BIENNIAL REPORT

OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

ON THE

POLICE AND FIRE PUBLIC INTEREST ARBITRATION REFORM ACT

JANUARY 2006

TABLE OF CONTENTS

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EXECUTIVE SUMMARY

The Police and Fire Public Interest Arbitration Reform Act (Reform Act), *P.L.* 1995, *c*. 425, *N.J.S.A.* 34:13A-14 *et seq*., (Appendix, Tab 1), which took effect on January 10, 1996, has now been in place for ten years. There have been no significant problems in its implementation or administration and ten years of experience under the legislation indicate the following trends:

- Parties are invoking the interest arbitration process less frequently than before the Reform Act

- In a substantial majority of cases – and virtually all cases during the past seven years – the parties have mutually agreed on the selection of an interest arbitrator instead of having an arbitrator assigned by lot by the Commission

- There is a significant trend towards interest arbitrators assisting parties in reaching voluntary settlements, rather than issuing formal awards

- When disputes do proceed to an award, interest arbitrators are overwhelmingly deciding disputes by conventional arbitration -- the terminal procedure mandated by the Reform Act unless the

parties agree to one of the other optional procedures allowed by statute

- The number of awards issued in each of the last ten calendar years is substantially less than the average annual number of awards issued under the predecessor statute. In addition, the number of interest arbitration appeals filed with the Commission has been low.

These developments were evident during the first years the Reform Act was in place and, over the course of the past ten years, appear to have become firmly rooted features of the interest arbitration process under the Reform Act.

This report, the fifth submitted under the revised statute, reviews Commission actions in implementing and administering the statute and provides information concerning interest arbitration petitions, settlements, awards and appeals during the first ten years under the Reform Act.

INTRODUCTION

This report is submitted pursuant to Section 7 of the Reform Act, *N.J.S.A.* 34:13A-16.4, which directs the Public Employment Relations Commission (Commission) to:

> [S]ubmit biennial reports to the Governor and the Legislature on the effects of this amendatory and supplementary act on the negotiations and settlements between local governmental units and their public police departments and public fire departments and to include with that report any recommendations it may have for changes in the law. The reports required under this section shall be submitted in January of even numbered years.

In undertaking this charge, the Commission is mindful that interest arbitration has often been the focus of intense discussion by the parties to a specific case and

the interest arbitration community as a whole. The Legislature has given interest arbitrators the authority to set contract terms that may significantly affect both management and labor, and participants in the process may at times voice their opinions about the interest arbitration statute. The Commission considers and responds to constituent concerns as appropriate within the existing statutory framework. Substantive policy discussions about the interest arbitration statute are the province of the Legislature, labor and management representatives, and the public in general. In order to ensure its neutrality as the agency charged with administering the statute, the Commission does not initiate statutory amendments or take positions on proposals by others that might compromise the Commission's neutrality. This report describes the Commission's actions to implement and administer the Reform Act in a balanced and impartial manner and in accord with the Legislature's direction.

IMPLEMENTATION AND ADMINISTRATION OF THE REFORM ACT

Overview

As noted in the Commission's previous reports, the Reform Act made the following significant changes in the predecessor statute:

- Conventional arbitration, rather than final offer arbitration, is the terminal procedure unless the parties agree to another procedure.
- Arbitrators are assigned by lot from the Commission's special panel, unless the parties agree upon an arbitrator.
- An award must be issued within 120 days of an arbitrator's selection or assignment. The Commission may grant a 60-day extension or the parties may agree to an extension.

- The comprehensive list of factors that must be considered in deciding a dispute was amended to provide more specific direction to the arbitrator and the parties:

  •An award must indicate which criteria are relevant, explain why other criteria are not relevant, and analyze the evidence on each relevant factor.

  •The CAP law governing municipalities and counties, *N.J.S.A*. 40A:4-45.1 *et seq*., must be considered in connection with two statutory criteria.

  •An arbitrator is required to consider, to the extent evidence is introduced, the impact of an award on the municipal or county purposes element of the local property tax, the impact of an award on each income sector of property taxpayers, and the governing body's ability to maintain, expand or initiate programs or services.

In addition, the Reform Act entrusted PERC with several new responsibilities:

- PERC is required to promulgate guidelines for determining comparability of jurisdictions.

- PERC is required to conduct annual mandatory continuing education programs for arbitrators on such topics as employer budgeting and finance, public management and administration, employment trends and labor costs in the public sector, pertinent court decisions, and employment issues relating to law enforcement officers and firefighters.

- PERC is required to perform, or cause to be performed, an annual survey of private sector wage increases for use by all interested parties in public sector wage negotiations.

- PERC, rather than the Superior Court, has jurisdiction to decide appeals from interest arbitration awards.

The Reform Act also preserved a key feature of the predecessor statute. It retained a "mediation-arbitration" model where the assigned arbitrator is

encouraged to assist the parties in voluntarily resolving their dispute even after the petition for interest arbitration is filed.

Shortly after the Reform Act went into effect, the Commission appointed a new Special Panel of Interest Arbitrators. Throughout the past ten years, the Commission has emphasized the importance of maintaining a highly-qualified panel of interest arbitrators and has conducted annual continuing education programs for the Special Panel.

In implementing the statute, the Commission also adopted regulations (including the comparability guidelines referred to earlier), modified its computer program to provide for assignment of arbitrators by lot, and, as authorized by the Act, adopted a fee schedule that offsets some of the costs of administering the statute. The regulations were described in the Commission's 1998 report and were readopted, with minor amendments, in July 2001. The readopted regulations are included in the Appendix, Tab 2. It is anticipated that, in early 2006, the Commission will propose that the regulations again be readopted without change, effective July 2006. A description of the Commission's computer program is included in the Appendix, Tab 4, along with a December 2005 recertification by the Commission's expert consultant, confirming that the program makes by-lot appointments in a random manner.

In connection with its statutory responsibility to administer the Reform Act, the Commission values input from members of the interest arbitration community. During the past ten years, Commission staff have had an ongoing dialogue with arbitrators and a broad range of employee and employer representatives about their

experiences under the Reform Act. As an outgrowth of these discussions, the Commission initiated its online information data base and increased its emphasis on its voluntary police and fire mediation program – initiatives that are described on page 13 of this report. The Commission plans to continue this dialogue with the interest arbitration community.

Special Panel of Interest Arbitrators

One of the Commission's most important responsibilities under the Reform Act is maintaining a panel of highly qualified and experienced interest arbitrators. The Reform Act makes it critical for the Commission to have an extremely competent panel, because the Reform Act fundamentally changed the manner in which interest arbitrators are selected to hear cases. As noted, the statute requires that if the parties cannot agree on an arbitrator, the Commission will assign an arbitrator by lot from its special panel of arbitrators. *N.J.S.A*. 34:13A-16e(1). Thus, any member of the Special Panel may be assigned to the most complex and demanding interest arbitration. In recognition of this fact, the Commission concluded that the Special Panel should be composed of only those labor relations neutrals who, in the judgment of the Commission, have the demonstrated ability and experience to mediate and decide the most demanding interest arbitration matters in the most professional, competent and neutral manner. Thus, Commission rules require that a member of the panel must have: (1) an impeccable reputation for competence, integrity, neutrality and ethics; (2) the demonstrated ability to write well-reasoned decisions; (3) a knowledge of labor relations and governmental and fiscal principles relevant to dispute settlement and interest arbitration proceedings; (4) substantial experience as a mediator and an arbitrator; and (5) a record of competent performance on the Commission's mediation, factfinding and grievance arbitration panels (Appendix, Tab 2; *N.J.A.C*. 19:16-5.15).

In February 1996, the Commission appointed a panel of 17 interest arbitrators who met these criteria. Panel members serve for three-year terms and

are eligible for reappointment. Since 1996, fourteen highly qualified and experienced arbitrators have been added to the Special Panel and eight arbitrators have resigned. The current panel consists of 23 members. In March 2005, all 23 panel members were reappointed for three-year terms.

Overall, the Special Panel's performance during the last ten years has met the high standards set by the Commission, with arbitrators settling many complex disputes and issuing extensive, well-reasoned awards in numerous other cases. The Commission continues to be attentive to opportunities to add new special panel members who meet the Commission's high standards.

Continuing Education Programs for Special Panel Members

As part of its responsibility to administer the Reform Act, the Commission has conducted numerous continuing education programs for the special panel, all of which have included updates by Commission staff on interest arbitration developments and interest arbitration appeals. The Commission's initial programs reviewed and analyzed Reform Act requirements and included presentations by outside financial experts on the statutes and regulations governing municipal and county budgets. In addition, management and labor representatives discussed their perspectives on the Reform Act and experienced arbitrators led panel discussions on mediation, hearing, and opinion-writing issues.

Subsequent programs have built on the foundation established by these initial programs. Several programs have included presentations by experts who advised panel members of recent statutory and regulatory developments, while

others have featured distinguished management and labor advocates who discussed their clients' issues and concerns with respect to negotiations and interest arbitration. Several programs have also included arbitrator roundtable and panel discussions, where special panel members had the opportunity to discuss among themselves mediation techniques; approaches to opinion-writing; and pertinent issues arising with respect to particular types of interest arbitration proposals.

The Commission's most recent programs focused on budgetary, pension, and health benefits issues. At its October 2004 program, outside financial experts explained the July 2004 amendments to the budget cap law governing counties and municipalities. In addition, the experts reviewed the budget statutes and regulations pertaining to those entities. At the October 2005 program, a pension expert addressed funding and actuarial issues arising under the Public Employees' Retirement System (PERS) and the Police and Firemen's Retirement System (PFRS), with particular emphasis on an explanation of public employers' renewed pension contribution obligations under these systems. The October 2005 program also included a summary by a health benefits expert on the range of benefit plans offered by the State Health Benefits Program (SHBP), along with a review of the procedural and substantive requirements that pertain to participating SHBP employers. The 2005 program included an update by financial experts on the 2004 cap law amendments and other budget and financial issues.

In addition to providing continuing education for current panel members, the Commission has an ongoing commitment to identifying talented and experienced

labor relations neutrals who have the potential to become excellent interest arbitrators. It provides supplemental education for these neutrals to become special panel members.

Private Sector Wage Report

In May 1996, the Commission arranged to have the New Jersey Department of Labor and Workforce Development, Division of Labor Market and Demographic Research (NJLWD), prepare the annual private sector wage report required by the Reform Act, *N.J.S.A*. 34:13A-16.6. The first report, prepared in September 1996, shows calendar year changes, through December 31, 1995, in the average private sector wages of individuals covered under the state's unemployment insurance system. Statistics are broken down by county and include a statewide average. Subsequent reports include the same information for calendar years 1996 through 2004.[1] In addition, for calendar years 1997 through 2004, the reports also show changes in average wages for such major industry groups as construction, manufacturing, transportation, wholesale and retail trade, services, finance and insurance, and real estate. Beginning with the 2002 report, NJLWD uses the North American Industry Classification System (NAICS) to assign and tabulate economic data by industry. NAICS is the product of a cooperative effort on the part of the statistical agencies of the United States, Canada and Mexico. An NJLWD

[1]The most recent annual report, prepared in September 2005, reflects wage figures for calendar year 2004.

document attached to the 2002, 2003 and 2004 reports describes the system and how it differs from its predecessor, the 1987 Standard Industrial Classification System.

Readoption of Interest Arbitration Regulations

The rules that the Commission adopted in 1996 to implement the Reform Act described procedures for initiating interest arbitration; the required content of interest arbitration petitions and responses; filing fees; appointment of arbitrators; hearing procedures; the required content of an arbitration award; and procedures for appealing awards to the Commission. The rules also included guidelines to be used by the parties and arbitrators in applying the statutory comparability criterion, *N.J.S.A.* 34:13A-16g(2); standards for appointment and reappointment to the special panel of interest arbitrators; and procedures for suspending, disciplining or removing arbitrators from the special panel during an arbitrator's three-year term. Those rules worked well but were due to expire in July 2001, in accordance with the "sunset" and other provisions of Executive Order No. 66 (1978).

Accordingly, effective July 2001, the Commission readopted the regulations with minor, technical amendments, most of which relate to procedures that apply prior to the appointment of an interest arbitrator. For example, an amendment states that where a respondent disputes a unit's entitlement to arbitration under *N.J.S.A.* 34:13A-15, it may file a motion to dismiss the petition with the Commission. The amendment reflects prior practice in the few instances where such claims had been made. The amendments also codify the Director of Arbitration's practice of notifying a respondent that a petition has been filed; specify the date for filing an

answer; and adjust related filing deadlines – e.g., the deadline for filing a scope of negotiations petition concerning an interest arbitration proposal. Finally, the rules specify that an interest arbitrator shall entertain any motion to quash a subpoena issued by him or her. The readopted rules did not change the filing fees for interest arbitration petitions or appeals from interest arbitration awards, which have been in place since 1996 and 1997.

The Reform Act and the Commission's interest arbitration rules state that the costs of services performed by interest arbitrators are shared equally by the parties, in accordance with a fee schedule established by the Commission. The Commission re-evaluates that schedule periodically in order to ensure that interest arbitrators are fairly compensated for the difficult and significant work they perform. In 2005, the schedule was amended for the first time since 1998, after the Commission determined that the authorized fees had fallen below the market rate customarily charged by grievance arbitrators. Accordingly, the per diem fee for interest arbitrators appointed by lot was set at $1000, instead of $800. The amendment thus recognized the difficulty of interest arbitration work but maintained a fixed fee for this statutorily-mandated process in instances where the parties cannot agree on an arbitrator.

For interest arbitrators mutually selected by the parties, the 2005 amendment provides that the interest arbitrator's fee is the per diem rate established by each special panel member for conducting grievance arbitrations. The 1998 schedule had capped the per diem fee for mutual selections at a level below that charged by the vast majority of special panel members for grievance arbitrations. The 2005

amendment recognizes that panel members should be compensated at least as well for interest as for grievance arbitration, given that interest arbitration assignments are generally more demanding, complex, and require more extensive mediation skills than does grievance arbitration. By establishing a market rate fee for interest arbitration, the 2005 adjustment enables the Commission to retain the highly qualified panel members who are essential to the successful administration of the interest arbitration statute.

The interest arbitration rules will expire in July 2006 and it is anticipated that they will be proposed for readoption without change.

RECENT AGENCY INITIATIVES

Interest Arbitration Resources and Information

As part of its statutory responsibility to neutrally administer the Reform Act, the Commission has aimed to provide the parties with a range of information to enable them to effectively participate in the interest arbitration process. Several years ago, all interest arbitration awards issued after January 1996 were posted on the Commission's website, as were the Commission's interest arbitration appeal decisions. This past year, in response to suggestions from members of the labor relations community, the Commission began posting on its website all public employer contracts received since January 2005. Contracts are searchable by employer or organization name, employer type, and county. If submitted in electronic format, the text of the contract is also searchable. In cooperation with the Rutgers School of Management and Labor Relations Library, the Commission is now adding older contracts to the online data base. It will also explore other ways to expand parties' access to information that will assist them in negotiations and interest arbitration.

Voluntary Mediation Program for Police and Fire Contract Negotiations

Throughout its administration of the Reform Act, the Commission has encouraged strong mediation efforts by interest arbitrators, believing that a voluntary settlement is often a quicker and less expensive way to arrive at a successor agreement than interest arbitration. In addition, the parties have more control over a mediated settlement than an interest arbitration award.

Many members of the interest arbitration community, in the course of their ongoing dialogue with Commission staff, expressed their preference for voluntarily resolving contract negotiations. Accordingly, in 2004, the Commission undertook outreach efforts to encourage parties to consider participating in its mediation program for police and fire contract negotiations, which is available upon mutual request. A mediator is assigned before contract expiration and the Commission, rather than the parties, pays the costs of his or her services. The mediator assigned will be an experienced, capable neutral but will most likely not be one of those individuals who are routinely selected in interest arbitration proceedings.

As noted, mediation could allow parties to reach a successor agreement more quickly and less expensively than interest arbitration but even if it does not, it could reduce the number of issues to be resolved in interest arbitration, potentially saving the parties time and money in that forum. In addition, the program offers parties the opportunity to become familiar with experienced neutrals who do not ordinarily work as interest arbitrators. If a settlement is not achieved, either party retains its right to file for interest arbitration after contract expiration.

INTEREST ARBITRATION PETITIONS

AND

AWARDS UNDER THE REFORM ACT

Statistical Overview

The following statistics reflect the number of petitions filed, arbitrators appointed and awards issued under the Reform Act.

	Total Since	Calendar Year									
	1/10/96	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Interest Arbitration Petitions Filed	1134	133	131	121	138	106	81	89	120	102	113
Interest Arbitrators Appointed*	1047	140	128	117	124	80	76	79	101	95	107
Number of Arbitrators Selected by Mutual Agreement	911	83	96	94	114	74	73	77	99	95	106
Number of Arbitrators Appointed By Lot	136	57	32	23	10	6	3	2	2	0	1

*In some cases, a settlement was reached after a petition was filed but before an arbitrator was appointed. In others, the parties have asked that the appointment of an arbitrator be held in abeyance pending negotiations. In addition, appointments in one calendar year may result from petitions filed in the preceding calendar year.

	Total Since	Calendar Year									
	1/10/96	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Interest Arbitration Awards Issued Under The New Statute	227	7*	36**	41	25	24	17	16	23	27	11
Terminal Procedure Used in Awards Issued Under the New Statute:											
Conventional	221	7	35	39	25	23	17	16	22	26	11
Final Offer	6	0	1	2	0	1	0	0	1	1	0

*There were 21 awards issued in calendar year 1996, 14 of which were issued under the predecessor statute.

**There were 37 awards issued in calendar year 1997, one of which was issued under the predecessor statute.

These figures illustrate the trends noted at the outset of this report. First, the number of filings is lower than under the predecessor statute. On average, approximately 200 petitions were filed annually during the 18 years the predecessor statute was in effect. By contrast, the number of petitions filed during the past ten years ranged from 81 to 138, with calendar years 2001 and 2002 having the lowest number of annual filings – 81 and 89, respectively. In 2003, filings increased to 120 and in 2004 and 2005, the number of filings was 102 and 113, respectively. The overall decline in

filings as compared with the predecessor statute indicates that the parties are reaching voluntary settlements more frequently, without invoking the interest arbitration process.

In addition, arbitrator appointment figures for the last seven years show an acceleration and solidification of the trend of the parties mutually selecting an arbitrator. The mutual selection rates for the past ten years are:

1996	59%
1997	75%
1998	80%
1999	92%
2000	92%
2001	96%
2002	97%
2003	98%
2004	100%
2005	99%

Thus, throughout the past ten years, parties in a substantial majority of cases have mutually selected the arbitrator, and in 1999 through 2005, they have done so in virtually all cases. Of course, the parties need not mutually agree to an arbitrator, and if they do not do so, the Commission will randomly assign an arbitrator by lot.

The Commission views these mutual selection figures as very positive, since the parties are more likely to reach a settlement if they are working with an arbitrator whom they have both selected. It also takes, on average, significantly less time to achieve an arbitrator-facilitated voluntary settlement than to go through interest arbitration hearings and obtain an award. Further, if an award is issued, parties who have mutually selected an arbitrator are more likely to have confidence in the reasonableness of the award.

The comparatively low number of awards for 1997 through 2005 indicates that the parties are reaching settlements in many cases, often with the assistance of the interest arbitrator functioning as a mediator. The average number of awards issued in

1997 through 2005 (24) is significantly lower than the average number of awards (74), issued during 1978 through 1995, and also lower than the average number (39), issued annually during 1993-1995, the three-year period immediately preceding the Act's passage. While statistics for the past several years show an inevitable variation in the annual number of awards, the figures also represent a trend toward a lower number of annual awards than in the initial years of the Reform Act. For example, while 37 awards were issued in 1997 and 41 in 1998, 25 awards were issued in 1999; 24 in 2000, 17 in 2001; and 16 in 2002. The number of awards rose slightly to 23 in 2003 and 27 in 2004. However, in 2005, only 11 awards were issued, the lowest number since the Reform Act was adopted. The Reform Act took effect in 1996, a transition year in which there were 21 awards, only seven of which were issued under the Reform Act.

The 13-year analysis of salary awards, included in the Appendix at Tab 5, shows that for the three calendar years preceding the adoption of the Reform Act and for the first two years it was in place, there was a decline in the average annual salary increases awarded. Thus, the average salary increase awarded in 1993 was 5.65%, as compared with 5.01% in 1994; 4.52% in 1995; 4.24% in 1996; and 3.63% in 1997. For awards issued in 1998 through 2005, the average awarded salary increases fell within a very narrow range – from 3.64% to 4.05. See Appendix, Tab 5. The increases for 1998 through 2005 are as follows:

1998	3.87%
1999	3.69%
2000	3.64%
2001	3.75%
2002	3.83%
2003	3.82%
2004	4.05%
2005	3.96%

The average salary increase for awards issued during 1988 through 1992 was 7.06%.

The 13-year analysis of salary awards also includes information on reported voluntary settlements – settlements in cases in which a petition for interest arbitration was filed, an arbitrator was appointed, and an arbitrator reported to the Commission the terms of the settlement. These settlements reflect a decline in average salary increases from 1993 through 1999. The average salary increase for reported voluntary settlements was 5.56% for 1993, as compared with 4.98% for 1994; 4.59% for 1995; 4.19% for 1996; 3.95% for 1997; 3.77% for 1998 and 3.71% for 1999. The average salary increase for reported voluntary settlements rose slightly in 2000, 2001, and 2002, with increases of 3.87%, 3.91% and 4.05%, respectively. For 2003 through 2005, the average reported voluntary settlement declined somewhat from the 2002 figure, to 4.01%, 3.91% and 3.94%, respectively. For reported voluntary settlements from 1988 through 1992, the average salary increase was 6.56%.

INTEREST ARBITRATION APPEALS

The following statistics pertain to interest arbitration appeals filed since the 1996 adoption of the Reform Act through December 31, 2005.

Number of Appeals Filed with the Commission	42
Number of Appeals Withdrawn	17
Number of Awards Affirmed	13
Number of Awards Affirmed With modification	2
Number of Awards Vacated and Remanded	10
Leave to Appeal Denied	3
Number of Appeals Pending before Commission	0
Number of Appeals to Appellate Division	3[2]
Number of Appeals Pending before Appellate Division	0
Number of Appeals to Supreme Court	1
Number of Appeals Pending before Supreme Court	0

Several appeals were filed in 1997 and in 1998, resulting in a series of Commission decisions that set forth the Commission's standard of review; interpreted Reform Act provisions; and provided guidance for arbitrators concerning the analysis required by the Reform Act. After this series of initial decisions, the number of appeals declined and, in 1999 through 2005, the Commission decided between zero and four

[2]Two of the three appeals were withdrawn before the cases were briefed and thus no court decisions were issued.

appeals per year. Two decisions were issued in 1999, none in 2000, two in 2001 and three in 2002. In 2003, four appeals were decided and in 2004 and 2005, one decision was issued each year.

Overall, 13 awards have been affirmed by the Commission and two awards have been affirmed with a modification – including one case where the modification was reversed by the Courts. Of the ten awards that were vacated and remanded, two were remanded to a new arbitrator and eight were remanded to the original arbitrator. In the first of the cases remanded to the original arbitrator, the parties reached a settlement after the remand and the arbitrator did not issue a new award. In five other remands, the original arbitrator issued a new award that was not appealed by either party. In the seventh remand, the first arbitrator issued a new award that was appealed to the Commission and affirmed. In the eighth remand, the original arbitrator issued a new award that was appealed to the Commission and vacated. The case was consolidated with a subsequent interest arbitration proceeding involving the same parties, in which a different arbitrator had already been appointed. That arbitrator issued an award in the consolidated proceeding that was not appealed by either party.

Finally, the ninth and tenth remands involve the same case. The initial award was appealed by the employer and reversed and remanded to the original arbitrator. The award on remand was again appealed by the employer and, in the second appeal, the award was vacated and remanded to a new arbitrator. The new arbitrator issued an award which was also appealed, this time by the union. That award was affirmed by the Commission.

In addition to the decisions reviewing final interest arbitration awards, the Commission denied three motions for leave to file a notice of appeal after the deadline

set by the Reform Act. There have also been four requests for special permission to appeal an interest arbitrator's interim procedural ruling, all of which were denied.

Only one of the Commission's interest arbitration decisions has been reviewed by the Courts. That decision was Teaneck Tp. and Teaneck FMBA Local No. 42[3].

In Teaneck, the Commission had affirmed an award involving a firefighters' unit, with the modification that a work schedule change awarded by the arbitrator could not be implemented unless the same schedule was agreed to or awarded with respect to the supervisory unit of fire officers. The Appellate Division's July 2002 decision in the case: (1) approved and quoted the Commission's standard of review in interest arbitration appeals; (2) approved its approach for determining when work schedules may be submitted to interest arbitration; and (3) accepted its standard for when an arbitrator may award a proposal that would result in different schedules for employees and supervisors. However, the Court set aside the modification of the award, finding that the arbitrator should have been given the opportunity to apply the Commission's newly-articulated standard. In July 2002, in accordance with the Court's direction, the Commission remanded the case to the arbitrator but the arbitration was stayed by the Supreme Court pending its review of the case. On October 1, 2003, the Supreme Court affirmed the Appellate Division decision substantially for the reasons set forth in the Appellate Division opinion. The parties then settled the case and the arbitrator did not issue a second opinion.

[3]P.E.R.C. No. 2000-33, 25 NJPER 450 (¶30199 1999), aff'd in part, rev'd and remanded in part, 353 N.J. Super. 289 (App. Div. 2002), aff'd o.b. 177 N.J. 560 (2003).

The Commission's decisions are included in the Appendix, Tab 6 and the Court decisions in Teaneck are included in the Appendix, Tab 7. The Commission's appeal decisions are also available on its website.

CONCLUSION

The Reform Act has been in place for ten years and there have been no significant problems in its implementation. In administering the Act, the Commission plans to continue to encourage voluntary settlements by emphasizing strong mediation efforts by interest arbitrators and offering a pre-arbitration mediation program. It will also continue to maintain a high quality special panel of interest arbitrators; provide panel members with pertinent continuing education; and communicate with arbitrators, public employers, and majority representatives concerning their experiences under the Act. In the Commission's view, these objectives can be furthered without legislative changes.

APPENDIX