

## Chapter WFSB 10

### PETITION FOR ARBITRABILITY AND DETERMINATION BY BOARD

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**WFSB 10.01 Petition. (1) WHO MAY SUBMIT.** A petition for the determination of a dispute over arbitrability of an item or items may be submitted by an applicant, a local committee or as a joint petition.

**(2) WHEN SUBMITTED.** A petition for determination of arbitrability under this chapter may be submitted only after a petition for arbitration has been filed and only once by either party or jointly before the submission of final offers. Any determination made when final offers are submitted shall be governed by s. 289.33 (10) (g), Stats.

**(3) FORM, NUMBER OF COPIES, SUBMISSION.** The petition shall be in writing and its caption shall be as follows:

STATE OF WISCONSIN  
 BEFORE THE WASTE FACILITY SITING BOARD

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In the Matter of the (Joint) Petition  
 Requesting a Determination of Arbitrability  
 Involving a Dispute Between  
 (Name of Petitioner)  
 and  
 (Name of Other Party  
 or Co-Petitioner)

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The original of the petition shall be signed and the original and 9 copies of the petition shall be submitted with the board. The party submitting the petition shall, at the same time, submit a copy to the other party, or its designated representative, by certified mail or personal delivery.

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

- (a) The caption in the form noted above.
- (b) The name and address of the applicant involved, and the name and address and telephone number of its principal representative.
- (c) The names and addresses of the members of the local committee involved, and the name and address and telephone number of its principal representative.
- (d) A clear and concise statement of the item or items over which a dispute has arisen concerning arbitrability.
- (e) A complete statement of the agreed facts constituting the basis upon which the board is to make its determination in the matter.
- (f) A clear and concise statement of the position of the petitioner as to whether the items or items set forth in the petition are arbitrable.

**(5) A STATEMENT IN SUPPORT OF PETITION.** The petitioner shall attach to the original and each copy of the petition a clear and concise statement of the facts and arguments relied upon by the petitioner in support of the position taken by the petitioner.

**History:** Cr. Register, November, 1984, No. 347, eff. 12-1-84; am. (2), Register, July, 1991, No. 427, eff. 8-1-91; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1999, No. 526.

**WFSB 10.02 Statement in response to petition.**

**(1) WHO SHALL SUBMIT.** The party other than the petitioner shall, within 14 days of the receipt of the petition, submit to the board a statement in response to the petition.

**(2) FORM, NUMBER OF COPIES, SUBMISSION.** The statement in response shall be in writing and shall include the caption of the case. The original and 9 copies thereof shall be submitted to the board. The party submitting the statement in response shall, at the same time, submit a copy to the petitioner by certified mail or personal delivery.

**(3) CONTENTS.** The statement in response shall include the following:

- (a) A clear and concise statement of the position taken by the party as to whether the item or items are arbitrable as set forth by the petitioner.
- (b) A clear and concise statement of the facts and arguments relied upon by such party in support of its petition with respect to the matter involved.
- (c) Corrections, as may be deemed necessary, to the names, addresses, telephone numbers and representatives set forth in the petition.

**History:** Cr. Register, November, 1984, No. 347, eff. 12-1-84.

**WFSB 10.03 Withdrawal of petition.** Any petition submitted under this chapter may be withdrawn at any time. If the petition is submitted by both parties, both must consent before withdrawal will be effectuated. If one party wishes to withdraw from a joint petition, it may do so and submit a statement in response to petition under the conditions presented in s. WFSB 10.02.

**History:** Cr. Register, November, 1984, No. 347, eff. 12-1-84.

**WFSB 10.04 Notice of hearing, when issued; contents.** Following the submission of a petition and statement in response to the petition, if it appears that further proceedings are warranted, the board shall issue and serve upon each of the parties, a notice of hearing at a place fixed therein and, except in unusual circumstances, at a time not less than 10 days after the service of such notice.

**History:** Cr. Register, November, 1984, No. 347, eff. 12-1-84.

**WFSB 10.05 Intervention.** Any party desiring to intervene in a determination of arbitrability proceeding shall file a request with the board. Such requests shall state the reasons why such party claims an interest. Intervention may be permitted and upon such terms as the board or the individual conducting the proceeding may deem appropriate.

**History:** Cr. Register, November, 1984, No. 347, eff. 12-1-84.

**WFSB 10.06 Hearings. (1) WHO SHALL CONDUCT.** Hearings may be conducted by any examiner and, at any time, an examiner may be substituted for the examiner previously presiding.

**(2) SCOPE OF HEARING.** The hearing shall be limited by the examiner to the litigation of and oral arguments on genuine issues

of fact or law raised by the parties and remaining for disposition concerning arbitrability enumerated in the petition.

**History:** Cr. Register, November, 1984, No. 347, eff. 12-1-84.

**WFSB 10.07 Decision concerning arbitrability.**

**(1) ISSUING DATE.** Within 30 days after submission of the case, the board shall issue a decision concerning the petition and notify the applicant and local committee of that decision. The date on which

the last document necessary to the decision of the case is received or the date on which a hearing is closed, whichever is later, shall be regarded as the date of submission of the case.

**(2) DECISION; INTERIM.** All determinations of arbitrability decided prior to the submission of final offers are interim and become final only when incorporated into an arbitration award between the same parties issued by the board.

**History:** Cr. Register, November, 1984, No. 347, eff. 12-1-84.