An excellent summary of these changes can be found in *OLR Research Report: Legislative History of Binding Arbitration for Teachers and Municipal Employees* (2003-R-0764), October 20, 2003, by Judith Lohman and John Moran.

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legislature to study the effect of binding arbitration on municipalities.<sup>18</sup> In North Stonington, the Board of Selectmen went even further, passing a resolution to permit towns' legislative bodies to reject arbitration awards by a two-thirds vote (in other words, to take the "binding" out of binding arbitration).<sup>19</sup>

Editorials against binding arbitration have been fueled by continuing fiscal stress at the state and local levels. In September, the *Hartford Courant* editorial, "Coping with Less State Aid," began with an expression of sympathy for the plight of local officials. It went on, though, to provide a tough love prescription that told municipal officials to become much tougher in bargaining with their employees and to demand that their legislators

*...reform the costly binding arbitration process and prevailing wage law that are the major cause of local budget increases. If members of the General Assembly make it easier on themselves in putting together a state budget by cutting municipal aid, the least they can do is level the playing field for their town hall colleagues.*<sup>20</sup>

In the purple prose which distinguishes the *Waterbury Republican-American* among the state's newspapers, a November 2003 editorial declaimed,

*One of these years, voters in Connecticut must elect a legislature with the guts to take on the Confederacy of Greed by reforming binding arbitration to make it fairer to taxpayers and amending labor laws to require that contracts involving public-employee unions be negotiated out in the open.*<sup>21</sup>

As Yogi Berra might say, "It's déjà vu all over again." Is it really the case that each time state municipal aid is under severe stress, teachers, parents, students, and communities must face a barrage of reflexive calls to throw out labor laws that have served the state well since their passage? Apparently it is. The assumption that weakening state labor law will help communities address fiscal problems caused by the reduction in state aid is not only untrue, it is disturbing.

Because budget crises in Connecticut towns in the early 1990s were caused by the reduction of state aid, it should not be surprising that weakening the binding arbitration statute produced none of the budget savings that were promised by

those calling for statutory change. Not only did weakening the process of binding arbitration not save towns money in the early 1990s, but it is virtually certain that further changes to binding arbitration will not produce future savings for the following reasons:

- Since only a handful of contract negotiations through the entire state are so intractable as to require arbitration, eliminating this rare event cannot address the real fiscal crisis created by the reduction of state aid.
- Arbitrated contracts in reality tend to be *less* favorable to teachers than negotiated contracts.
- Disruptions and delays caused by the strikes and protests are costly to children and taxpayers.

A final similarity between the debate in the early 1990s and the debate today is the lack of hard evidence on the fairness and effectiveness of binding arbitration in resolving labor disputes. Fortunately, for this round of the debate we have data from a decade of contract settlements. In the pages that follow, this analysis presents solid evidence to counter the myths being circulated about binding arbitration.

## **Binding Arbitration: The Evidence**

Those who would weaken or eliminate binding arbitration have claimed that the process is unfairly biased toward teachers, that it strains town budgets, and that it is a regularly used and expensive process for municipalities. No evidence exists for these claims.

### **1. Arbitration Is a Fair and Balanced Process for Resolving Disputes**

When teachers and school boards reach an impasse in negotiations, one of the state's neutral arbitrators is either chosen by the mutual agreement of the parties or randomly assigned to arbitrate the dispute. His or her decision is binding, subject only to an appeal to a second panel of neutral arbitrators. The arbitration law specifies a strict timeline so that contracts are always finalized before town budgets are passed and well before the start of the school year.

Over the past decade under the *Teacher Negotiations Act*, teachers and school boards across the state have negotiated 636

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<sup>18</sup> Jesse Hamilton, "Council May Have to Take Half-Million Out of Reserve," *Hartford Courant*, March 5, 2003, URL = [http://nl.newsbank.com/nl-search/we/Archives?p\\_action=doc&p\\_docid=0F99974E8C691...](http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=0F99974E8C691...)

<sup>19</sup> Dan Pearson, "Selectment Endorse Arbitration Law," *New London Day*, May 29, 2003.

<sup>20</sup> Coping with Less State Aid," *Hartford Courant*, September 2, 2003, A8.

<sup>21</sup> "Expensive Secrets," *Waterbury Republican-American*, November 7, 2003.

contracts. Of these contracts, 75 were arbitrated covering a total of 756 individual issues that were resolved in arbitration. In all arbitrations between 1994 and 2003, arbitrators accepted the school boards' proposals 379 times (50%) and teachers' proposals 377 times (50%). If we were to look at each type of issue separately, we can see that arbitrators' decisions are split fairly evenly between school board and teacher proposals.

- Of a total of 173 issues related to teachers' health insurance, arbitrators awarded school board offers 52% of the time and teacher offers 48% of the time.
- Of a total of 183 salary issues, school board offers were awarded 42% of the time and teacher offers 58% of the time.
- Of a total of 400 other issues (e.g., class size, scheduling, staffing following the introduction of special education students in a classroom, safety), arbitrators awarded school board offers 53% of the time and teacher offers 47% of the time.

The balance in arbitrators' decisions is attributable to the process by which arbitrators are chosen. In Connecticut, neutral arbitrators are appointed through a rigorous process that requires unanimous approval from representatives of municipalities, teacher unions, school boards, school board attorneys, the State Department of Education, and the American Arbitration Association (see Appendix A). The names of approved candidates are forwarded to State Board of Education, which recommends those whom it approves to the Governor. The Governor forwards those candidates he recommends to the Executive and Legislative Nominations Committee of the General Assembly, which interviews the candidates. The names of approved candidates are forwarded to the entire General Assembly for final approval. Under an amendment to the binding arbitration statute passed in 1992, arbitrators' terms were reduced from four years to two years to permit greater accountability. The rigorous selection process of neutral arbitrators and their limited terms play a major role

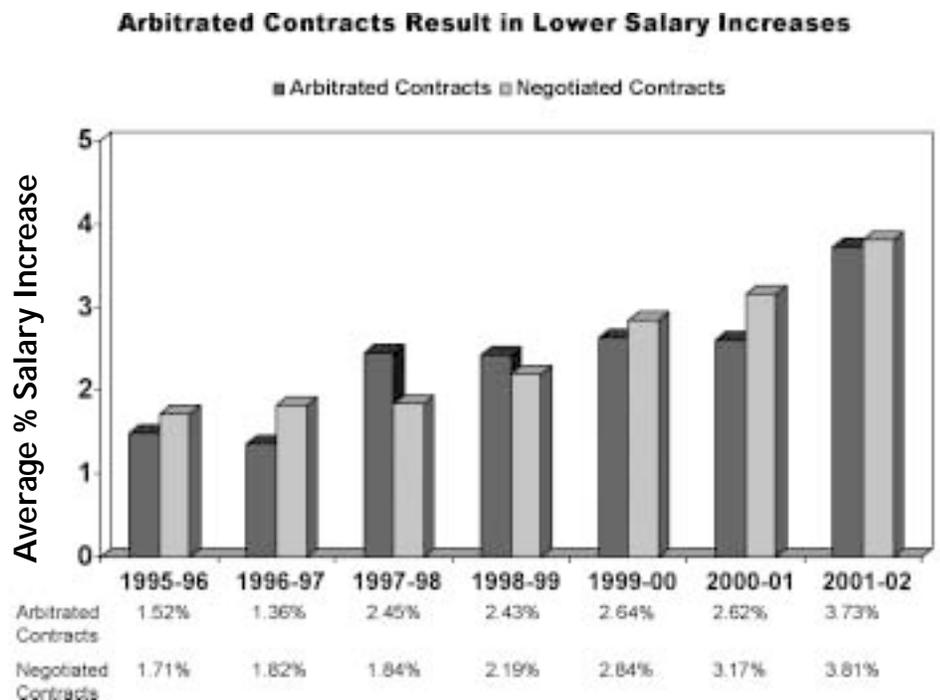
in ensuring the overall fairness of the process to both parties.

## 2. Arbitration Does Not Result in More Expensive Contracts for Towns

Whether we approach the data from the perspective of teachers' salaries or town budgets, arbitrated contracts result in less expensive settlements than negotiated contracts. For this reason, eliminating binding arbitration is unlikely to lower either town budgets or teachers' salaries.

Even though arbitrators tend to choose association salary proposals more frequently than board salary proposals (58% vs. 42%), salary awards from arbitrators tend to be lower than negotiated settlements. Considering the seven years for which data is available, arbitrated contracts resulted in lower percentage salary increases than negotiated contracts for teachers two-thirds of the time. Figure 1 below shows the actual average annual increase in the master's maximum salary for the stated length of the contract at the time it was negotiated for agreements arrived at through negotiations and agreements arrived at through arbitration. Increases in the master's maximum salary were used as the basis with which to compare types of contract settlements with one another because the typical Connecticut teacher has a master's degree and a significant proportion of the total teaching population is at maximum.

Figure 1



<sup>22</sup> Contracts resolved in negotiations, mediation, and stipulated arbitrations are all considered negotiated contracts. In all of these processes, both parties resolve disputes by negotiations. Only formal arbitration awards qualify as arbitrated contracts for purposes of this analysis.

Examining the evidence from the perspective of the percentage increase in a town's budget for all teachers' salaries is even more compelling. In nine of the last ten years, towns with arbitrated contracts had smaller increases in their total budgets for all teacher salaries than towns with negotiated contracts. This can be seen clearly in Figure 2.

### 3. Arbitration is used infrequently as a way of resolving contract disputes

Proponents of changing or eliminating binding arbitration claim that such changes would provide significant fiscal relief to towns. This argument lacks merit because arbitration is used relatively rarely to resolve impasses in negotiations.

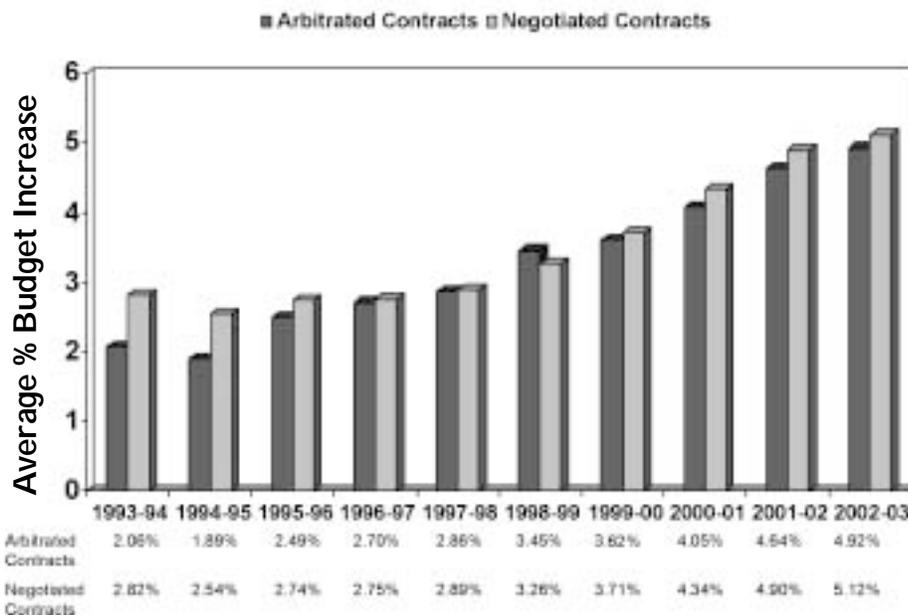
The overwhelming majority of contracts are successfully resolved before arbitration. In the last decade, only 12% of all contracts reached the first stage of arbitration. A second arbitration is even more rare. In the entire decade across the entire state, only 13 contracts — 2% of all contracts bargained — required a second arbitration to resolve the dispute and finalize the contract. The extent to which arbitration is unusual is reinforced by the fact that only 4 districts accounted for one third of all issues brought to arbitration.

### A Concluding Note

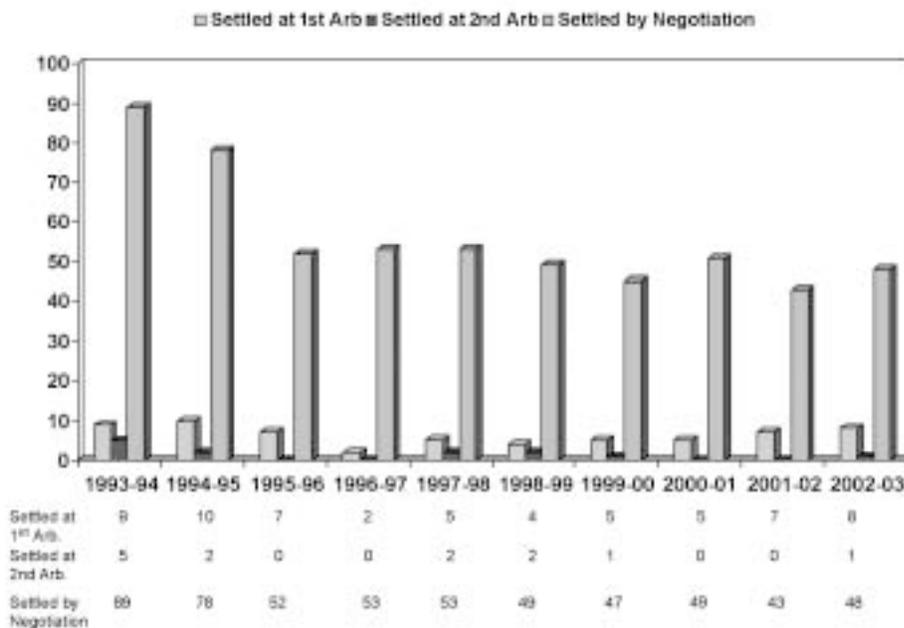
Connecticut's binding arbitration statute was borne of strife and created out of necessity. Fifty-five strikes in 14 years, turmoil in many communities, and uncertainty in schools combined to produce the political will to pass the binding arbitration statute. As its proponents claimed, it produced fairness and finality in teacher negotiations and stability in public schools. Since its passage, not one day has been lost to teacher strikes. Connecticut's unparalleled labor peace has no doubt contributed to Connecticut's high level of student achievement and the strong public support for public schools.

As was the case a decade ago, Connecticut's recent fiscal crisis has cast the process of binding arbitration into doubt.

**Figure 2**  
**Arbitrated Contracts Result in Smaller Increases in Town Budgets**



**Figure 3**  
**Contracts Settled Through Negotiation and Arbitration**



In the past year, the state has reduced its support to municipalities and failed to live up to its commitments to adequately fund public schools. In these strained municipal circumstances, a number of individuals claim that municipal expenditures can be reduced by changing binding arbitration. Both history and available evidence suggest that this is wrong. Altering binding arbitration is not in the best interest of Connecticut's children, its teachers, or its schools, and it will do nothing to help solve the current fiscal crisis facing our communities.

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## Appendix A

### How Binding Arbitration Works in Connecticut

#### 1. How are neutral arbitrators selected?

The Connecticut State Department of Education organizes all interviews for neutral arbitrators. All officially appointed neutral arbitrators must be Connecticut residents and impartial representatives of the public, experienced in public sector bargaining impasse resolution.

Potential arbitrators are interviewed by representatives from the Connecticut Conference of Municipalities (CCM), the Connecticut Conference of Small Towns (CCST), the Connecticut Association of Boards of Education (CABE), the Connecticut Education Association (CEA), AFT Connecticut, a representative of attorneys who represent boards of education, the Connecticut State Department of Education (SDE), and the American Arbitration Association (AAA).

All candidates must have the unanimous approval of all parties in the process. Candidate names are forwarded to the State Board of Education, which votes on them. All those approved by the SBE are reviewed by the Governor, who then forwards the names of those he approves to the Executive and Legislative Nominations Committee of the General Assembly. The committee conducts interviews with the candidates recommended by the Governor and forwards approved candidates to the General Assembly for final approval.

#### 2. How does binding arbitration work?

If a board of education and the collective bargaining agent for teachers are unable to reach agreement, they move into the binding arbitration process (see the timelines under the *Teacher Negotiations Act* [TNA] in Appendix B).

#### 3. Who chooses the neutral arbitrator when a dispute goes to binding arbitration?

The parties to the dispute have the right to mutually agree on the selection of the neutral arbitrator from the approved list of arbitrators. If they cannot agree, the Commissioner of Education randomly selects the neutral arbitrator from the approved list. Each of the parties selects its advocate arbitrator to serve on the arbitration panel with the neutral arbitrator serving as the chairperson of a three-person arbitration panel.

If both parties agree, the use of the advocate arbitrators can be dispensed with and the hearing can be conducted solely by the neutral arbitrator.

#### 4. Does the legislative body in a school district have the right to reject an arbitration award?

Yes. By a two-thirds vote of those present at a special meeting convened for this purpose within 25 days of the receipt of an award, the legislative body of the school district can reject the arbitrator's award. In the case of a regional school district, the award must be rejected by a two-thirds vote of the legislative body of each participating town.

If the parties reach agreement prior to arbitration, the settlement can also be rejected by the same process within 30 days.

#### 5. When does a second arbitration occur and how is it conducted?

If the legislative body in a local school district (or the legislative bodies in a regional school district) rejects an arbitration award, it goes to a second arbitration panel. The second panel is made up of three neutral arbitrators selected by the Commissioner of Education.<sup>1</sup> The review of the first arbitration award is limited to the record and the briefs from the first hearing along with the reason for the legislative body's rejection of the first award and the collective bargaining agent's response to the rejection.<sup>2</sup>

#### 6. Does judicial review exist in all arbitration awards?

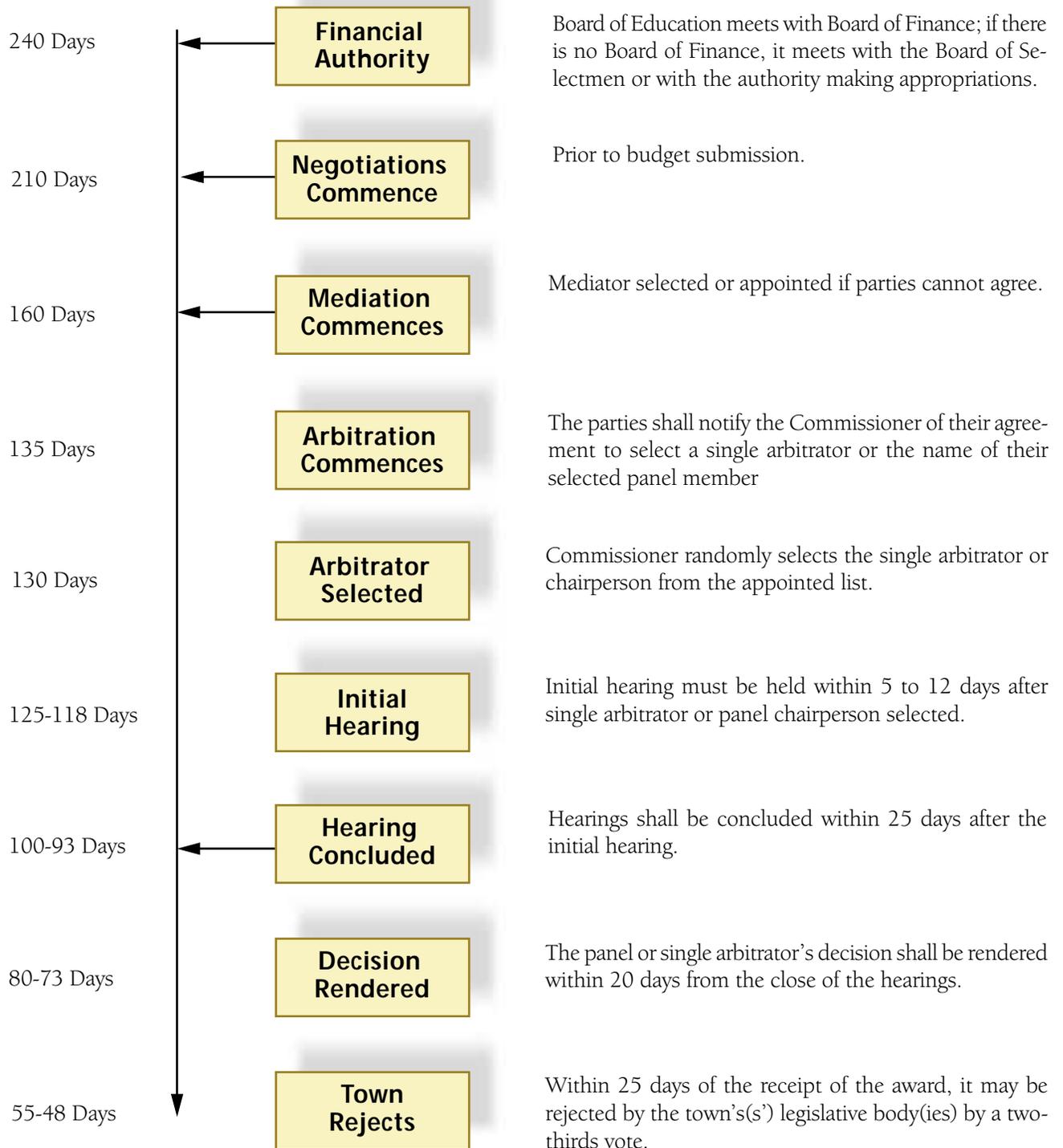
The decision of an arbitration panel or single arbitrator is subject to judicial review upon the filing by a party to the arbitration process within 30 days following the receipt of a final decision.

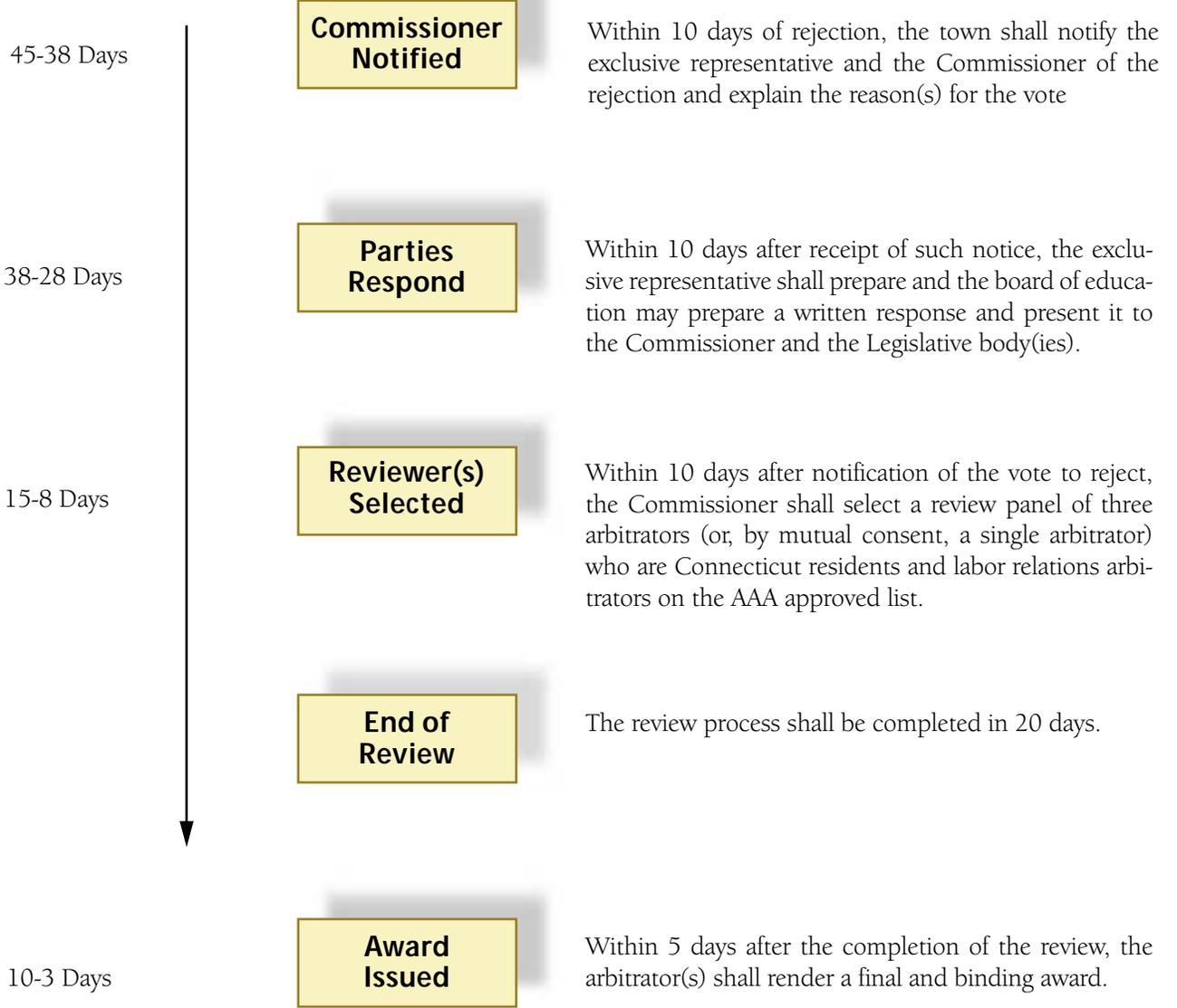
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<sup>1</sup> A single arbitrator can be selected if agreed to by the parties.

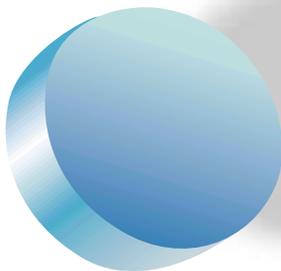
<sup>2</sup> All issues in dispute are open issues in the second arbitration.

**Appendix B**  
**Teacher Negotiations Act Timetable**





## Settlement



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