

## Lundregan, Scott

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**From:** amt@birdwatchersdigest.com  
**Sent:** Tuesday, July 22, 2014 1:50 PM  
**To:** Lundregan, Scott  
**Subject:** fw: re: Resolution on Binding Arbitration

Scott: More

Andrew M. Thompson  
>Publisher  
> Bird Watcher's Digest  
> PO Box 110  
> Marietta, OH 45750  
> 800-879-2473 phone  
> 740-373-8443 fax  
> <http://www.birdwatchersdigest.com>

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**From:** "amt@birdwatchersdigest.com" <[amt@birdwatchersdigest.com](mailto:amt@birdwatchersdigest.com)>  
**Sent:** Monday, April 07, 2014 6:06 PM  
**To:** "Paul Kersey" <[pkersey@illinoispolicy.org](mailto:pkersey@illinoispolicy.org)>  
**Subject:** re: Resolution on Binding Arbitration

Paul: Nice to hear from you. I like that idea. Like the Krauthammer quote too. His book was excellent.

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**From:** "Paul Kersey" <[pkersey@illinoispolicy.org](mailto:pkersey@illinoispolicy.org)>  
**Sent:** Monday, April 07, 2014 5:21 PM  
**To:** "Paul Kersey" <[pkersey@illinoispolicy.org](mailto:pkersey@illinoispolicy.org)>  
**Subject:** Resolution on Binding Arbitration

Attached is a copy of a resolution that I would like to have introduced at the ALEC policy summit in May. It has to do with the practice of having arbitrators resolve impasses in collective bargaining between local governments and unions.

Binding arbitration simply does not work well in labor relations -- arbitrators can force bad contract terms on local taxpayers, but do not have to live with the consequences. They drive up costs and take control over local finances away from elected officials. One can actually make a case that a particularly bad police arbitration ruling played a pivotal role in Detroit's collapse.

I would like to have ALEC take a stand against this practice, and propose that be abolished or at least placed under strict limits (a proposal for that is in the works) but need a sponsor for the proposals.

If you have any questions, I'd be happy to discuss this with you further.

--

Paul Kersey  
Director of Labor Policy  
Illinois Policy Institute

190 S. LaSalle St., Suite 1630  
Chicago IL 60603  
312-346-5700  
[pkersey@illinoispolicy.org](mailto:pkersey@illinoispolicy.org)

I don't believe in teachable moments. I don't think anyone in the end really learns. -- Charles Krauthammer

## Lundregan, Scott

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**From:** amt@birdwatchersdigest.com  
**Sent:** Tuesday, July 22, 2014 1:50 PM  
**To:** Lundregan, Scott  
**Subject:** fw: Resolution  
**Attachments:** Draft\_Resolution on Binding Arbitration for Public Employees (1).docx

More

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**From:** "amt@birdwatchersdigest.com" <[amt@birdwatchersdigest.com](mailto:amt@birdwatchersdigest.com)>  
**Sent:** Tuesday, April 15, 2014 4:05 PM  
**To:** "Khadine L. Ritter" <[ritter@theisenbrock.com](mailto:ritter@theisenbrock.com)>  
**Subject:** fw: Resolution

Any reason why I shouldn't be the sponsor of this resolution at ALEC? I like it.

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**From:** "Paul Kersey" <[pkersey@illinoispolicy.org](mailto:pkersey@illinoispolicy.org)>  
**Sent:** Tuesday, April 15, 2014 3:35 PM  
**To:** [andy.atfo@gmail.com](mailto:andy.atfo@gmail.com)  
**Subject:** Resolution

Thanks for calling back. Here's the resolution -- I'll call you in a few minutes.

--

Paul Kersey  
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1                   **DRAFT Resolution on Binding Arbitration for Public Employees**  
2

3           *Summary*

4           Binding arbitration of labor disputes hampers the ability of local officials to make their own  
5           personnel decisions by allowing a third party, accountable to neither local officials nor taxpayers,  
6           to unilaterally decide the terms of a union contract. [Insert state] believes that this practice should  
7           no longer be used as a means of resolving impasses in collective bargaining.

8           *Model Resolution*

9           **WHEREAS**, binding arbitration is commonly used to resolve impasses in collective bargaining  
10          between local governments and unions, especially those representing police and fire personnel;

11          **WHEREAS**, binding arbitration commonly allows a third party to impose contract terms on  
12          local governments that local officials might not otherwise agree to;

13          **WHEREAS**, arbitrators are neither accountable to the public, nor subject to the consequences of  
14          their decisions;

15          **WHEREAS**, binding arbitration is rarely used to resolve collective bargaining impasses outside  
16          of government;

17          **WHEREAS**, the arbitration process has been shown to be slow and cumbersome, frequently  
18          resulting in back-pay awards that must be borne by local taxpayers;

19          **WHEREAS**, the criteria that arbitrators are called upon to use to resolve contract disputes are  
20          prone to be vague and contradictory;

21          **WHEREAS**, arbitrators cannot be relied upon to give due consideration to the cost of  
22          government, or to the burdens that imposed terms can pose for taxpayers;

23          **WHEREAS**, an arbitrator's decision, even if poorly reasoned, typically cannot be rejected or  
24          reviewed by any elected authority or court;

25          **WHEREAS**, the management and compensation of government employees is central to the  
26          operation of government, and makes up a large portion of its costs; and

27          **WHEREAS**, binding arbitration commonly removes the management and compensation of  
28          government employees from the authority of officials elected by the people of the community,  
29          and leaves communities subject to a process that has been rejected by nearly all labor relations  
30          practitioners;

31          **NOW THEREFORE BE IT RESOLVED**, that the [insert state here] opposes the use of  
32          binding arbitration to resolve impasses in collective bargaining; and

33          **BE IT FURTHER RESOLVED**, that [insert state here] supports the repeal of laws that impose  
34          the binding arbitration of impasses in collective bargaining; and

35 **BE IT FURTHER RESOLVED**, that if arbitration is used, strict limits should be placed on the  
36 authority and discretion of arbitrators, and measures taken to ensure that the interests of residents  
37 and taxpayers be given due weight.

DRAFT

## Lundregan, Scott

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**From:** amt@birdwatchersdigest.com  
**Sent:** Tuesday, July 22, 2014 1:52 PM  
**To:** Lundregan, Scott  
**Subject:** fw: Re: Notes on the Resolution

More

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**From:** "amt@birdwatchersdigest.com" <amt@birdwatchersdigest.com>  
**Sent:** Tuesday, April 29, 2014 7:36 PM  
**To:** "Paul Kersey" <pkersey@illinoispolicy.org>  
**Subject:** Re: Notes on the Resolution

Do I need a speech to go with this or just some scattered remarks?

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**From:** "Paul Kersey" <pkersey@illinoispolicy.org>  
**Sent:** Tuesday, April 29, 2014 6:11 PM  
**To:** amt@birdwatchersdigest.com  
**Subject:** Re: Notes on the Resolution

You should probably discuss that with Cara -- she'd be the expert on ALEC's rules.

On Tue, Apr 29, 2014 at 5:07 PM, amt@birdwatchersdigest.com <amt@birdwatchersdigest.com> wrote:  
Paul: I don't arrive until 2:30 into KC. I'm sorry--I didn't have that earlier committee on my itinerary. Do I need to change my flight?

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**From:** "Paul Kersey" <[pkersey@illinoispolicy.org](mailto:pkersey@illinoispolicy.org)>  
**Sent:** Tuesday, April 29, 2014 5:21 PM  
**To:** [andy.atfo@gmail.com](mailto:andy.atfo@gmail.com)  
**Subject:** Notes on the Resolution

Andy,

Someone suggested an amendment to the binding arbitration resolution -- nothing dramatic, just a matter of clarifying that we don't want arbitrators writing contracts. We don't mind alternative dispute resolution for existing contracts. I'll send it over in a little bit.

Also, Cara asked me to remind you to be at the labor subcommittee meeting on thursday morning.

--  
Paul Kersey  
Director of Labor Policy  
Illinois Policy Institute

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Chicago IL 60603  
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## Lundregan, Scott

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**From:** amt@birdwatchersdigest.com  
**Sent:** Tuesday, July 22, 2014 1:52 PM  
**To:** Lundregan, Scott  
**Subject:** fw: Re: Possible Revisions to Binding Arb Resolution

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**From:** "amt@birdwatchersdigest.com" <amt@birdwatchersdigest.com>  
**Sent:** Wednesday, April 30, 2014 1:26 PM  
**To:** "Cara Sullivan" <csullivan@alec.org>  
**Subject:** Re: Possible Revisions to Binding Arb Resolution

Cara: I can modify my ticket if I need to scramble. When is the labor meeting?

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---

**From:** "Cara Sullivan" <csullivan@alec.org>  
**Sent:** Wednesday, April 30, 2014 8:47 AM  
**To:** "Paul Kersey" <pkersey@illinoispolicy.org>  
**Cc:** "andy.atfo@gmail.com" <andy.atfo@gmail.com>  
**Subject:** Re: Possible Revisions to Binding Arb Resolution

Paul--

Thank you for sending these along. To clarify, do you and Rep. Thompson want to make these changes now, or do you want me to keep these in our back pocket if someone brings the concern up?

Thanks,  
Cara

Cara Sullivan  
American Legislative Exchange Council  
202-302-3428

On Apr 29, 2014, at 6:03 PM, "Paul Kersey" <[pkersey@illinoispolicy.org](mailto:pkersey@illinoispolicy.org)> wrote:

Attached are revisions to the binding arbitration resolution. The point of these changes is to make it clear that our concern is the practice of having arbitrators writing contracts when collective bargaining reaches an impasse.

We have no major beef with arbitrators in their traditional alternative dispute resolution role of resolving disputes over existing agreements.

I think the original resolution was okay, but the issue of ADR has been raised and it's a fair one, so I put this together just in case.

--

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<Arb Resolution (amended).docx>

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**From:** amt@birdwatchersdigest.com  
**Sent:** Tuesday, July 22, 2014 1:53 PM  
**To:** Lundregan, Scott  
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Scott: Here's more.

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**From:** "amt@birdwatchersdigest.com" <amt@birdwatchersdigest.com>  
**Sent:** Monday, May 05, 2014 1:09 PM  
**To:** "Paul Kersey" <pkersey@illinoispolicy.org>  
**Subject:** re: Revisions to Binding Arbitration Resolution

Paul: It was my pleasure working with you on the interest arbitration resolution.

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**From:** "Paul Kersey" <pkersey@illinoispolicy.org>  
**Sent:** Friday, May 02, 2014 1:24 PM  
**To:** andy.atfo@gmail.com, "Cara Sullivan" <csullivan@alec.org>  
**Subject:** Revisions to Binding Arbitration Resolution

Cara, please check these to make sure I have the revisions right -- here's how your notes read:

1. add public to whereas clauses (this is probably a mixup -- meant to refer to therefore clauses)
2. line 38 "and interests" (probably "and rights")
3. strike 32-33 (done)
4. 25 and 38 "binding" before arbitration (done)

PK2 is just the amendments that were agreed to in the subcommittee. PK3 includes additional amendments meant to clarify that our concern is arbitrators being used to settle impasses.

I'll be down in a few minutes.

--

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Director of Labor Policy  
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