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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RESPONSIBLE CONTRACT
RESOLUTION ACT

Introduced By: Senators McCaffrey, and Satchell

Date Introduced: February 13, 2013

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Preamble:

2 WHEREAS, Every decision made concerning public education must be in the best
3 interest of our students;

4 WHEREAS, The General Assembly has the authority to establish education policy and to
5 ensure that the education of our children is free from the unintended learning impediments
6 associated with ongoing labor actions, including strikes and work-to-rule situations;

7 WHEREAS, This process will eliminate teacher strikes thereby minimizing family
8 worries as the school year begins, providing stability in our public education system;

9 WHEREAS, This process provides prompt settlement to often lengthy, expensive and
10 disruptive negotiations, saving communities legal fees;

11 WHEREAS, This process saves taxpayer money by producing well-balanced negotiation
12 outcomes that must focus on what is best for our children's education and the local taxpayer's
13 ability to pay.

14 THEREFORE, The General Assembly does hereby introduce the "2013 Responsible
15 Contract Resolution Act."

16 SECTION 2. Sections 28-9.3-9, 28-9.3-10, 28-9.3-11 and 28-9.3-12 of the General Laws
17 in Chapter 28-9.3 entitled "Certified School Teachers' Arbitration" are hereby amended to read as
18 follows:

1 **28-9.3.9. Unresolved issues submitted to mediation or arbitration.** -- (a) In the event
2 that the negotiating or bargaining agent and the school committee are unable, within thirty (30)
3 days from and including the date of their first meeting, to reach an agreement on a contract, either
4 of them may request mediation and conciliation upon any and all unresolved issues, including,
5 but not limited to, the expenditure of money by the director of labor and training or from any
6 other source. ~~If mediation and conciliation fail or are not requested, at any time after the thirty~~
7 ~~(30) days, either party may request that any and all unresolved issues shall be submitted to~~
8 ~~arbitration by sending the request by certified mail postage prepaid to the other party, setting forth~~
9 ~~the issues to be arbitrated.~~

10 (b) In the event that the negotiating or bargaining agent and the school committee are
11 unable to reach an agreement on a contract thirty (30) days before the last day on which money
12 can be appropriated by the city and town to cover the first year of the contract period, any and all
13 unresolved issues, including, but not limited to, the expenditure of money, shall be submitted to
14 the director of labor and training for compulsory mediation until the date upon which the money
15 is scheduled to be appropriated. The director of labor and training or his or her designee may
16 waive this requirement upon the mutual agreement of the parties.

17 (c) In the event that the negotiating or bargaining agent and the school committee are
18 unable within ten (10) days of the scheduled close of school in June of the last year of the
19 contract in effect to reach an agreement on a contract, any and all unresolved issues shall be
20 submitted to the director of labor and training for compulsory mediation.

21 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
22 the director of labor and training shall select a mediator from a panel previously established by
23 the director comprised of persons knowledgeable in the field of labor management relations to
24 mediate the dispute. The department of labor and training is empowered to compel the attendance
25 of all the parties to any and all meetings it deems necessary until the dispute is resolved.

26 (e) For any mediation pertaining to unresolved issues that are submitted to compulsory
27 mediation between the negotiating or bargaining agent and the school committee, pursuant to the
28 provisions of this section, the state shall pay up to five thousand dollars (\$5,000) of the cost of the
29 mediation expenses. Any costs above five thousand dollars (\$5,000) shall be shared equally
30 between the bargaining unit and the school committee.

31 (f) If no agreement is reached by midnight of the expiration of the existing contract, or by
32 mutual agreement of the parties at an earlier point in the mediation process, the parties shall
33 submit a list of their respective unresolved issues to the mediator. If an agreement is not reached
34 prior to the opening of school, teachers shall continue to work under the terms of the existing

1 contract.

2 (g) The parties shall then proceed to arbitration with the composition of the arbitration
3 board made in accordance with section 28-9.3-10.

4 (h) Between ten (10) and fifteen (15) days prior to the first scheduled arbitration hearing,
5 the parties shall meet with the mediator and submit to the mediator their respective positions on
6 each individual issue in dispute between them in the form of a last best offer.

7 (i) In the event an agreement is still not reached by the date of the first scheduled
8 arbitration hearing, the parties shall proceed with arbitration. The arbitration panel shall resolve
9 separately each individual disputed issue by accepting the last best offer thereon of either of the
10 parties, and shall incorporate in a decision each such accepted individual last best offer. The
11 decision shall be rendered within thirty (30) days of the conclusion of the arbitration hearings,
12 and shall be retroactive to the expiration date of the prior contract.

13 **28-9.3-10. Arbitration board -- Composition. --** (a) Within seven (7) days after
14 arbitration has been requested as provided in section 28-9.3-9, the negotiating or bargaining agent
15 and the school committee shall each select and name one arbitrator and shall immediately notify
16 each other in writing of the name and address of the person so selected. The two (2) arbitrators
17 selected and named shall, within ten (10) days from and after their selection, agree upon and
18 select and name a third arbitrator, who shall be selected from a list of retired trial court judges
19 and/or justices who have previously served as judges and/or justices in a Rhode Island trial court.
20 If within the ten (10) days the arbitrators are unable to agree upon the selection of a third
21 arbitrator, the third arbitrator shall be selected in accordance with the rules and procedure of the
22 American Arbitration Association.

23 (b) If the negotiating or bargaining agent agrees with the school committee to a different
24 method of selecting arbitrators, or to a lesser or greater number of arbitrators, or to any particular
25 arbitrator, or if they agree to have the board of regents for elementary and secondary education
26 designate the arbitrator or arbitrators to conduct the arbitration, the agreement shall govern the
27 selection of arbitrators. However, if the board of regents for elementary and secondary education
28 is unwilling or fails to designate the arbitrator or arbitrators, an alternative method of selection
29 shall be used.

30 (c) The third arbitrator, whether selected as a result of agreement between the two (2)
31 previously selected arbitrators, or selected under the rules of the American Arbitration
32 Association, or by the board of regents for elementary and secondary education, or by any other
33 method, shall act as chairperson.

34 **28-9.3-11. Hearings. --** (a) The arbitrators shall call a hearing to be held within ~~ten (10)~~

1 [sixty \(60\)](#) days after their appointment and shall give at least seven (7) days notice in writing to
2 the negotiating or bargaining agent and the school committee of the time and place of the hearing.
3 The hearing shall be informal, and the rules of evidence prevailing in judicial proceedings shall
4 not be binding. Any documentary evidence and other data deemed relevant by the arbitrators may
5 be received in evidence.

6 (b) The arbitrators shall have the power to administer oaths and to require by subpoena
7 the attendance and testimony of witnesses, and the production of books, records, and other
8 evidence relative or pertinent to the issues presented to them for determination. [The provisions of
9 this subsection shall not prohibit the respective parties from engaging in continued negotiations
10 and/or from reaching a compromise agreement on their own accord, separate and apart from the
11 arbitration, prior to conclusion of the arbitration.](#)

12 (c) Both the negotiating or bargaining agent and the school committee shall have the
13 right to be represented at any hearing before the arbitrators by counsel of their own choosing.

14 (d) The hearing conducted by the arbitrators shall be concluded within twenty (20) days
15 of the time of commencement, and within ten (10) days after the conclusion of the hearings, the
16 arbitrators shall make written findings and a written opinion upon the issues presented, a copy of
17 which shall be mailed or otherwise delivered to the negotiating or bargaining agent or its attorney
18 or other designated representative and the school committee.

19 **28-9.3-12. Appeal from decision.** -- The decision of the arbitrators shall be made public
20 and shall be binding on the certified public school teachers and their representative and the school
21 committee on all matters ~~not involving the expenditure of money; provided, that nothing~~
22 ~~contained in this section shall prevent the representative of the certified public school teachers~~
23 ~~and the school committee from mutually agreeing to submit all unresolved issues to binding~~
24 ~~arbitration pursuant to the procedures set forth in sections 28-9.3-10 — 28-9.3-12. In that case the~~
25 ~~decision of the arbitrators shall be final and binding on all matters so submitted, including those~~
26 ~~involving the expenditure of money,~~ and cannot be appealed except on the ground that the
27 decision was procured by fraud or that it violates the law, in which case appeals shall be to the
28 superior court. The school committee shall within three (3) days after it receives the decision send
29 a true copy of the decision by certified or registered mail postage prepaid to the department or
30 agency which appropriates money for the operation of the schools in the city, town, or regional
31 school district involved, if [the](#) decision involves the expenditure of money.

32 SECTION 3. Chapter 28-9.3 of the General Laws entitled "Certified School Teachers'
33 Arbitration" is hereby amended by adding thereto the following sections:

34 **28-9.3-9.1. Unresolved issues in non-teacher employee disputes submitted to**

1 **mediation or arbitration.** -- (a) In the event that the negotiating or bargaining agent for non-
2 teacher, non-certified employees and the school committee are unable, within thirty (30) days
3 from and including the date of their first meeting, to reach an agreement on a contract, either of
4 them may request mediation and conciliation upon any and all unresolved issues by the director
5 of labor or from any other source.

6 (b) In the event that the negotiating or bargaining agent and the school committee are
7 unable to reach an agreement on a contract thirty (30) days before the last day on which money
8 can be appropriated by the city or town to cover the first year of the contract period, then any and
9 all unresolved issues shall be submitted to the director of labor for compulsory mediation until the
10 date upon which the money is scheduled to be appropriated. The director of labor or his/her
11 designee may waive this requirement upon the mutual agreement of the parties.

12 (c) In the event that the negotiating or bargaining agent and the school committee are
13 unable within ten (10) days of the scheduled close of school in June of the last year of the
14 contract in effect to reach an agreement on a contract, any and all unresolved issues shall be
15 submitted to the director of labor for compulsory mediation.

16 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
17 the director of labor shall select a mediator from a panel previously established by the director
18 comprised of persons knowledgeable in the field of labor management relations to mediate the
19 dispute. The department of labor is hereby empowered to compel the attendance of all the parties
20 to any and all meetings it deems necessary until the dispute is resolved.

21 (e) If no agreement is reached by midnight of the date of the expiration of the existing
22 contract, or by mutual agreement of the parties at an earlier point in the mediation process, the
23 parties shall submit a list of their respective unresolved issues to the mediator. If an agreement is
24 not reached prior to the opening of school, employees shall continue to work under the terms of
25 the existing contract.

26 (f) The parties shall then proceed to arbitration with the composition of the arbitration
27 board made in accordance with section 28-9.3-10.

28 (g) Between ten (10) and fifteen (15) days prior to the first scheduled arbitration hearing,
29 the parties shall meet with the mediator and submit to the mediator their respective positions on
30 each individual issue in dispute between them in the form of a last best offer.

31 (h) In the event an agreement is still not reached by the date of the first scheduled
32 arbitration hearing, the parties shall proceed with arbitration. The arbitration panel shall resolve
33 separately each individual disputed issue by accepting the last best offer thereon of either of the
34 parties, and shall incorporate in its decision each such accepted individual last best offer. The

1 decision shall be rendered within thirty (30) days of the conclusion of the arbitration hearings,
2 and shall be retroactive to the expiration date of the prior contract.

3 **28-9.3-9.2. Conduct of teachers during arbitration -- Proceedings. --** (a) No certified
4 public school teacher shall participate in a strike.

5 **28-9.3-9.3. Factors to be considered by the arbitration board. --** The arbitrators shall
6 conduct the hearing and render their decision upon the basis of a prompt, peaceful and just
7 settlement of wage or hour disputes or working conditions and terms and conditions of
8 professional employment between the teachers and the school committee by which they are
9 employed. The factors to be considered by the arbitration board shall include, but are not limited
10 to, the following:

11 (1) The interest and welfare of the students, teachers, and taxpayers;

12 (2) The city's or town's ability to pay;

13 (3) Comparison of compensation, benefits and conditions of employment of the school
14 district in question with compensation, benefits and conditions of employment maintained for
15 other Rhode Island public school teachers;

16 (4) Comparison of compensation, benefits and conditions of employment of the school
17 district in question with compensation, benefits and conditions of employment maintained for the
18 same or similar skills under the same or similar working conditions in the local operating area
19 involved; and

20 (5) Comparison of education qualification and professional development requirements in
21 regard to other professions.

22 SECTION 4. Section 28-9.4-10 of the General Laws in Chapter 28-9.4 entitled
23 "Municipal Employees' Arbitration" is hereby amended to read as follows:

24 **28-9.4-10. Unresolved issues submitted to mediation or arbitration. --** (a) In the event
25 that the negotiating or bargaining agent and the municipal employer are unable after thirty (30)
26 days from and including the date of their first meeting to reach an agreement on a contract, either
27 of them may request mediation and conciliation upon any and all unresolved issues by the
28 director of labor and training or from any other source. After a request for mediation and
29 conciliation has been made by either party, it shall be the duty and obligation of each party to
30 participate in the mediation and conciliation. If mediation and conciliation fail or are not
31 requested at any time after the thirty (30) days, either party may request that any and all
32 unresolved issues shall be submitted to arbitration by sending the request by certified mail
33 postage prepaid to the other party, setting forth the issues to be arbitrated; provided, however, that
34 mediation and arbitration for certified school teachers shall be conducted pursuant to the

1 [provisions of chapter 28-9.3, entitled “Certified School Teachers’ Arbitration,” and certified](#)
2 [school teachers shall not be subject to mediation and/or arbitration pursuant to the provisions of](#)
3 [this chapter.](#)

4 (b) In the event that the negotiating or bargaining agent and the municipal employer are
5 unable to reach an agreement on a contract thirty (30) days before the last day on which money
6 can be appropriated by the city or town to cover the first year of the contract period, then any and
7 all unresolved issues shall be submitted to the director of labor and training for compulsory
8 mediation until the date upon which the money is scheduled to be appropriated. The director of
9 labor and training, or his or her designee, may waive this requirement upon the mutual agreement
10 of the parties.

11 (c) In the event that the negotiating or bargaining agent and the municipal employer are
12 unable within ten (10) days of the expiration of the contract to reach an agreement on a contract,
13 any and all unresolved issues shall be submitted to the director of labor and training for
14 compulsory mediation, except where the municipal employer is a school board. In the event that
15 the negotiating or bargaining agent and the municipal employer school board are unable within
16 thirty (30) days of the scheduled opening of school to reach an agreement on a contract, any and
17 all unresolved issues shall be submitted to the director of labor and training for compulsory
18 mediation.

19 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
20 the director of labor and training shall select a mediator from a panel previously established by
21 the director comprised of persons knowledgeable in the field of labor management relations to
22 mediate the dispute. The department of labor and training is empowered to compel the attendance
23 of all parties to any and all meetings it deems necessary until the dispute is resolved.

24 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RESPONSIBLE CONTRACT
RESOLUTION ACT

1 This act would provide for binding arbitration for disputes between school committees
2 and both certified teachers and non-teacher employees. This act would also provide that public
3 school teachers could not strike.

4 This act would take effect upon passage.

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