Town of East Greenwich
Town Manager

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Testimony from Andrew E. Nota, East Greenwich Town Manager
In Opposition to Expansion of Binding Arbitration (H7198)
House Committee on Labor
February 2, 2022

The Honorable Anastasia Williams
Chair, House Committee on Labor
Rhode Island State House
82 Smith Street
Providence, RI 02903

Re: Opposition to Binding Arbitration for Municipal Employees (H7198, Bennett)

Dear Chairperson Williams and Members of the Committee on Labor,

Thank you, Madam Chair, and members of the committee. In my role as a municipal official, presently serving as the Town Manager for the Town of East Greenwich, I strongly oppose (H7198), which would expand bargaining arbitration for municipal employees and teachers to include monetary issues. Personnel has been and continues to be today, the largest single component of municipal budgets, representing more than 75% of the financial impact in some communities. Passing this legislation could provide unelected arbitrators, significant control over municipal budgets, and usurp the ability of municipal CEO's to negotiate labor contracts directly with its employees, in a fair and equitable manner on behalf of their community with no recourse for residents.

As the committee is likely aware, most cities and towns require local councils to approve collective bargaining agreements after a fair and equitable process involving management and employee units. This protection is intended to ensure that contractual promises are balanced with community priorities and services and that the total, does not exceed available local tax dollars. It provides this important opportunity in achieving a balance between the needs of employees and taxpayers. However, an arbitration decision does not need to be ratified by a city or town council, which means that arbitration awards on wages or benefits could create a vacuum in local budgets, impacting needed community priorities, increasing the likelihood of higher taxes or critical service reductions.

Municipal officials believe that the current binding arbitration process is lengthy and expensive. We should be transforming the process, versus expanding its use. Binding arbitration was intended to be a

rapid way of resolving impasses in contract negotiations. Instead, it has become a lengthy process that is inefficient, costly to communities and replaces local authorization of such decisions, as if others are more prepared to make local decisions for our City/Town residents. And though the law states that an arbitration board must consider a community's ability to pay, that designation is not an exact science and can be influenced by the experience of the arbitrator and many other variables.

- Nothing in current law requires a fiscal impact statement telling the public or local officials what the cost of an arbitration decision is to a community.
- Nothing in law requires an arbitration panel to remain within budgeted levels. For that reason, an arbitration award could place a town's budget in deficit in the middle of a fiscal year.
- Nothing in law prevents arbitrators from requiring that a community use its accumulated surplus to pay for awards. The municipal fund balance is an important reserve to protect communities in emergency situations. It is considered by bond rating agencies as an indicator of fiscal health and should not be used for ongoing personnel or operations. It has also been the topic of extensive study by various agencies as a criteria in rating the health of our states municipal government.

Municipal officials have heard the argument from past and present supporters of this legislation, that relatively few contract negotiations actually go to arbitration and so that we should not worry about this legislation. This in and of itself is insufficient in defending a legislative action of this magnitude, that can have a wide sweeping impact on municipalities and in creating a further imbalance in the local negotiation process. In fact, that is a sound argument to oppose the bill. In reality, when negotiating specific municipal agreements that impact hardworking public employees, municipal leaders are often left with little room to turn, due to the optics and influences involved in the process. We are often left with choosing between two bad options: a tentative contract agreement that is more generous than the community can afford or possibly an even more imbalanced and inequitable outcome if they go to binding arbitration, which can take months and entail significant legal fees. This dilemma shows us that the current system is not working as it was originally designed and needs to be modified, not expanded in its present form.

There are practical implications to how binding arbitration would work in this case. If a town and its municipal employees cannot come to agreement on wages or other monetary matters, a panel of unelected arbitrators would decide. The bill states that arbitrators should look to the pay scales in other cities and towns "of comparable size." However, it does not require the arbitrators to consider the specific budgetary outlook of the city or town. As a result, some "comparable" cities and towns may not be so comparable. Rhode Island has a lower per capita income than Massachusetts, Connecticut or New Hampshire. If an arbitrator uses these comparisons, cities and towns would be providing wages that their tax bases cannot afford.

Unfortunately, the greatest impact of expanded binding arbitration would ultimately be increases in property taxes. Rhode Island cities and towns raise about two-thirds of their revenues from local taxes and fees, with the remainder coming from the state -- primarily for schools. Of the locally raised revenues, about three-quarters comes from the property tax, and the rest from various fees. As a result, if costs go up because of arbitrator awards, cities and towns would be forced to raise property taxes. Rhode Island communities already have the eighth highest property tax burden per capita, and we cannot afford to go any higher.

Arbitration should be a last resort, not automatically built into the negotiation process. For these reasons, I strongly oppose House Bill 7198.