

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERSET COUNTY SHERIFF'S OFFICE;
SOMERSET COUNTY PROSECUTOR'S OFFICE,

Petitioners,

-and-

PBA LOCAL 177A;
PBA LOCAL 307,

Docket Nos. SN-2023-043
SN-2024-044
(Consolidated)

Respondents.

SYNOPSIS

The Commission consolidates and administratively dismisses scope of negotiations petitions filed by the Somerset County Sheriff's Office and Prosecutor's Office (collectively, County) seeking a restraint of binding arbitration of grievances respectively filed by PBA Locals 177A and 307 which alleged the County violated its collective negotiations agreements (CNAs) with the Locals by requiring certain retired unit members to contribute toward the cost of their health insurance premiums in retirement, pursuant to P.L. 2011, c.78 (Chapter 78). The Commission finds nothing in the County's filing, which states that it "amends" scope petitions the Commission previously denied in P.E.R.C. No. 2023-4, that would have altered the Commission's prior conclusion that both grievances presented a contractual dispute about the level of retiree health benefits coverage, a mandatorily negotiable subject following expiration of the contract in which a unit reaches full implementation of the employee health benefit contributions required by Chapter 78. The Commission rejects the County's reliance on a decision subsequently issued by the Appellate Division, which the Commission finds did not alter the negotiability of employee health benefit contributions after full implementation of Chapter 78.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Respondents.

Appearances:

For the Petitioners, Cleary Jacobbe Alfieri Jacobs, LLC, attorneys (Matthew J. Jacobbe, of counsel)

For the Respondents, Mets Schiro McGovern, LLP, attorneys (Leonard C. Schiro, of counsel and on the briefs; Christa Lamia, on the briefs)

DECISION

We consolidate and administratively dismiss scope of negotiations petitions filed on June 19, 2023, by the Somerset County Sheriff's Office and the Somerset County Prosecutor's Office (collectively, County) seeking a restraint of binding arbitration of grievances respectively filed by PBA Locals 177A and 307 (PBA or Locals). The grievances alleged the County violated its collective negotiations agreements (CNAs) with the Locals by requiring certain retired unit members (A.D. and R.C.) to contribute toward the cost of their health insurance premiums in retirement, pursuant to P.L. 2011, c.78 (Chapter 78). Chapter 78 required affected public employees and retirees to contribute

toward their health benefits coverage, paying an increasing share of the premium over a four-year period (Tiers I through IV). N.J.S.A. 40A:10-21.1(a). After the employees in a unit "have reached full implementation of the [Tier IV] premium share," negotiations shall be conducted "concerning contributions for health care benefits as if the full premium share was included in the prior contract," and "those contribution levels . . . shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties." N.J.S.A. 40A:10-21.2. See also, N.J.S.A. 52:14-17.28e (same).

The County's June 19 filing states that it "amends" scope petitions the County filed on December 20, 2021, under docket numbers SN-2022-018 and SN-2022-019. Those petitions, seeking to restrain arbitration of the same grievances, were consolidated and denied in a final Commission decision issued on August 18, 2022. See, Somerset County Prosecutor's Office, P.E.R.C. No. 2023-4, 49 NJPER 117 (¶26 2022). The County did not seek reconsideration of that decision, as permitted by N.J.A.C. 19:13-3.2, nor seek appeal to the Appellate Division of the Superior Court. N.J.S.A. 34:13A-5.4(d). On July 7, 2023, the parties confirmed to the Commission's Case Administrator that arbitration of the grievances in those consolidated matters was still pending.

The County's "amended" scope petitions principally assert

(for the first time) that arbitration is preempted by the service requirements of N.J.S.A. 52:14-17.28d(b)(3), because neither grievant had 20 years of creditable service as of June 28, 2011, the effective date of Chapter 78. Having reviewed the County's "amended" scope petitions^{1/}, we find nothing that would have altered our conclusions in P.E.R.C. No. 2023-4 (as briefly discussed infra), and administratively dismiss those petitions.

When the grievants at issue retired, the relevant CNAs in effect included one covering Local 177A unit members from January 1, 2019 through December 31, 2021, and one covering Local 307 unit members from January 1 through December 31, 2019. 49 NJPER 117 at 118, 119. The parties do not dispute that both PBA Locals reached full Chapter 78 implementation in 2015, that is, prior to the effective dates of the relevant CNAs, and that Chapter 78 rates become negotiable in the next agreement following full implementation. 49 NJPER 117 at 122.

Relying on Matter of Ridgefield Park Bd. of Educ., 244 N.J. 1 (2020), in P.E.R.C. No. 2023-4, we held that both grievances presented a contractual dispute about the level of retiree health benefits coverage, a mandatorily negotiable subject following

^{1/} The County filed briefs, exhibits and the certifications of its counsel, Gregory J. Franklin, and its Deputy Director of Human Resources, Arge Mardakis. The PBA filed briefs, exhibits and the certifications of its counsel, Leonard C. Schiro, Local 177A's President, Sergeant Rickey Matthews, and Local 307's President, Detective Michael Grosso.

expiration of the contract in which a unit reaches full implementation of the employee health benefit contributions required by Chapter 78. As for the Local 307 grievance, we found the question of whether the parties intended to reintegrate into their CNA a Freeholder Resolution granting lifetime health benefits paid for by the County to certain eligible retirees was a question for an arbitrator, not the Commission, to decide. 49 NJPER 117 at 122. With respect to the Local 177A grievance, we found the County's assertions that the parties never negotiated lower rates than the full Chapter 78 rates concerned the merits of the grievance and were appropriate for the arbitrator. Id. We further found that in resolving this dispute an arbitrator is empowered to consider and apply the 1.5% minimum contribution requirement set forth in N.J.S.A. 52:114-17.28b(d). 49 NJPER 117 at 122.

The County's reliance on a decision of the Appellate Division of the Superior Court issued on October 25, 2022, is misplaced. Meyers v. State Health Benefits Commission, 474 N.J. Super. 1 (App. Div. 2022). Even if that opinion had been published prior to our decision in P.E.R.C. No. 2023-4, we find it would not have compelled a different result. The court in Meyers found the purchase of service credits could not be applied retroactively to attain an exemption from Chapter 78 retirement contributions under N.J.S.A. 52:14-17.28d(b) (3). If the County

seeks to contest the grievants' service time under that statute it may raise that issue to the arbitrator. Meyers did not alter the negotiability of employee health benefit contributions after full implementation of Chapter 78.

ORDER

The requests of the Somerset County Sheriff's Office and Prosecutor's Office for restraints of binding arbitration are denied.

BY ORDER OF THE COMMISSION

Chair Weisblatt, Commissioners Higgins, Papero and Voos voted in favor of this decision. None opposed. Commissioner Bonanni recused himself. Commissioner Ford was not present.

ISSUED: November 21, 2023

Trenton, New Jersey