

## Chapter ERC 30

### FINAL AND BINDING ARBITRATION INVOLVING FIRE FIGHTING AND LAW ENFORCEMENT PERSONNEL

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**Note:** Chapter ERB 30 was renumbered chapter ERC 30 under s. 13.93 (2m) (b) 1., Stats., Register, December, 1994, No. 468.

**Note:** See s. 111.77, Stats.

**ERC 30.01 Scope.** This chapter governs the general procedure relating to arbitration proceedings and the designation of arbitrators to resolve disputes in collective bargaining involving fire fighting and law enforcement personnel in the employ of municipal employers having a population of more than 5,000 inhabitants, except police departments in cities having a population of 500,000 or more inhabitants, pursuant to s. 111.77, Stats.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.02 Policy.** The policy of the state being primarily to promote the prompt, peaceful and just resolution of labor disputes arising in collective bargaining affecting wages, hours and conditions of employment of fire fighting and law enforcement personnel in the employ of the applicable municipal employers, and where proceedings are initiated pursuant to this chapter by one or both parties, the commission shall, where an impasse exists, require the parties involved to proceed to final and binding arbitration on the issue or issues at impasse, and in that regard may furnish to the parties a panel of arbitrators, from which they may select an arbitrator or arbitrators to be appointed by the commission to issue a compulsory final and binding award to resolve such issue or issues at impasse.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.03 Petition to initiate final and binding arbitration.** (1) **WHO MAY FILE.** When an applicable municipal employer and the recognized or certified collective bargaining representative of non-supervisory fire fighter or law enforcement personnel in the employ of the municipal employer involved have reached an impasse in their collective bargaining on wages, hours and conditions of employment to be incorporated in a collective bargaining agreement between said municipal employer and said representative, said municipal employer or said representative, or anyone lawfully authorized to act on their behalf, may file a petition with the commission to initiate compulsory final and binding arbitration.

(2) **TIME FOR FILING.** A petition to initiate such compulsory final and binding arbitration shall be entertained by the commission provided the parties comply with the provisions set forth in s. 111.77 (1) and (2), Stats.

(3) **FORM, NUMBER OF COPIES, AND FILING.** The petition shall be prepared on a form furnished by the commission, the original being signed and sworn to before any person authorized to administer oaths or acknowledgments. The original and 5 copies shall be filed with the commission and a copy thereof shall, at the same

time, be served on the other party involved by registered or certified mail.

(4) **CONTENTS.** The petition shall include the following:

(a) The name and address of the municipal employer involved and the name and telephone number of its principal representative.

(b) The name and address of the collective bargaining representative involved and the name and telephone number of its principal representative.

(c) A description of the collective bargaining unit involved and the approximate number of employees therein.

(d) A general statement as to the alleged issue or issues at impasse.

(e) An indication as to whether the petitioner desires that the arbitration be limited to the entire last and final offers of each party, or whether the parties have agreed otherwise.

(f) Relevant facts pertaining to compliance, by the parties, with the provisions set forth in s. 111.77 (1) and (2), Stats.

(g) The name and address of the petitioner and the signature and telephone number of the person executing the petition.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.04 Withdrawal of petition.** Any petition may be withdrawn with the consent of the commission under such conditions as the commission may impose to effectuate the policies of s. 111.77, Stats.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.05 Pre-investigation action.** After a petition has been timely filed the commission shall issue an order setting a date, the time and place for the conduct of the informal investigation, or the conduct of a formal hearing, as the commission may determine, with respect to the petition. Where the petitioner requests last offer arbitration, said order shall require the parties to file with the commission a copy of their entire last and final offer with respect to the issue or issues at impasse within the time limits set forth in said order, and at the same time serve a copy thereof upon the other party involved. Any such order may be amended or withdrawn at any time prior to the close of the informal investigation or the formal hearing, as the case may be, by the commission or its agent.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.06 Informal investigation.** It shall be the duty of the commission or its agent conducting the informal investigation to ascertain the facts essential to the investigation by interviewing the parties and their representatives and by the examination of any documents, correspondence and any other like material pertaining to the matter. During the investigation the

commission or its agent may conduct further mediation in the matter. Upon completion of the investigation, if conducted by a commission agent, said agent shall report the findings to the commission, either orally or in writing as the commission may direct.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72; correction made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1994, No. 468.

**ERC 30.07 Formal hearing. (1) NATURE.** The hearing, whether conducted by the commission or its agent, shall be limited to pertinent matters necessary to establish the facts to determine whether the parties have reached an impasse in their negotiations. During the course of the hearing the commission or its agent may conduct further mediation in the matter.

**(2) HEARING PRACTICE AND PROCEDURE.** Hearing practice and procedure shall be as set forth in ch. ERC 10, except that should the commission determine that the hearing shall be transcribed, the parties shall equally bear the costs thereof.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72; correction made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1994, No. 468.

**ERC 30.08 Amendment of offers during investigation or hearing.** Either party, prior to the close of either the informal investigation or the close of the formal hearing, may amend their positions with respect to any matter in issue.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.09 Stipulation to initiate final and binding arbitration. (1) WHO MAY FILE.** When an applicable municipal employer and the recognized or certified collective bargaining representative of non-supervisory fire fighter or law enforcement personnel in the employ of the municipal employer involved have reached an impasse in their collective bargaining on wages, hours and conditions of employment to be incorporated in a collective bargaining agreement between said municipal employer and said representative, said municipal employer and said representative, or anyone lawfully authorized to act on their behalf, may file a stipulation with the commission to initiate compulsory final and binding arbitration.

**(2) TIME FOR FILING.** A stipulation to initiate such compulsory final and binding arbitration shall be entertained by the commission provided the parties comply with the provisions set forth in s. 111.77 (1) and (2), Stats.

**(3) FORM, NUMBER OF COPIES, AND FILING.** The stipulation shall be prepared on a form furnished by the commission, the original being signed by anyone lawfully authorized to act on behalf of the parties. The original and 2 copies shall be filed with the commission.

**(4) CONTENTS.** The stipulation shall include the following:

(a) The name and address of the municipal employer involved and the name and telephone number of its principal representative.

(b) The name and address of the collective bargaining representative involved and the name and telephone number of its principal representative.

(c) A description of the collective bargaining unit involved and the approximate number of employees therein.

(d) A general statement as to the issue or issues agreed upon as being at impasse.

(e) An indication as to whether the parties desire that the arbitration be limited to the entire last and final offers of each party, or whether the parties have agreed otherwise.

(f) Relevant facts pertaining to compliance, by the parties, with the provisions set forth in s. 111.77 (1) and (2), Stats.

(g) The signature, title, address, and telephone number of the persons executing the stipulation.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.10 Withdrawal or amendment of stipulation.** Any stipulation may be withdrawn or amended with the

consent of the commission under such conditions as the commission may impose to effectuate the policies of s. 111.77, Stats.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.11 Certification of results of investigation or hearing, or certification based on stipulation.**

**(1) WHEN ISSUED.** After consideration of either the report of the informal investigation, or the record adduced in the formal hearing, or a stipulation filed in accordance with s. ERC 30.09, the commission shall issue a certification of the result of said investigation or hearing, or on the basis of said stipulation, with respect to a determination as to whether compulsory final and binding arbitration should be initiated, and serve copies thereof upon the parties.

**(2) CONTENTS.** Said certification shall contain findings of fact and conclusions material in the matter, and an order either initiating compulsory final and binding arbitration and designating the form thereof, or dismissing the petition or stipulation, consistent with the purposes and policy of s. 111.77, Stats.

**(3)** If the certification requires that final offer arbitration be initiated, copies of the entire final offers of each party, or the issue or issues at impasse, shall be attached and made part of the certification.

**(4)** If the certification requires that compulsory final and binding arbitration be initiated, the parties shall be directed to select one or more arbitrators within 10 days after the issuance of such order, and further the parties shall be directed to notify the commission within 15 days of the issuance of said order as to whether they have selected an arbitrator or a board of arbitration as the case may be.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1994, No. 468.

**ERC 30.12 Selection of arbitrator or board of arbitration.** The parties may select a single arbitrator or a board of arbitration in a manner mutually agreed upon by the parties.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.13 Submission of arbitration panel by commission.** Should the parties fail to select a single arbitrator or board of arbitration and so notify the commission within the time limits set forth above, the commission shall thereupon issue a supplemental order directing each party to select one arbitrator, and that within 5 days of the receipt of said order such arbitrators shall attempt to select a neutral arbitrator to act as chairperson of the board of arbitration.

Should the arbitrators appointed by the parties fail to agree upon such chairperson, the arbitrators designated by the parties, or either of them shall, in writing, within 8 days of the issuance of the supplemental order, so notify the commission. Thereupon the commission shall issue a further supplemental order, and therein submit a panel of 5 neutral arbitrators, from which the parties shall, within 3 days of the receipt thereof, alternately strike 4 of the members of said panel. Thereupon the parties, or either of them, shall notify the commission in writing as to the neutral arbitrator so selected, and the commission shall then issue an order appointing said neutral arbitrator as chairperson of the board of arbitration, and at the same time, shall serve copies thereof on the parties and the neutral arbitrator, and also at the same time serve a copy of the certification of the results of the investigation upon said neutral arbitrator.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1994, No. 468.

**ERC 30.14 Waiver.** The parties involved may mutually agree to waive the time limits set forth above and/or that the arbitration be conducted by a board of arbitration. In the latter event, the neutral arbitrator shall serve as the sole arbitrator.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.15 Arbitration hearing. (1) NOTICE OF HEARING.** Following the receipt of notification of appointment, the

chairperson of the board of arbitration, or the single arbitrator, as the case may be, shall issue and serve upon each of the parties, and upon the other members of the board of arbitration, if any, a notice of hearing, at a place feasible in the state, and on a date and time fixed therein.

**(2) AMENDMENT OR WITHDRAWAL.** Any such notice of hearing may be amended or withdrawn at any time before the close of the arbitration hearing.

**(3) AMENDMENT OF FINAL OFFERS.** In the case of final offer arbitration either party may amend its entire final offer by submitting a copy thereof to the chairperson of the board of arbitration or the single arbitrator, as the case may be, within 5 days of the date set for hearing, and at the same time serve a copy thereof on the other party.

**(4) SCOPE OF HEARING.** The hearing shall concern pertinent matters necessary for the board of arbitration, or the single arbitrator, as the case may be, to issue a compulsory final and binding arbitration award on the issue or issues in dispute, and in that regard, the board of arbitration or the single arbitrator, as the case may be, shall give weight to the factors set forth in s. 111.77 (6), Stats., and the parties shall be prepared to present evidence and argument relating to the factors involved.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, December, 1994, No. 468.

**ERC 30.16 Proceedings before the arbitrator.** Such

arbitration proceedings shall be governed by ch. 788, Stats., except as specifically provided in s. 111.77, Stats.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72; correction made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1994, No. 468.

**ERC 30.17 Costs.** Should the board of arbitration consist of an appointee of each of the parties, the cost involved in the participation by such appointee shall be paid by the party making such appointment. Costs and expenses incurred by the neutral arbitrator, including, but not limited to, the conduct of the hearing, the taking of depositions, the rental of hearing rooms, and the preparation of the award, shall be borne by the parties on an equal basis. Costs involved with respect to subpoenas and witness fees shall be borne by the party at whose request subpoenas are issued and at whose request witnesses appear. Costs with respect to fees and expenses incurred by the reporter shall also be borne equally by the parties.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.

**ERC 30.18 Issuance of award.** The board of arbitration or the single arbitrator, as the case may be, shall issue the arbitration award in writing as expeditiously as possible following the receipt of final arguments or briefs. If the award is issued by a board of arbitration each arbitrator must execute same, either affirming or dissenting from said award. Upon the execution and signing of the award, copies thereof, as well as a statement reflecting fees and expenses, if any, shall be submitted to the parties and to the commission.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72.